தமிழ்நாடு சட்டமன்ற பேரவை
முன்வைக்கப்பட்ட நாள்
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HIGH LEVEL COMMITTEE

for Administrative Reforms and Prevention of Corruption

FIRST REPORT

June 1997

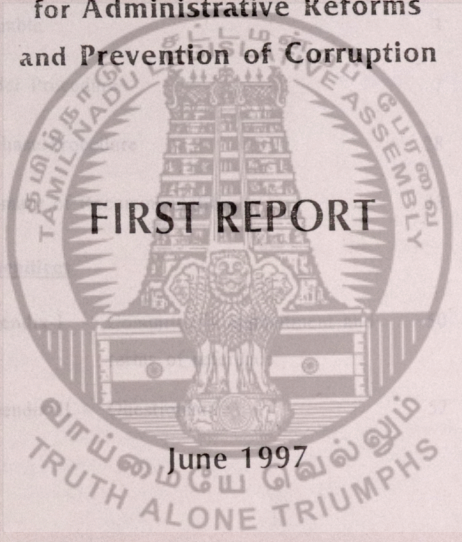
GOVERNMENT OF TAMIL NADU


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TAMIL NADU LEGISLATIVE ASSEMBLY
வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

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CHAPTER - 1

PREAMBLE

Government of Tamil Nadu in G.O.Ms.No.289, Personnel and Administrative Reforms (N) Department dated 2-8-1996 constituted a High Level Committee with Thiru.Justice G. Ramanujam as Chairman to examine and recommend procedural reforms and other measures for eliminating and preventing corruption in administration. Copy of the G.O. is furnished in Appendix-I.

2. Thiru.P. Natesan, IAS, Secretary, Department of Personnel and Administrative Reforms (Training), was appointed to function as Secretary of the Committee in addition to his duties as Secretary to Government. When the Committee commenced its deliberations, it was felt that the services of a whole time Secretary would be needed to handle its work which involved a deep study of the working of a large number of government departments and public undertakings. Government appointed Thiru.R. Varadarajulu, IAS (Retd.), as full time Member-Secretary of the Committee with effect from 16-11-1996.

3. A team of ministerial staff consisting of a Deputy Secretary, an Under Secretary and two Section Officers with supporting staff was sanctioned to handle the administrative work of the Committee.

4. One of the Members of the Committee Thiru.K.S. Lakshmikanthan Bharathi, IAS (Retd), left the Committee on 21-9-1996, expressing his inability to continue as Member owing to personal reasons. Another Member Thiru.C. Thangaraju, IAS (Retd.) left the Committee on 31-1-1997 on his appointment as Member of the State Administrative Tribunal.

5. The full composition of the Committee after it started functioning with a full time Member-Secretary is furnished below :-

(i) Thiru Justice G. Ramanujam — Chairman

(ii) Selvi. M.S. Ramesh, IAS (Retd.) — Member

(iii) Thiru. C.V. Narasimhan, IPS (Retd.) — Member

(iv) Dr.M. Anandakrishnan — Member
(former Vice-Chancellor,
Anna University)

(v) Thiru.A.R. Damodaran — Member
(former Member, Legislative
Council)

(vi) Thiru.R.Varadarajulu, IAS (Retd.) - Member Secretary

6. The terms of reference of the Committee called for recommendations for administrative reforms and prevention of corruption, under the following headings :-

(i) Changes in administrative procedures and practices from the Secretariat down to the village level to secure transparency of administration and people's right to information.

(ii) Changes in the procedure for purchase of materials by government departments and public undertakings.

(iii) Measures for making the Directorate of Vigilance and Anti-Corruption more effective in its work.

(iv) Measures for speeding up disciplinary proceedings against delinquent personnel in government departments and public undertakings.

7. After a preliminary discussion among the Members themselves, the Committee held a series of discussions with Secretaries to Government in different departments, Heads of Departments and some senior officers at the range and district level in the field. The departments covered by these discussions included Revenue, Home, Education, Health, Local Administration, Forest and Civil Supplies. Discussions were also held with the Heads of some public undertakings like Electricity Board, Housing Board, Metropolitan Development Authority and Water Supply and Sewerage Board. On the basis of ideas and suggestions that emerged during these discussions, a detailed questionnaire was prepared identifying some points and places in administration where, owing to corruption or other malafide considerations, a lot of harm, injustice and harassment are caused to people. The questionnaire sought the opinion of people regarding some tentative reforms and corrective measures proposed in these areas. The questionnaire was

prepared in two parts: Part-1 with 51 questions mostly relating to matters directly concerning the public in their interaction with government/statutory bodies, and Part-2 with 45 questions mostly relating to internal procedures in administration. Copy of the questionnaire is furnished in Appendix-II.

8. 25,000 copies of the questionnaire were printed and issued in the first week of February, 1997 to a wide circle of people including Ministers, Members of Parliament and Members of Legislative Assembly, VIPs who had held high positions in administration/public life, all senior officers in the Secretariat and in the field of and above the rank of District Officers, Service Associations, Panchayat Union Chairmen, Panchayat Presidents and other eminent men in public life. Time was given upto 15 th March, 1997 for replies to the questionnaire.

9. Besides the questionnaire, a general press note was also issued inviting suggestions from the public. The Committee received over 2000 letters from the public, mostly relating to complaints and some with suggestions.

10. The Committee received 2,335 replies to the questionnaire from different sections of the people as noted below :-

Minister	...	1
Politicians	...	16
Corporations and Municipalities	...	82
IAS Officers	...	16
IPS Officers	...	11
IFS Officer	...	1
Industrialist	...	1
Statutory Board	...	1
Doctor	...	1
Educationists	...	48
Advocates	...	7
Associations	...	55
Engineer	...	1
Government Servants	...	138
Journalists	...	4
Non-Governmental Organisations engaged in social service.	...	7
Panchayats	...	1676
Panchayat Unions	...	47
VIPs and eminent men in public life	...	11
Others	...	211
Total	...	**2335**

11. Replies to the questionnaire were entrusted for a detailed analysis by a team of Research Scholars in Madras University under the lead of Dr.Mrs.Susila Mariappan. The result of analysis furnished by them was duly taken into consideration while evolving the Committee's views on related matters. The Committee generally noted with satisfaction that a overwhelming majority of responses to the questionnaire favoured the tentative proposals for changes and reforms as projected in the questionnaire.

12. The Committee held 38 meetings till the date of this Report, including separate discussion sessions individually with some senior civil servants who had held high level posts in government/undertakings like Chief Secretary/Chairman, and took note of their specific views and suggestions in many related matters.

13. On invitation from the Committee, Thiru S.A.Subramani, IAS, Vigilance Commissioner, Tamil Nadu, joined its deliberations in most of its meetings and gave his perception and suggestions which greatly helped the Committee to concretise its views.

14. The Committee visited Madurai, and Salem Districts in March,1997 and held discussions with district level officers, besides observing the transaction of business in some field offices and units like Regional Transport Office, Sub-Registrar's Office, Police Station, Headquarters Hospital and Fair Price Shops. The Committee has plans to visit a few more districts before making its final report.

15. In the midst of its deliberations, the Committee was informed that the government intended to bring legislation to secure transparency in the handling of contracts for construction works and purchases made by different departments/ undertakings. The Committee, therefore, decided to give priority to this aspect of the matter which is relevant to item(ii) of its terms of reference. The Committee has now finalised its views on the changes called for in tender procedure and purchase procedure, and presents this Report - the Committee's First Report - containing its recommendations for some fundamental reforms in regard to these procedures.

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CHAPTER - 2

TENDER PROCEDURE

Codes for Works and Accounts

The Tamil Nadu Public Works Department Code and the Tamil Nadu Public Works Account Code govern the working procedures for all construction and maintenance works undertaken by the Public Works Department including Highways and Rural Works. Provisions in these codes cover the works, from the stage of project sanction by the competent authority till the completion of project. Engineering works of Statutory Bodies and Public Undertakings of the Government are also generally governed by these Codes, excepting matters which are special to such Bodies and Undertakings for which the respective governing Boards have framed their own regulations.

Present situation :

2. Though the prescribed procedures and regulatory provisions have generally stood the test of time over 50 years, some practices have developed in the recent past in which the prescribed procedures are brazenly flouted and some loopholes in the existing system are taken advantage of to cause undue monetary benefit to favoured people in utter disregard of public interest. Corruption is believed to be the omnipresent motive behind all such malafide deviatory procedures and malpractices.

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Malpractices :

3. Some typical malpractices brought to the notice of the Committee are noted below:

i) Departmental estimates for construction works are deliberately boosted up even at the first stage, adopting rates which are much higher than the market rate.

ii) The Schedule of Rates, which is the basic document for assessing the reasonableness of the estimated rates, is not maintained upto date. Even when the rates happen to get reviewed and revised on any particular occasion, the new rates are determined on an adhoc basis.

iii) Rates determined by the departments are kept secret and made known only to persons with influence or having access to unfair means. This helps the favoured persons to quote suitable rates to their maximum advantage.

iv) Though the records may show that open tenders were called for, the tender schedules are supplied by the departmental officers to certain favoured contractors only.

v) Even the registration of contractors is not done openly and fairly but is finalised at the discretion of individual officers in the field who are open to influence by extraneous considerations including corruption.

vi) Several Government works are awarded on nomination to favoured contractors, without open tenders being called for.

vii) The procedure for evaluation and acceptance of tenders is not open and therefore affords scope for favouritism and corruption.

viii) Contractors form a ring and prevent genuinely competitive tendering for the award of many works.

ix) Inspection of works executed by contractors does not receive adequate attention by the supervisory staff in the engineering departments; This ultimately results in poor quality of works allround.

x) In the atmosphere of pervasive and collusive corruption permeating from top level downward, contractors who execute poor quality work continue to flourish in their trade without being exposed or punished in any manner for their sub-standard work.

4. The Committee held a series of discussions with senior engineers of PWD and some Public Undertakings and also some IAS officers and finance officers who have had experience with public works. The malpractices which had been brought to the notice of the Committee in the first round of discussions were also mentioned in the detailed questionnaire issued by the Committee, posing some possible changes of procedure and seeking opinion on the desirability and feasibility of such changes. After careful consideration of the response received to the questionnaire and the views that emerged during discussions, the Committee makes the following observations and recommendations for ensuring

transparency in tender procedure and minimising the scope for corruption, favouritism and allied malpractices in the award of tenders for engineering works.

Registration of Contractors :

5. The procedure for registration of contractors is included as an integral part of the PWD code to which it is appended as Appendix-XXIII. The latest amended procedure is set out in G.O.Ms.No.1789, PWD, dated 29-12-1992. The Committee recommends that registration of contractors under this scheme may be done comprehensively to serve the needs of all Government departments and Public Undertakings in regard to all general engineering works. When once a contractor is registered under this central scheme, there will be no need for him to get registered separately for different Departments/Public Undertakings for general works. In regard to works of special nature which are peculiar to certain Department/Undertakings, it is open to the Department/Undertaking concerned to compile its own special register of contractors for certain limited and specified purposes.

6. The existing categorisation of contractors into five classes with reference to the financial value of works they are considered competent to execute may continue.

7. All registered contractors (including class V contractors) shall be allowed to tender for works in their respective categories in any part of the State.

8. The form of application for registration of contractors and the details to be furnished along with it are mentioned in the annexure to Appendix XXIII of the Public Works Department Code, The Committee recommends the following modifications in this regard:

i) Instead of being required to produce a solvency certificate from revenue authorities, the applicant may be required to file an affidavit about the immovable properties owned by him, duly attested by a Notary Public.

ii) In regard to categories I, II and III, the applicant may be required to file the latest Income-tax assessment order on his Income-tax returns. In regard to categories IV and V, the applicant may be asked to furnish an appropriate Bank guarantee from a Nationalised Bank.

iii) In the case of a company or corporate firm seeking registration, it may be asked to furnish a copy of its latest Auditor's Annual Report.

iv) All applicants may be required to furnish their Sales Tax registration certificate.

v) The applicant should be strictly required to furnish the full details as prescribed in Form II of the annexure to Appendix XXIII of the Public Works Department Code so that the registering authority could get a complete picture of the technical competence of the applicant to execute the type of work for which he seeks registration.

9. Registration of contractors may be done at two levels: one at the level of Executive Engineer in regard to categories IV and V, and the other at the level of Superintending Engineer in regard to categories I, II and III. Registration at the level of Executive Engineer shall be decided by a committee consisting of the Executive Engineer, a Senior Draughting Officer and a Divisional Accountant. Registration at the level of Superintending Engineer shall be decided by a committee consisting of the Superintending Engineer, one Head Draughting Officer and a Divisional Accountant. Registration done by the Superintending Engineer shall be reported to the Chief Engineer, who shall prepare a State list including all such registration done by the Superintending Engineers in the State. The State list shall be circulated to all officers concerned with general engineering works in all Departments/Undertakings.

10. The State list shall be reviewed by the Chief Engineer in April every year, and the names of contractors who had not participated in any tender process for three consecutive years in any Department/Undertaking shall be removed from the list under intimation to them.

11. The process of registration of contractors is the first step for ensuring professional competence and integrity for the execution of all public works. Therefore, adequate care should be taken at this stage to make a thorough verification of the applicant's background, experience and record of past performance besides the technical infrastructure and financial resources available to him. If the registering authority has any information about any alleged default in the applicant's performance elsewhere, the authority should verify the information with the relevant Department/Undertaking and then assess the applicant's fitness for registration. The Committee wishes to emphasise that if a

contractor gets registered after careful scrutiny in this process, there will be no need again to make an elaborate field verification for this purpose when a registered contractor submits a tender for any work in the normal course. At the stage of evaluating tenders for any specific work, the emphasis will be on the competitive rates quoted by the registered contractors and not so much on verification of antecedents or background of the contractor at that stage.

Schedule of Rates (General)

12. The most important and basic document for the preparation of correct estimate for any work is the Schedule of Rates, which is expected to be kept up-to-date in PWD. Departmental orders require it to be reviewed every year and necessary corrections made in the rates to conform to the market level. The Committee has reason to believe that this annual review and revision is not being done regularly, and even when it is done it is based on some adhoc considerations prevailing at that time. For example, on some occasions the Department merely takes note of the percentage at which tenders had been accepted either below or above the estimated rate during a particular period and then makes some nominal changes in the Schedule of Rates to reflect this percentage. This is a very unsatisfactory method of revision. It is the actual prevailing open market rate that is important for determining the Schedule of Rates. The rates quoted by contractors whether above or below the estimated rates may not be deemed an objective base for this purpose because the contractors' response would be influenced by a number of considerations including the possibility of a ring of contractors or the contractors' expectations of low quality work being passed by corrupt officials or the contractors' apprehension of a lot of delay in the settlement of bills, and so on. The accuracy of the Schedule of Rates with reference to the actual market level is of paramount importance for securing the integrity of the tender procedure and acceptance of rates which would be realistic and at the same time most competitive from the point of view of public interest. Every effort should therefore be made to keep the Schedule of Rates up-to-date and realistic at all times.

Special Cell at Head Quarters

13. The Committee recommends that a special cell be created in the PWD Headquarters office headed by a Superintending Engineer or a senior Executive Engineer with adequate experience and background who shall be responsible for annual review and revision of the Schedule of Rates. This Cell should include an

officer each from the Department of Statistics, Department of Geology and Mines and the Department of Labour. The cell should work throughout the year and engage itself in revising labour and material constants for various items of works based on observed data and also identify new materials and new items for inclusion in the Schedule of Rates after due analysis. In February every year, this cell should circulate an exhaustive note incorporating changes in rates wherever necessary and also introducing new items with necessary materials in support of their inclusion. This note should be examined at a conference of Superintending Engineers of PWD and other engineering departments to be convened for this purpose and then the Schedule of Rates should be finalised. The Chief Engineer, PWD, shall draw up a time-table for this work during the year from the preparatory stage to the conference stage and the final issue of Schedule of Rates. The Chief Engineer shall insist on due observance of this time-table by all the functionaries concerned.

14. The Committee further recommends that this special cell in PWD Headquarters should appropriately come within the administrative purview of the Superintending Engineer in charge of Vigilance work. This will ensure the necessary orientation for the entire exercise for the prevention of malpractices which facilitate favouritism and corruption on a wide scale.

Schedule of Rates (Special)

15. While the PWD will be responsible for the preparation and maintenance of Schedule of Rates for all general engineering works, the Government Departments and Public Undertakings may prepare their own special Schedule of Rates relevant to their special engineering works which involve the use of sophisticated equipment or technology or otherwise peculiar and exclusive to their needs. The preparation of special Schedule of Rates and its annual review and up-to-date maintenance shall be looked after by a special cell in the Department/ Undertaking concerned. This special cell shall come under the administrative purview of the Chief Vigilance Officer of Department/Undertaking.

Curtailment of provision for excess over estimate

16. Whenever an estimate is prepared for a work in the present scheme of things, the existing procedure and practice provide for (i) additional 5% of the estimated cost for meeting unforeseen items and (ii) an additional 5% of the estimated cost for 'petty supervision and contingencies'. Besides this facility, the

authority sanctioning the estimate has also the general power to sanction excess over the estimate upto 5%. Thus, a total amount of 15% of the estimated cost becomes available to the field officers for meeting 'unforeseen' items and the like. In present times estimates amounting to a few crores of rupees have become common, and 15% of the cost of such estimates would place a substantial amount of several lakhs of rupees in the hands of the field officers for disposal on some matters which can be decided in their discretion. The scope for large scale corruption in this arrangement is obvious.

17. The Committee has carefully considered all aspects of the aforesaid matter. The item described as "petty supervision" has continued in the Code for several years based on an old practice of having some subordinate staff on adhoc basis from time to time as work charged staff for supervisory works. This practice has gradually declined over the years and all the staff down the line upto the lowest level are now part of the regular establishment, drawing their pay and allowances in the establishment bill itself. Therefore, there is no real need for lumpsum provision in the estimate itself for the item "petty supervision". There is also no need to provide a separate lumpsum provision of another 5% for meeting unforeseen items because the sanctioning authority can exercise his normal powers to sanction excess over estimate upto 5% for meeting such items. From the point of view of probity and correctness of expenditure from public funds it would be appropriate to have such items met within the normal powers of the sanctioning authority because all such normal sanctions which are made in excess of the estimate will be scrutinised in audit in the usual course and any unjustifiable sanction will get exposed. On the other hand if "unforeseen items" are met by a separate lumpsum provision of 5% as is presently being done the additional expenditure is treated as part of the sanctioned estimate and would not therefore be specifically questioned by audit. In the light of these observations the Committee recommends that the -

i) existing practice of providing additional 5% of the estimate for "unforeseen items" be stopped, and

ii) existing practice of providing another 5% for "petty supervision and contingencies" be reduced as 2.5% for "contingencies" only.

Notice Inviting Tender (NIT)

18. The first stage in the tender procedure is the issue of a notice inviting tenders (NIT) for a specified work for which the administrative approval and

technical sanction have been accorded by the competent authority. It has come to the Committee's notice that tenders had been invited in many instances without waiting for technical sanction. Excepting works of an emergent nature, which are dealt with separately in the later part of this report, the Committee recommends a strict rule that tenders should be called for only after technical sanction has been accorded for the work. It would be a useful safeguard to stipulate that every NIT shall invariably carry a citation of the reference in which technical sanction has been accorded.

Open tender

19. All works, excepting those described in paragraph 41 below shall be awarded by following the open tender procedure. The salient features of the procedure, as spelt out in the following paragraphs, are :

i) openness of the procedure;

ii) adequate publicity of the NIT to secure as many responses as possible;

iii) award of the tender at the most advantageous rate from the point of view of public interest; and

iv) avoidance of situations which give scope for arbitrary exercise of discretion to favour select persons.

Publicity

20. As soon as administrative approval and technical sanction for a work are accorded, the departmental authority who is competent to sanction the work in accordance with the prescribed financial limits shall issue the NIT for the work. The NIT shall be given wide publicity in leading newspapers in Tamil and English and also on notice boards in the District Collectorates, Panchayat Offices and the Offices of the P.W.D. upto the District level. The newspapers for this purpose shall be specified by government, having regard to the value of work and the circulation of newspapers for securing good publicity. In regard to works of value more than Rs.10/- lakh, the NIT shall also be sent for publication in the Government periodical "Tamil Arasu". The publication of all such NITs issued by various authorities in the State for works exceeding Rs.10/- lakh should be a regular feature of Tamil Arasu. Besides publication in Tamil Arasu, all such NITs shall also be sent to the Indian Trade Journal and Builders' Association of India.

District and State level publication

21. Publication of NITs can be made systematic and more effective if a regular bulletin could be officially published in each district embodying all NITs issued from time to time. A similar official publication at State headquarters may be arranged in respect of NITs which have relevance to more than one district or which relate to very large works above a prescribed value. Responsibility for issuing the publications at the district level and State level may be fixed on specially designated officers for this purpose. All tender inviting authorities shall be bound by orders to furnish copies of NITs to these designated officers for inclusion in the publications at the district and State levels.

Supply of tender documents

22. Any registered contractor shall be entitled to respond to the NIT and ask for the tender schedule papers after complying with the prescribed formalities including payment of a specified fee. Copies of tender schedules shall also be made available for sale in Taluk Offices/Block Development Offices/Collectorates so that intending contractors may get them without loss of time.

23. It should be ensured that sufficient time is available between the date of publication of NIT and the date of opening tenders. This period should be not less than 15 days for works upto Rs.15 lakh in value, not less than 3 weeks for works upto Rs.25 lakh in value and at least 4 weeks for major works or specialised jobs. This will give sufficient time for leading and reputed contractors located outside the State also to purchase the tender schedule, inspect the work site, carry out necessary investigation and then give their offers within the stipulated time.

Opening of tenders and their evaluation - Tender Scrutiny Committee

24. The next phase of the process, namely the opening of tenders and their evaluation, should be handled by a Committee of three officers instead of by a single individual. This Committee may be called the Tender Scrutiny Committee (TSC). The composition of the TSC shall be as indicated below :

Nature of Work	Composition of TSC
(i) Works upto Rs. 5 lakh	Executive Engineer, Divisional Accountant and Head Draughting Officer.

(ii) Works above Rs.5 lakh and upto Rs.15 lakh	ii) Superintending Engineer, Accounts Officer and a Head Draughting Officer.
(iii) Works above Rs.15 lakh	iii) Chief Engineer, Chief Head Draughting Officer and Senior Accounts Officer.

25. The composition of the TSC in Statutory Boards and Public Undertakings shall be determined on similar lines by drawing officers of the appropriate rank within the Statutory Body/Undertaking. Where it is not feasible to draw officers of a comparable rank for this purpose within the organisation, the services of equal ranking officers in other departments with similar professional orientation may be utilised. The decision in this regard shall be taken by the Chief Engineer concerned.

26. It has come to the Committee's notice that tenders are sometimes opened on a date different from that notified earlier, citing some administrative reasons. This unhealthy practice which erodes the measure of transparency in the procedure should be stopped. In exceptional cases where the tender opening date has to be postponed for genuine reasons, the fact of postponement should also receive equal publicity as the original notice.

Percentage Rate Tender

27. It is the present practice to call for item rate tenders for works upto Rs.50 lakh value. For simplification of procedures and making it easier for comparison of tenders, the Committee recommends that for works upto the value of Rs.20 lakh in which all the items of work are covered by the Schedule of Rates, percentage rate tender system may be adopted. On the basis of experience gained in one year after following the revised procedure, the financial limit for the percentage rate tender system may be appropriately increased, if deemed workable.

Criteria for evaluation

28. The TSC shall evaluate all the tenders with reference to the current Schedule of Rates, and with reference to the prevailing market rate in regard to items outside the Schedule, and draw up a statement of comparison of tenders in accordance with the criteria set forth in the tender documents. No other criteria shall be applied for this evaluation, provided that if it comes to the notice of the

TSC that a tenderer has been debarred by any other department from participating in its tender process, that fact may be taken into account by the TSC while recommending award of work.

Tender Award Committee

29. The authority to decide the award of work to a tenderer shall also be specified in the form of a Committee of three Members instead of an individual officer as at present. The composition of this Committee which may be called the Tender Award Committee (TAC) shall be as indicated below :-

Nature of Work	Composition of TAC
(i) Works upto Rs.5 lakh	i) Executive Engineer having jurisdiction over the work, another Executive Engineer from a neighbouring division and a Divisional Accountant.
(ii) Works above Rs.5 lakh and upto Rs.15 lakh	ii) Superintending Engineer having jurisdiction over the work, another Superintending Engineer from a neighbouring circle and a Divisional Accountant.
(iii) Works above Rs.15 lakh	iii) Chief Engineer, Superintending Engineer in charge of Planning and Design and a Senior Accounts Officer.

A Senior Head Draughting Officer will be associated with the proceedings of the TAC in each case for assistance during its deliberations.

30. In case of works of estimated value exceeding Rs. 25 lakh, the TAC shall consist of the Chief Engineer, another Engineer of comparable rank from another department and a Joint Secretary to Government in the Finance Department. If any particular work of this category involves very complicated engineering designs, a senior technical expert from a Public Undertaking or the private sector who deals with similar work may also be included as a member of this Committee.

Award of Tender

31(i) A work shall normally be awarded to the tenderer who has quoted the lowest rates. If the tender inviting authority had stipulated in the tender documents some special technical requirements to be satisfied, the lowest evaluated tenderer determined on the basis of factors relating to such technical requirements shall be awarded the work provided that these special factors shall be quantifiable or expressible in monetary terms.

(ii) The Committee has heard of instances where some new contractors, in their anxiety to enter the field, had got contracts by quoting very low and unworkable rates, and had later abandoned the work in the middle or had done sub-standard work. In either case there is loss to Government, besides litigation for recovery of additional cost. The TAC should therefore be careful to assess whether the quoted rates are workable and then decide the award.

32. The TSC shall record reasons in sufficient detail to justify its evaluation and recommendations. Likewise, the TAC shall record reasons in detail for the final award of the work.

33. If two or more contractors have quoted the same lowest price, the TAC shall split the contract among the tenderers who have quoted the same price. Where such splitting is not possible the TAC shall record reasons for its final award of the contract.

Double Cover Method

34. In respect of special works like installation of water treatment plant, construction of arch dams, stadium, etc., the present practice of adopting double cover method with the first cover furnishing details of the builder's professional competence and his perception of the relevant technology, and the second cover containing details of the tender in financial terms, may be continued. In this double cover method, tenders are first evaluated by the TSC and listed in the order of preference according to their technical competence. Offers in the second cover are separately evaluated by the TSC and the tenders are listed in the order of preference according to the cost involved. The TAC will have to examine carefully the two lists together and then select the tenderer whose offer would be most advantageous from the public interest point of view, balancing the cost of tender on one side with the technical competence on the other.

35. In cases where the double cover method is adopted, all the reputed and leading contractors and engineering firms in the field shall be allowed to offer their tenders, whether they are in the list of registered contractors or not.

Proceedings of Tender Committees

36. Proceedings of the TSCs and TACs shall be conducted with high degree of objectivity and concern for public interest. Decisions of these committees shall be based on the opinion of the majority of the members. A member of the committee shall be free to record his dissenting note, which shall be kept as part of the record of proceedings. The Committee's recommendation for TSCs and TACs in place of individual officers to deal with all tenders at sensitive stages is based on its considered view that the revised method would enable the system effectively to resist extraneous influence or pressure, and deal with the matter in the most objective and fair manner.

Avoidance of delay in tender decisions

37. It is the present practice to indicate in the NIT that the bidders should keep their offers valid for 120 days from the date of opening tenders. The Committee considers this period to be on the high side which generally induces all the dealing officials to delay the decision on the award of tenders for unreasonably long periods. The Committee recommends that percentage rate tender shall be decided within a month and other tenders shall be decided within 90 days at the most. The changed time schedule may be correctly notified in the NITs in future.

38. The Committee has also come to know that in the process of tender analysis in the offices of the Divisional Engineer, Superintending Engineer and Chief Engineer the tender papers as a whole pass through several functionaries in the administrative, accounts and the engineering section of the office. Such linear transmission of papers leads to considerable delay with its attendant scope for malpractices. Heads of Departments and Undertakings may examine this aspect in greater detail and suitably modify the working procedures to minimise the tossing of papers up, down and across in their respective offices to avoid delays and the resulting malpractices in the matter.

39. After the TAC decides the award of contract, the decision together with reasons shall be communicated to all tenderers.

40. In view of the comprehensive scheme for the scrutiny of tenders of all types as noted above, the award of tenders of all kinds can and shall be decided by the respective TACs as constituted above. There shall be no need to refer the award of any tender for decision at Government level.

Exceptions to Open Tender System

41. The Open Tender System as detailed above shall be strictly followed in regard to all engineering works, excepting the following :-

i) Works undertaken urgently during natural calamities and emergencies which are so declared by the Government. Powers to declare a work as an emergent work of this kind may also be delegated to the District Collectors and the Chief Engineer.

ii) Low value works which are more in the nature of maintenance works and not new construction. The financial limits for such low value works may be prescribed by the Government.

iii) Works which involve sophisticated technology available to a particular contractor and have to be awarded to him only, if they are to be done satisfactorily. Whether any particular work falls in this category has to be decided by a Committee of three Experts consisting of one Technical Representative of the Engineering Branch concerned, one Technical Representative of another organisation of the State or Central Government which deals with similar sophisticated works, and one representative from a reputed academic or research institution or non-commercial institution which has experience and expertise in the same line.

42. Emergent works of the type mentioned in item (i) of paragraph 41 above may be entrusted to nominated contractors in the registered list in the discretion and judgement of Divisional Engineer/Superintending Engineer/Chief Engineer concerned who shall be guided by the background, experience, competence and reliability of the contractor to execute the work satisfactorily in quick time. However, the financial limits upto which the Divisional Engineer/Superintending Engineer/Chief Engineer may sanction such emergent works may be strictly limited to one fourth of their respective normal financial limits.

Work Order

43. The work order shall be issued within 7 days from the date of acceptance or before the expiry of the validity of the tender whichever is earlier. The issue of work orders from time to time shall also be briefly displayed on the notice board of the Divisional Engineer/Superintending Engineer/Chief Engineer as the case may be.

44. Copies of work orders exceeding Rs.5 lakh value shall also be sent simultaneously to the Sales Tax Officer, Income-tax Officer and Central Excise Officer concerned.

45. Copies of work orders exceeding Rs. 10 lakh value shall be simultaneously sent to the Director of V&A.C. who shall get the execution of work checked from the vigilance angle in accordance with the established procedures in the Directorate.

46. The work order should set strict time limit for the awardee to remit the security deposit and also comply with any other financial condition prescribed in the relevant procedures. The formal agreement with the awardee shall be executed in the prescribed form within 15 days from the date of work order.

Departmental Supply of Materials

47. The Committee has carefully examined whether the present system of departmental supply of materials to contractors for construction works should continue. On one side it is stressed that if items like cement, steel, PVC pipes, GI pipes, etc. are purchased by the Department and issued to contractors, the quality of materials can be ensured. If contractors are allowed to purchase these items themselves and include the cost in their bills it might induce them to increase their profit margin by purchasing sub-standard materials. On the other side it is stressed that if the Government Departments make these purchases themselves and build up a store of all such purchases for periodical issue to contractors it results in substantial money of the Government getting locked up for a long time. Considering all aspects of the matter, the Committee recommends that the existing practice of making departmental purchase of cement, steel, PVC pipes, GI pipes, etc. and supply to contractors may continue with the condition that once a quarter inventory levels should be closely monitored by the Divisional Engineer or Superintending Engineer as the case may be so that the lock up of government money is kept at the minimum.

Quarries

48. Some construction works involve the use of materials lifted from quarries located at some distance from the work spot. The tender schedule of such works will refer to the lead charges for transport of materials from the quarry to the site. The Committee understands that in some cases the tender schedules have shown much longer lead than was actually used during construction work. This practice results in undue financial gain to contractors. The Committee recommends that the quarry nearest to the site as certified by the local revenue authorities should be ascertained by the tender issuing authority and incorporated in the tender schedule.

Recovery of liquidated damages

49. The Committee recommends that in all Government works contract, recovery of liquidated damages shall be provided at the rate of 1% per week of delay subject to maximum of 10%. The contract shall also give powers to the Executive Engineer/Superintending Engineer to take action against the erring contractors who have delayed the work or executed defective work or failed to pay wages to their labourers or failed to provide them the prescribed facilities. The contract agreement shall empower the Superintending Engineer/Chief Engineer to terminate the contract in such cases and get the balance of work executed at their cost. It should be clearly laid down in the contract agreement that the decision of the department regarding excess cost incurred in such cases shall not be arbitrable.

Escalation Clause

50. The Committee has considered the question whether contract agreements should provide for an escalation clause. Presently no uniform practice appears to be followed in this regard. The Committee understands that in Central Government contracts escalation clause has been introduced in the recent years and the system is working reasonably well. This arrangement avoids protracted litigation and excessive arbitration awards against the Government on this issue. The Committee recommends the introduction of escalation clause in contract agreements where the stipulated period for completion of work is 24 months and above. The formula for escalation cost shall be precisely spelt out, linking it with factors like wholesale cost index and changes in statutory minimum wages of labour.

Deviations from estimate

51. In the course of execution of works, deviations are some times made according to local conditions and changed requirements. While the existing procedures for making these deviations may continue, the Committee recommends that in all works exceeding Rs. 25 lakh value, changes in the cost of items of deviation should be vetted and approved by the special cell in PWD Headquarters office as indicated in paragraph 13 above. This stipulation should be strictly enforced in all such works. This precaution is very necessary to eliminate the scope for the adoption of inflated and arbitrarily fixed rates for such additional items of work.

Site Order Book

52. The Committee understands that the departmental instructions on the maintenance of Site Order Book (SOB) and its availability in the division office for check at the time of making final payment to contractors are not being followed, and this indifference has led to considerable slackness in the check of final payments. SOB is the only facility that furnishes the chronological record of events, inspections made by supervisory officers and the orders given by them from time to time. The Committee recommends that all the standing orders regarding SOB may be consolidated and reissued for strict compliance by the field officers. These books may also be got printed in sufficient quantity with machine numbered pages with prescribed columns to secure the credibility of this important record. It should be laid down as a strict rule that the final bill of a contractor shall not be paid without scrutiny of SOB by the Divisional Engineer concerned.

Check Measurement Book - Structural Soundness Certificate

53. All works done are entered in the prescribed check measurement books which are usually certified by the Assistant Engineer in regard to accuracy of measurements. Even in cases where serious deficiencies occur in the execution of any work on account of malpractices or corruption at higher levels in the department, the ultimate responsibility for the correctness of the measurements or materials used in the work gets fixed on the junior officials in charge of check measurements book. The Committee feels that the senior officials in the department should own professional responsibility for the ultimate soundness of major construction works whose progress they are expected to supervise in detail during actual execution. The Committee therefore recommends that the final bill for

works should not be paid without the structural soundness certificate recorded by Divisional Engineer in regard to works of value upto Rs. 5 lakh, Superintending Engineer in regard to works of value over Rs. 5 lakh upto Rs. 25 lakh, and Chief Engineer in regard to works of value over Rs. 25 lakh. Existing instructions that the responsibility for the soundness of design rests squarely on the Superintending Engineer/Chief Engineer should be reiterated.

54. The Committee further recommends that the pre-requisite of such certificate from the senior official for the final clearance of the contractor's bill should be specifically mentioned in the contract agreement itself so that it may be lawfully and effectively enforced.

Confidential Register of Contractors

55. Instructions exist in G.O.Ms.No.1789, PWD, dated 29-12-1992 for the maintenance of confidential register of contractors for making annual entry about their performance during the year. The Committee understands that this register is not regularly maintained. All instructions regarding this register should be consolidated now and reissued for strict compliance by the field officers. Unless this register is authentically maintained up-to-date, it will not be possible to deal with the defaulting contractors under the code for blacklisting contractors.

Shrinkage period

56. The contract documents should make it clear that the contractor is fully responsible for defective workmanship and use of sub-standard materials. The present instructions about shrinkage period of five years for building works and leaks that occur in liquid retaining structures are unrealistic and only result in high rates being quoted by contractors. A maintenance period of six months from the date of completion of work for buildings and twelve months for roads would appear to be sufficient. The contract should provide that the Security Deposit or withheld amounts amounting to 5% will be released only after the maintenance period is over.

Final Bills

57. The Committee has heard of a prevalent habit among some field officers of notionally delaying the payment of final bills, though in fact the entire work may have been completed and full payments may have been made for practically the entire work in the last pre-final bill. Since the work would have been

completed, the executed project becomes functional for the department concerned. All the while the records of the construction branches would be showing the final bill as not paid. The non-payment of the final bill holds up the return of security deposit or any other withheld amount due to the contractor. This practice of keeping the final bills pending for a long time suits the interest of supervisory officials who may wish to evade responsibility for any defects in the work if they get detected later. If the final bill is kept pending on record it helps them to come up with the excuse that the defects had been pointed out by them to the contractor and were expected to be rectified by him before the final bill was paid. The Committee understands that the financial loss caused to contractors on account of this routine practice induces them to quote higher rates in their tenders to off set this loss. Ultimately it results in additional expenditure from public funds on account of the high rates. There is immediate need to set right this endemic malpractice in the system. The Committee understands that in recent years, the Central Government has issued special instructions to all formations in the engineering wing to send monthly report of all final bills which remain unpaid for more than six months after actual completion of work. All such reports are required to be reviewed by the Head of the Department who will then order appropriate corrective measures for immediate implementation. The Committee recommends that a similar system of regular and strict review of all such pending final bills by the Superintending Engineer/Chief Engineer concerned may be adopted immediately.

Arbitration

58. While arbitration in works contracts may be viewed as a desirable quasi-judicial system of settlement of disputes between the contractors and Government departments, the Committee considers it necessary to incorporate some changes in the arbitration clause. Firstly, the officer notified as 'Arbitrator' should be a senior engineer of proven integrity. Secondly, the clause itself should make it clear that the award would be acceptable only when the reasons for the award are also given on record. Cryptically worded one line awards would not be acceptable. Thirdly, preamble of the arbitration clause should make it clear that the contractors shall within three months of the date of completion of the works specify the disputes, claims and the amounts involved and write to the Engineers accordingly, failing which it will be deemed that the contractor will not take recourse to arbitration.

Divisional Accountant

59. Divisional Accountants in the engineering branch have an important role in auditing contractors' bills. The earlier practice of taking personnel from the Accountant General's Office to work as Divisional Accountants in the engineering branches has been given up in recent years, and departmental candidates in the accounts/administrative branches have been promoted to function as Divisional Accountants. The Committee understands that the quality of audit has come down in the changed system. The Committee feels there is need to improve the professional competence and orientation of the departmental staff posted as Divisional Accountants. The Committee therefore recommends that the officials who have passed the SAS test alone should be considered for appointment as Divisional Accountants in future. Existing personnel in the Divisional Accountants cadre who have not passed the SAS test should be required to acquire the qualification within a period of three years. In the event of their failure to do so, they shall be taken out of the Divisional Accountant cadre.

High Level Technical Cell

60. In addition to the comprehensive measures suggested above for effective check and monitoring of all construction works from the stage of issue of notice inviting tenders till their completion, the Committee feels there is need for developing an independent technical audit system for effective check on high level corruption and malpractices. Even now, there is a Superintending Engineer attached to the Directorate of Vigilance and Anti-Corruption to make surprise checks of construction works in progress and also render technical advice to the DVAC in specific cases investigated by them. While this arrangement may continue in the DVAC for their purpose, the Committee recommends the constitution of a more comprehensive technical cell to function directly under the Vigilance Commission to exercise over all vigilance check on technical matters connected with all major construction works. This cell may be headed by an officer of Chief Engineer's rank who will have subordinate staff drawn from the accounts as well as engineering branches. It will be the responsibility of this cell to make a technical audit in respect of large construction works regarding which adverse information may be received by the Vigilance Commission or adverse material may be exposed by departmental audit in the normal course. The Committee is separately considering the feasibility of strengthening the existing District Inspection Cells with some engineering and accounts staff so that they may effectively monitor the progress of various construction works at the panchayat/district levels. The

technical cell under the Vigilance Commission may have over all supervisory and reviewing responsibility in respect of the District Inspection Cells also in due course. The availability of a high level technical cell of this kind functioning independently of engineering departments, with adequate powers under the control and guidance of the Vigilance Commission to make a technical audit of major construction works even while they are under execution, will be an effective deterrent against malpractices in engineering branches.



CHAPTER - 3

PURCHASE PROCEDURE

Introduction

Government Departments and Public Undertakings incur considerable expenditure on purchase of materials for several purposes. Presently there appears no uniformity in the procedure followed for such purchases. Each Department/ Undertaking has developed its own regulations and practices over the years for purchase of a large variety of materials, some of which are very special and peculiar to the purchasing Department/Undertaking. However, the procedures have to conform to some basic principles to ensure probity in all the connected transactions since they involve expenditure from public funds. The Committee proceeds to set down these principles in this chapter.

2. At the outset, the Committee would like to deal with a proposal that emerged during discussions with senior officers in Government Departments/ Undertakings for setting up a Central Purchase Organisation on the lines of Directorate General of Supplies and Disposals under the Central Government to deal with all purchases on a centralised basis and make necessary supplies to the field units according to needs from time to time. The Committee has carefully considered this proposal. The variety of materials required by the different indenting units is so large that a centralised purchase scheme may create some practical difficulties. If the quality of the purchased materials is left to be inspected and passed by the central unit, it would not be so effective as a system of inspection by officers at the user end. It is the ultimate user of materials that is directly concerned with and affected by the quality of materials when they are actually put to use. In the interest of maintaining quality the Committee feels that the inspecting responsibility should be held as near the user unit as possible. This is not practicable in a highly centralised system. Further, a central system would inevitably carry with it a bulging hierarchy with its attendant delays in the disposal of business and consequent scope for malpractices, specially in the Inspection Wing. The only advantage in a centralised system may be the possibility of making the suppliers agree to a rate lower than the market price because of the large volume of supplies involved. The Committee feels that the price aspect can be taken care of by developing a Central Purchase Cell in each Department/

Undertaking which could identify suitable suppliers and arrive at agreed rates for the materials to be supplied. There is no need for developing and maintaining a Central Purchase Organisation as such on the lines of Directorate General of Supplies and Disposals for the entire State. The Committee is therefore not in favour of this proposal.

Present Situation

3. Presently the following procedures are in vogue in different Departments/ Undertakings for purchase of materials :

i) Calling for open tenders as and when purchases are to be made.

ii) Adopting the limited tender system in respect of materials for which suppliers are very few. The State Electricity Board follows this system.

iii) Fixing annual rate contract agreements with some established suppliers and authorising the field officers to buy materials directly at the contracted rate.

iv) Adoption of two cover system for purchase of heavy machinery or sophisticated items.

v) Purchase through co-operative societies and small scale industries (SSI) in Tamil Nadu, giving them preferential treatment under Government Orders by exempting them from payment of earnest money deposit and also giving them price preference of 15 per cent.

Tender procedure

4. In the chapter on Tender Procedures the Committee has referred to the malpractices that have crept into the system of Open Tenders and Limited Tenders and the enormous scope for favouritism and corruption in all the connected transactions. Keeping in view the need for utmost transparency in the handling of this financially sensitive matter and the need to ensure economic and prudent handling of public funds consistent with efficiency of administration, the Committee has made many recommendations in regard to the Tender Procedures for construction works. The Committee would like to state that the same recommendations would apply mutatis mutandis to all purchases made through tenders, subject to some modifications as detailed infra in this chapter.

5. The Committee's observations regarding adequate publicity for the notice inviting tenders, supply of tender schedules to all the eligible tenderers who apply for them, scrutiny of tenders by a Tender Scrutiny Committee of three officers and the final award of the tender by another Tender Award Committee of three officers, the exceptional circumstances in which purchases may be made from nominated contractors instead of through the open tender system, etc., are applicable to the purchase of materials also in the same manner as for construction works.

Evaluation of tenders

6. In the evaluation of tenders for supply of machinery the Tender Scrutiny Committee should take into account not only the quoted price for the machinery but also include the price of recommended spare parts for three years for operating that particular equipment.

7. The maintenance and running cost also should be taken into account for assessing the relative merits of the tenders.

8. There may be instances where a manufacturer is not prepared to quote a price where the requirement is very small. In such cases the purchase officer/ local departmental officer concerned may be authorised to make local purchases from dealers after checking the prevailing market price and recording the result of check.

Central Purchase Cell

9. The price at which materials are bought is the crucial matter in the whole scheme of things. It gives the measure of probity in the whole transaction. Every effort must be made by all dealing officials to ensure that the price paid for materials is in line with the actual market price or slightly less but not more. For this purpose, a suitable mechanism for determining the market price of various materials has to be developed in each Department/Undertaking having regard to the nature of materials it requires from time to time. A Central Purchase Cell should be established in each Department/Undertaking for this purpose, headed by a senior officer who may be designated Chief Purchase Officer (CPO). He should be given suitable supporting staff in the field as well as headquarters to keep in touch with market conditions and draw up an annual list of prices of various materials that are usually bought by the Department/Undertaking. By inviting tenders from established suppliers, he may also arrive at a rate contract agreement with such suppliers and circulate the list of suppliers and approved

rates to all the field units. Purchases thereafter can be made directly by the field units themselves who shall also be responsible for inspecting the supplies and checking their quality before effecting payment.

Purchase in excess of sanction

10. Occasions may arise when the requirements of materials in the field may turn out to be more than the quantity stipulated in the purchase order. From the vigilance point of view there should be no objection to the field officers purchasing the additional quantity by exercising their normal powers. But the matter would take a different colour if it happens that the price settled in the first purchase order is much higher than the original estimated price. The Committee feels that in all cases where the contracted price is more than 15 per cent above the originally estimated rate, additional purchase of increased quantities of the same material should not be permitted except with the sanction of the Head of the Department or the Board of Management of the Undertaking.

Exceptions to Open Tender System

11. The Open Tender System, as detailed in Chapter-2 of this Report, shall be strictly followed in regard to all purchases, excepting the following :-

(i) Purchases made urgently during natural calamities and emergencies which are so declared by Government.

(ii) Low value procurement and local purchases within such limits as may be prescribed by Government.

(iii) Single source procurement from a particular supplier who may have exclusive rights in respect of the material or exclusive access to the technology relevant to its manufacture, provided a Committee of three experts consisting of one technical representative of the procuring entity, one technical representative of a State or Central Government Organisation dealing with similar procurement and one representative from a reputed Academic or Research Institution or Non-commercial Institution having expertise in such line, declares it as Single Source Procurement, for this purpose.

(iv) Spot purchases like cotton by spinning mills, oil seeds and oils by Agro-Industries Corporation or Oil Seeds Corporation, animal purchases from

shandys, sugar-cane purchases by Co-operative sugar mills, paddy purchases by the Director of Purchase Centres of the Civil Supplies Corporation and similar items notified by Government from time to time.

Emergency Purchase

12. In respect of purchases made in an emergency as mentioned in item(i) of paragraph 11 above, powers of the purchasing authorities may be limited to 1/4th of their normal powers of purchase. Copies of all such purchase orders of an emergent nature shall be simultaneously marked to the Accountant General and internal audit wing of the Department/Undertaking. Copies of such emergent purchase orders exceeding Rs. 5 lakh in value shall be marked to the Director of Vigilance and Anti-Corruption.

Specification for materials

13. The Committee has heard that irregularities have been committed in many cases in the drafting of specifications for the materials to be purchased. There are alleged instances where departmental officers prepared the specifications in such a way as to favour some persons. As the entire basis for quoting prices for materials/machinery required by Government is the specification stipulated in the tender documents, the Committee recommends that detailed instructions be issued to various Departments/Undertakings making the technical Heads of such Departments or the Authority approving these specifications fully responsible to ensure that these specifications are correct, are made with due regard to the requirements of the Departments, and do not give unfair advantage to some particular firms only.

Vendor rating

14. Ineffective vendor rating which allows bogus parties and firms to enter is also responsible for loss to Government by way of either delayed supply or sub-standard supply. The Committee recommends that the vendor rating should be thorough and take into account the manufacturing capacity, quantity of supplies made by the firms/suppliers in the past three years, etc., and only such firms should be qualified who are found to be meeting with the requirements of departments in effecting supply of proper quality and within the stipulated time. Vendor rating should be done by a Committee consisting of the Chief Purchase Officer (technical person who is fully conversant with the specifications, requirements, etc.) another technical officer of equal rank and a Finance Officer.

Performance guarantee

15. Some materials carry with them a guarantee of performance for a specified period from the date of supply. If owing to indifferent or bad planning by Indenting Officers, some materials of this kind happen to lie in stores without issue for a long time exceeding the period of guarantee, there will be no means for the Department to enforce the guarantee clause when the material fails in its performance in actual use later. There is scope for sub-standard material to be kept in stock for long periods in this fashion, motivated by corruption. It is the special responsibility of supervisory officers at higher levels to ensure that stocking of such materials is kept at the minimum. Further, the contract agreement itself should provide for an extension of the guarantee period by mutual agreement between the department and the contractor.

Contract agreement

16. In order to enable the purchaser to enforce penal clauses like rejection of sub-standard materials or recovery of rates for them or black listing of such firms under certain conditions or enforce delivery within the stipulated time, etc., the Committee recommends that in all major contracts stamped agreements should be drawn and signed by the purchaser and supplier. Such agreements should refer to general conditions of contract, special conditions of contract including specifications of the materials required and the schedule of quantities containing description of the item, quantity, rate, amount, etc. Government Departments/ Undertakings should be guarded against accepting offers of suppliers made out on their letter heads, the reverse of which may contain some printed conditions favourable to the suppliers, which may go unnoticed by the Department/ Undertaking.

Negotiation with tenderers

17. The Head of a Public Undertaking pointed out to the Committee that when he found the lowest price obtained during the tender process to be much above the expected level, he conducted hard negotiations with all the tenderers and was able to secure an advantageous price for the Undertaking which resulted in a saving of Rs.762 lakh in a total purchase of Rs.6358 lakh of a product and saving of Rs.837 lakh in a total purchase of Rs.1921 lakh of another product. He suggested that Departments/Undertakings should resort to hard negotiations with all tenderers after their rates are known in the first stage of tender process. The Committee has carefully considered this suggestion. If such negotiation is resorted

to as a regular practice, it would induce the contractors to form a ring and quote very high rates in the first stage itself which may finally result in the negotiated rate also remaining high, even though it may turn out to be lower than the initially quoted very high rates. The Committee is of the view that if at all negotiation is to be rsorted to because the lowest rate in the tender process happens to be unreasonably high, the negotiation should be with the lowest tenderer only, to bring down his rate to a reasonable level. If that attempt fails, the matter should be thrown open for fresh tenders all the way up, excepting cases where the purchase has to be made without delay and the time involved in the fresh re-tendering process may delay the purchase to an extent that would seriously prejudice the progress of an on-going project. Even in such exceptional cases, which should be rare, the exercise of calling for fresh tenders shall be strictly limited to the tenderers who had responded to the first tender call, and shall be further governed by the condition that the tenderers shall not quote higher than what they had quoted in their respective tenders on the first call. The technique of hard bargaining with all the tenderers in the manner suggested by the Head of the Undertaking, would go contra to the basic principles of competitive and open tender process which are fundamental for the integrity of the whole system. The Committee, therefore, does not accept the sugestion to make negotiation a normal feature of the tender process. It should be very rare and may be resorted to only in exceptional circumstances as noted above.

18. Some purchase contracts have been found with lacuna or loopholes which create difficulties for government by not providing for insurance during transit, damages during transit, non-payment of excise duty/customs duty/sales tax by the suppliers, etc. Purchase contracts should provide a clause empowering the Department/Undertaking concerned to effect recovery from the supplier's bills whenever demands are made by the Income-Tax/Excise/Sales Tax authorities. As a measure of additional precaution, the purchase officer when issuing the supply order to firms/manufacturers should send a copy simultaneously to the officer concerned with Excise duty/customs duty/sales tax/income-tax.

Escalation clause

19. The Committee has carefully considered the question whether a contract for purchase of materials should contain an escalation clause to provide for fluctuations in market price. Unlike construction works, supply orders are required to be executed within a relatively short period. In cases where a particular product or machinery has a large number of component parts it would be practically

difficult to evolve a formula for variations in prices of different parts. Having regard to all aspects of the matter, the Committee feels there is no need to include an escalation clause in the contract agreement for purchase of materials.

Mobilisation advance

20. The Committee recommends that the practice of sanctioning mobilisation advance be stopped except in cases of purchase of heavy machinery or special equipment where the manufacturer has to incur heavy pre-manufacturing expenses. It should be made a rule that the mobilisation advance is given only with the sanction of the Head of the Department/Undertaking. For example, if the Water Board has plans to purchase 20 rigs for putting deep bores and the manufacturer of the rigs has to expand his factory specially by purchasing additional mother machine exclusively for the manufacture of these rigs, then mobilisation advance may be considered. Similarly, in the case of manufacture of spirally welded pipes of diameter more than 4 feet, even those in the business of manufacturing such pipes have to add facilities in their shops, and may have to import automatic and computer controlled machinery for welding and making such big diameter pipes. In that case also mobilisation advance can be considered. However, the Committee would recommend that even in such exceptional cases, the mobilisation advance should be limited to 10% of the order and this condition should be incorporated in the notice inviting tender. The advance should carry interest at the prevalent rate applicable to loans given by government, and the recovery of advance with interest should be made in the running bills and not postponed till the final bill. The mobilisation advance should be given only on receipt of an unconditional and irrevocaable bank guarantee.

Payment to supply contractors

21. The Committee recommends that the present system of paying 95 per cent of the bill amount on receipt of the Inspecting Officer's certificate at the place of manufacture itself should be modified to stipulate that 75 per cent alone shall be payable on the Inspecting Officer's certificate at the place of manufacture, 20 per cent shall be payable only after receipt of materials in good condition in the field as ascertained by another test in the field, and the remaining 5 per cent shall be payable after maintenance period is over. In cases where performance guarantee is not insisted on for customary ordered items, 25 per cent shall be payable on receipt of materials in good condition in the field.

Co-operative societies and small scale industrial units

22. The Committee is aware that co-operative societies and small scale industrial units have been enabled by Government Orders to have preferential treatment in regard to goods and services offered by them to Government Departments and Undertakings. The Committee appreciates that if the co-operative societies and SSI units are required to compete in the normal tender process for securing supply orders for goods/services from Government Departments/ Undertakings they may not have the financial strength to compete with the larger units in the private sector which have a bigger infrastructure and can therefore quote lower rates than those offered by small co-operative societies and SSI units. However, the Committee considers it would not be proper to grant an all time exemption without limits in favour of co-operative societies and SSI units. Such preferential treatment would go against the basic principle of open tender system for securing the most economic and prudent handling of public funds meant for public works and purchases. The Committee therefore recommends the following modified procedure in regard to goods and services offered by co-operative societies and SSI units, which would also be extended to certain Government Departments/Undertakings and other statutory bodies which may also be engaged in manufacture of goods or organising services of some kind.

i) Tenders offered in the normal course of business by Government Departments/Undertakings/Statutory Bodies/Registered Cooperative Societies/SSI Units shall also be duly considered according to the prescribed tender process.

ii) In cases where the aforesaid entities fail to get the award of the tender in the normal course, the tender awarding authority may award the tender to them provided they match the lowest price that has emerged in the tender process.

iii) The award of tender to Government Departments/Undertakings and other statutory bodies shall be limited to goods directly manufactured by them or services directly provided by them. In the case of registered cooperative societies and SSI units the award of tender shall be limited to goods alone directly manufactured by them.

iv) The purchase of goods by the award of a tender in the above process shall not exceed 50% of the total requirements related to the call of that tender notice.

v) The above mentioned concessional facility shall be available only to those cooperative societies and SSI units which have been in existence for at least three years.

vi) The facility extended to Government Departments/Undertakings/ Statutory Bodies/Cooperative Societies/SSI units as detailed above shall be avilable only for a period of five years from the time these arrangements are brought into effect.

23. The question of extending financial aid to co-opeative societies and small scale industrial units in the form of subsidy, grant or loan to enable them compete with others in the open tender system is a matter of policy that may be separately considered and decided by government with reference to budget allotments. The Committee wishes to emphasise the preferential treatment of these units should not be viewed as an integral part of the open tender system itself.

Technical Cell

24. The Committee recommends that purchase contracts shall also be within the domain of the technical cell under the Vigilance Commission as recommended in the chapter on Tender Procedure.

25. In the course of its deliberations on tender procedures and purchase procedures, the Committee was informed by the Government about their intended legislation on an Act to provide for transparency in the award of contracts for construction works and supply orders for goods. The Government sought the views of the Committee of the draft Bill that had been prepared in this matter. The Committee carefully examined the Draft Bill and recommended to the Governemnt on 7th April, 1997 detailed amendments incorporating some of the views of the Committee as now mentioned in the chapters on Tender Procedure and Purchase Procedure in this report. The Committee is of the view that if some important aspects of the proposed procedure are embodied in a specific law as proposed by the Government it would very much strengthen the cause of transparency and integrity in all such transactions. Any infringement of procedural requirements spelt out in law can and would draw judicial intervention when circumstances warrant it. This should be welcome to any administration committed to cleanliness and efficiency.

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CHAPTER - 4

SUMMARY OF RECOMMENDATIONS

Chapter-2 : Tender Procedure

1. The present system of registration of contractors may be continued with the modification that it will be a comprehensive registration to serve the needs of all government departments and public undertakings in regard to all general engineering works. PWD will handle this registration work.

2. In regard to special works, which are peculiar to certain Departments/ Undertakings, they may compile their own special register of contractors for limited and specified purposes.

3. The existing categorisation of contractors into five classes with reference to the value of works they are considered competent to execute may continue.

4. All registered contractors (including class V contractors) shall be allowed to tender for works in their respective categories in any part of the State.

5. The procedure for registration of contractors will be simplified in the manner detailed in paragraph 8 of Chapter-2.

6. Registration of contractors shall be done at two levels : one at the level of Executive Engineer in regard to categories IV and V, and the other at the level of Superintending Engineer in regard to categories, I, II and III. Registration at each level shall be decided by a Committee of three officers.

7. Registration done by the Superintending Engineer shall be reported to the Chief Engineer, who shall prepare a State list of all registered contractors and circulate it to all Departments/Undertakings.

8. The State list shall be reviewed by the Chief Engineer in April every year, and the names of contractors who had not participated in any tender process for three consecutive years in any Department/Undertaking shall be removed from the list under intimation to them.

9. A special cell may be created in the PWD Headquarters Office headed by a Superintending Engineer or a Senior Executive Engineer for the annual preparation of the Schedule of Rates. This cell should include an officer each from the Department of Statistics, Department of Geology & Mines and the Department of Labour. Uptodate maintenance of the Schedule of Rates with due regard to the prevailing open market rate is most important for preserving the integrity of the system.

10. The special cell shall come within the administrative purview of the Superintending Engineer in charge of Vigilance in PWD Headquarters.

11. While the PWD will be responsible for the preparation and maintenance of Schedule of Rates for all general engineering works, Government Departments and Public Undertakings may prepare their own special Schedule of Rates relevant to engineering works which involve the use of sophisticated equipment or technology peculiar to their needs. The preparation and uptodate maintenance of special Schedule of Rates shall be looked after by a special cell under the administrative purview of the Chief Vigilance Officer of the Department/ Undertaking.

12. The existing practice of providing additional 5% of the estimate for "unforeseen items" may be stopped, and the existing provision of another 5% for "petty supervision and contingencies" may be reduced as 2.5% for "contingencies" only.

13. Notice inviting tenders (NIT) shall carry a citation of the reference in which technical sanction has been accorded for the work.

14. All works, excepting those specified, shall be awarded by following the open tender procedure which shall ensure -

(i) openness of the procedure;

(ii) adequate publicity for the NIT to secure as many responses as possible;

(iii) award of the tender at the most advantageous rate from the point of view of public interest; and

(iv) avoidance of situations which give scope for arbitrary exercise of discretion to favour select persons.

15. The NIT shall be given wide publicity in leading Newspapers in Tamil and English and also on notice boards in the District offices. In regard to works of value more than Rs.10 lakh, the NIT shall also be sent for publication in the Government periodical "Tamil Arasu".

16. Publication of NITs can be made systematic and more effective through a regular bulletin officially published in each district embodying all NITs issued from time to time. A similar official publication at State headquarters may cover NITs relating to very large works above a prescribed value. Responsibility for issuing these publications may be fixed on specially designated officers for this purpose. All tender inviting authorities shall be bound by orders to furnish copies of NITs to these designated officers for inclusion in the publications at the district and State levels.

17. Any registered contractor shall be entitled to respond to the NIT and ask for the tender schedule papers. Copies of tender schedules shall also be made available for sale in Taluk Offices/Block Development Offices/Collectorates so that intending contractors may get them easily.

18. Sufficient time shall be provided between the date of publication of NIT and the date of opening tenders. This period should be not less than 15 days for works upto Rs.15 lakh value, not less than 3 weeks for works upto Rs.25 lakh value and at least 4 weeks for major works or specialised jobs.

19. The task of opening the tenders and evaluating them shall be handled by a Committee of three Officers instead of by a single individual. It may be called the Tender Scrutiny Committee (TSC).

20. Whenever the tender opening date gets postponed for any reason, the fact of postponement should also receive equal publicity as the original notice.

21. For works upto the value of Rs.20 lakh in which all the items of work are covered by the Schedule of Rates, percentage rate tender system may be adopted.

22. The TSC shall evaluate all the tenders with reference to the current Schedule of Rates, and with reference to the prevailing market rate in regard to items outside the Schedule.

23. The authority to decide the award of work to a tenderer shall also be specified in the form of a Committee of three Members instead of an individual officer as at present. It may be called the Tender Award Committee (TAC).

24. In the case of works of estimated value exceeding Rs.25 lakh, the TAC shall consist of the Chief Engineer, another Engineer of comparable rank from another department and a Joint Secretary to Government in the Finance Department. If any particular work of this category involves very complicated engineering designs, a senior technical expert from a Public Undertaking or the private sector who deals with similar work may also be included as a member of this Committee.

25. A work shall normally be awarded to the tenderer who has quoted the lowest rates. If the tender inviting authority had stipulated in the tender documents some special technical requirements to be satisfied, the lowest evaluated tenderer determined on the basis of factors relating to such technical requirements shall be awarded the work, provided that these special factors shall be quantifiable or expressible in monetary terms.

26. The TAC should also assess whether the quoted rates are workable before deciding the award.

27. The TSC shall record reasons in sufficient detail to justify its evaluation and recommendations. Likewise, the TAC shall record reasons in detail for the final award of the work.

28. If two or more contractors have quoted the same lowest price, the TAC shall split the contract among the tenderers who have quoted the same price. Where such splitting is not possible, the TAC shall record reasons for its final award of the contract.

29. In respect of special works like installation of water treatment plant, construction of arch dams, stadium, etc., the present practice of adopting double cover method, with the first cover furnishing details of the builder's professional competence and his perception of the relevant technology, and the second cover containing details of the tender in financial terms, may be continued. In this method, tenders shall first be evaluated by the TSC and listed in the order of preference according to their technical competence. Offers in the second cover shall be separately evaluated by the TSC and listed in the order of preference according to the cost involved. The TAC shall examine carefully the two lists

together and select the tenderer whose offer would be most advantageous from the public interest point of view, balancing the cost of tender on one side with the technical competence on the other.

30. Proceedings of the TSCs and TACs shall be conducted with high degree of objectivity and concern for public interest. Decisions of these committees shall be based on the opinion of the majority of the members. A member of the committee shall be free to record his dissenting note, which shall be kept as part of the record of proceedings.

31. Heads of Departments/Undertakings should examine and modify the working procedure in their offices to minimise the passing of tender papers up, down and across to avoid delays in the decision of the tender award.

32. After the TAC decides the award of contract, the decision together with reasons shall be communicated to all tenderers.

33. In view of the comprehensive scheme for the scrutiny of tenders of all types as noted above, the award of tenders of all kinds can and shall be decided by the respective TACs as constituted above. There shall be no need to refer the award of any tender for decision at Government level.

34. The Open Tender System as detailed above should be strictly followed in regard to all engineering works, excepting the following :-

(i) Works undertaken urgently during natural calamities and emergencies which are so declared by the Government. Powers to declare a work as an emergent work of this kind may also be delegated to the District Collectors and the Chief Engineer.

(ii) Low value works below certain financial limits which may be prescribed by Government.

(iii) Works which involve sophisticated technology available to a particular contractor and have to be awarded to him only, if they are to be done satisfactorily. Whether any particular work falls in this category has to be decided by a Committee of three experts as specified in Chapter-2.

35. Emergent works of the type mentioned in item (i) above may be entrusted to nominated contractors in the registered list with due regard to their background,

experience, competence and reliability to execute the work satisfactorily in quick time. However, the financial limits upto which the Divisional Engineer/ Superintending Engineer/Chief Engineer may sanction such emergent works may be strictly limited to one fourth of their respective normal financial limits.

36. Copies of work orders exceeding Rs.10 lakh value shall be simultaneously sent to the Director of V & A.C. who shall get the execution of work checked from the vigilance angle in accordance with the established procedues in the Directorate.

37. The existing practice of making departmental purchase of cement, steel, PVC pipes, GI pipes, etc., and supplying them to contractors may continue with the condition that once a quarter, inventory levels shall be closely monitored by the Divisional Engineer or Superintending Engineer as the case may be so that the lock up of Government money on this account is kept at the minimum.

38. In respect of construction works which involve use of materials lifted from quarries located at some distance from the workspot, the quarry nearest to the site as certified by the local Revenue authorities should be incorporated in the tender schedule.

39. An escalation clause may be included in the Contract Agreement where the stipulated period for completion of work is 24 months and above.

40. In the course of execution of works, deviations are sometimes made according to local conditions and changed requirements. While the existing procedure for making these deviations may continue, changes in the cost of items of deviation in all works exceeding Rs.25 lakh value should be vetted and approved by the special cell in PWD Headquarters Office.

41. All the standing orders regarding Site Order Book may be consolidated and reissued for strict compliance by the field officers. These books may also be got printed in sufficient quantity with machine numbered pages with prescribed columns to secure the credibility of this important record.

42. The final bill for works should not be paid without the structural soundness certificate recorded by Divisional Engineer in regard to works of value upto Rs.5 lakh, Superintending Engineer in regard to works of value over Rs.5 lakh upto Rs.25 lakh, and Chief Engineer in regard to works of value over Rs.25 lakh.

43. All instructions regarding the Confidential Register of Contractors should be consolidated now and reissued for strict compliance by the field officers.

44. The Arbitration clause in agreements with contractors shall be amplified to secure the following :-

(i) The officer notified as 'Arbitrator' should be a senior engineer of proven integrity.

(ii) The clause should make it clear that the award would be acceptable only when the reasons for the award are also given on record. Cryptically worded one line awards would not be acceptable.

(iii) The clause should make it clear that the contractor shall, within three months of the date of completion of the works, specify the disputes, claims and the amounts involved and write to the Engineers accordingly, failing which it will be deemed that the contractor will not take recourse to arbitration.

45. Officers who have passed the SAS test alone should be considered for appointment as Divisional Accountants in future. Existing personnel in the Divisional Accountant cadre who have not passed the SAS test should be required to acquire the qualification within a period of three years. In the event of their failure to do so, they shall be taken out of the Divisional Accountant cadre.

46. A high level technical cell may be set up to function directly under the Vigilance Commission to exercise over all vigilance check on technical matters connected with all major construction works. This cell may be headed by an officer of Chief Engineer's rank who will have subordinate staff drawn from the accounts as well as engineering branches. It will be the responsibility of this cell to make a technical audit in respect of large construction works regarding which adverse information may be received by the Vigilance Commission or adverse material may be exposed by departmental audit in the normal course.

Chapter-3 : Purchase Procedure

47. The Committee's recommendations in regard to Tender Procedure for construction works shall apply mutatis mutandis to all purchases made through tenders.

48. In the evaluation of tenders for supply of machinery, the TSC should take into account not only the quoted price for the machinery but also the price of recommended spare parts for three years for operating the equipment.

49. The maintenance and running cost also should be taken into account for assessing the relative merits of the tenderer.

50. A Central Purchase Cell should be established in each Department/ Undertaking headed by a senior officer who may be designated Chief Purchase Officer (CPO). He should be given suitable supporting staff in the field as well as headquarters to keep in touch with market conditions and draw up an annual list of prices of various materials that are usually bought by the Department/ Undertaking. By inviting tenders from established suppliers, he may also arrive at a rate contract agreement with such suppliers and circulate the list of suppliers and approved rates to all the field units. Purchases thereafter can be made directly by the field units themselves who shall also be responsible for inspecting the supplies and checking their quality before effecting payment.

51. In all cases where the contracted price is more than 15 per cent above the originally estimated rate, additional purchase of increased quantities of same material should not be permitted except with the sanction of the Head of the Department/Undertaking.

52. The Open Tender System, as detailed in Chapter-2 of this Report, shall be strictly followed in regard to all purchases, excepting the following :-

(i) Purchases made urgently during natural calamities and emergencies which are so declared by Government.

(ii) Low value procurement and local purchases within such limits as may be prescribed by Government.

(iii) Single source procurement from a particular supplier who may have exclusive rights in respect of the material or exclusive access to the technology relevant to its manufacture, provided a Committee of three experts consisting of one technical representative of the procuring entity, one technical representative of a State or Central Government Organisation dealing with similar procurement and one representative from a reputed Academic or Research Institution or Non-commercial Institution

having expertise in such line, declares it as Single Source Procurement, for this purpose.

(iv) Spot purchases like cotton by spinning mills, oil seeds and oils by Agro-Industries Corporation or Oil Seeds Corporation, animal purchases from shandys, sugar-cane purchases by Co-operative sugar mills, paddy purchases by the Director of Purchase Centres of the Civil Supplies Corporation and similar items notified by Government from time to time.

53. In respect of purchases made in an emergency the powers of the purchasing authorities may be limited to 1/4 th of their normal powers of purchase.

54. Copies of all such purchase orders of an emergent nature shall be simultaneously marked to the Accountant General and internal audit wing of the Department/Undertaking. Copies of such purchase orders exceeding Rs.5 lakh value shall be marked to the Director of Vigilance and Anti-Corruption.

55. Negotiation with tenderers should be very rare and may be resorted to only in exceptional circumstances detailed in paragraph 17 of Chapter-3.

56. Vendor rating should be done by a Committee consisting of the Chief Purchase Officer, another technical officer of equal rank and a Finance Officer.

57. Some materials carry with them a guarantee of performance for a specified period from the date of supply. If, owing to indifferent or bad planning by Indenting Officers, some materials of this kind happen to lie in stores without issue for a long time exceeding the period of guarantee, there will be no means for the Department to enforce the guarantee clause when the material fails in its performance in actual use later. There is scope for sub-standard material to be kept in stock for long periods in this fashion, motivated by corruption. It is the special responsibility of supervisory officers at higher levels to ensure that stocking of such materials is kept at the minimum. Further, the contract agreement itself should provide for an extension of guarantee period by mutual agreement between the department and the contractor.

58. The practice of sanctioning mobilisation advance may be stopped except in cases of purchase of heavy machinery or special equipment where the manufacturer has to incur heavy pre-manufacturing expenses. Even in such exceptional cases, the mobilisation advance should be limited to 10% of the order, and this condition should be incorporated in the notice inviting tender. The

advance should carry interest at the prevalent rate applicable to loans given by Government, and the recovery of advance with interest should be made in the running bills and not postponed till the final bill. The mobilisation advance should be given only on receipt of an unconditional and irrevocable bank guarantee.

59. The present system of paying 95% of the bill amount on receipt of the Inspecting Officer's certificate at the place of manufacture itself should be modified to stipulate that 75% alone shall be payable on such certificate, 20% shall be payable only after receipt of materials in good condition in the field as ascertained by another test in the field and the remaining 5% shall be payable after maintenance period is over. In cases where performance guarantee is not insisted on for customary ordered items, 25% shall be payable on receipt of materials in good condition in the field.

60. The following modified procedure may be adopted in regard to goods and services offered by cooperative societies and SSI units and also certain Government Departments/Undertakings and other statutory bodies which may be engaged in manufacture of goods or organising services of some kind.

(i) Tenders offered in the normal course of business by Government Departments/Undertakings/Statutory Bodies/Registered Cooperative Societies/SSI Units shall also be duly considered according to the prescribed tender process.

(ii) In cases where the aforesaid entities fail to get the award of the tender in the normal course, the tender awarding authority may award the tender to them provided they match the lowest price that has emerged in the tender process.

(iii) The award of tender to Government Departments/Undertakings and other statutory bodies shall be limited to goods directly manufactured by them or services directly provided by them. In the case of registered cooperative societies and SSI Units the award of tender shall be limited to goods alone directly manufactured by them.

(iv) The purchase of goods by the award of a tender in the above process shall not exceed 50% of the total requirements related to the call of that tender notice.

(v) The above-mentioned concessional facility shall be available only to those cooperative societies and SSI Units which have been in existence for at least three years.

(vi) The facility extended to Government Departments/Undertakings/ Statutory Bodies/Cooperative Societies/SSI Units as detailed above shall be available only for a period of five years from the time these arrangements are brought into effect.

Chennai,
18 June, 1997.

(G. RAMANUJAM)
Chairman

(M.S. RAMESH)
Member

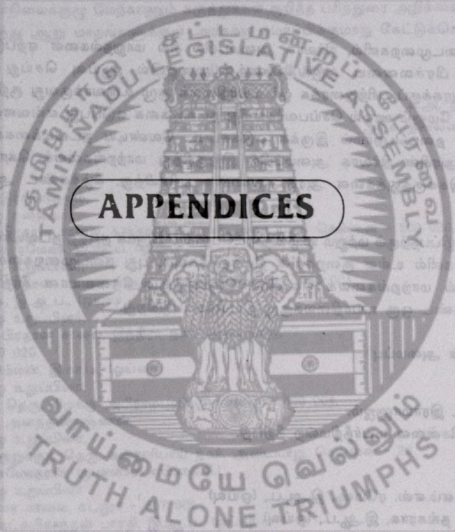
(C.V. NARASIMHAN)
Member

(M. ANANDAKRISHNAN)
Member

(A.R. DAMODARAN)
Member

(R. VARADARAJULU)
Member-Secretary.

♦♦♦


தமிழ்நாடு சட்டமன்றப் பேரவை
TAMIL NADU LEGISLATIVE ASSEMBLY
வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

APPENDICES

Appendix - I

தமிழ்நாடு அரசு

சுருக்கம்

குழு - ஊழல் ஒழிப்பு - ஊழலை தடுப்பதற்கான சீர்திருத்தங்கள் - பரிந்துரைக்க உயர்நிலைக்குழு அமைத்தல் - ஆணையிடப்படுகிறது.

பணியாளர் மற்றும் நிர்வாகச் சீர்திருத்தத் (என்) துறை

அரசாணை (நிலை) எண். 289 நாள் : 2-8-1996

ஆணை :

அரசின் நடைமுறைகளில், நிர்வாக அமைப்பில் சில மாறுதல்களை ஏற்படுத்தி ஊழலை ஒழிப்பது குறித்த பிரச்னையை ஒருங்கிணைந்த முறையில் ஆய்வு செய்து தேவையான சீர்திருத்தங்களை அரசுக்குப் பரிந்துரைக்க ஓர் உயர்நிலைக் குழு உருவாக்குவது குறித்து தீவிரமாக பரிசீலிக்கப்பட்டது. மேலும் ஊழல் செய்பவர்கள்மீது நடவடிக்கை எடுப்பது எவ்வளவு முக்கியமோ அதேபோல் ஊழல் நடைபெறாமல் இருக்க எடுக்கப்பட வேண்டிய நடவடிக்கைகளும் மிகவும் முக்கியமாகும். அரசின் நிர்வாக அமைப்பில் இதுகுறித்து மாற்றங்களைக் கொண்டுவருவதும் அவசியமாகும். இக்கருத்துக்களை அரசு கவனமாக பரிசீலித்து, கீழ்க்கண்ட ஆணையினைப் பிறப்பிக்கிறது :-

'ஊழலை ஒழிப்பதற்கும் மற்றும் ஊழல் நடைபெறாமல் இருக்க தகுந்த நடவடிக்கை எடுக்கவும், அதற்கு நடைமுறைகளில் உள்ள குறைகளை நிவர்த்திக்கவும், புது நடைமுறைகளைப் புகுத்தவும், நிர்வாக அமைப்பில் மாற்றங்களைக் கொண்டு வருவதற்கும் தேவையான சீர்திருத்தங்களைப் பரிந்துரைக்க கீழ்க்கண்ட ஒரு உயர்நிலைக்குழு நியமிக்கப்படுகிறது.'

உயர்நிலைக்குழுவின் அமைப்பு

I. தலைவர்

நீதிபதி திரு.ஜி. இராமானுஜம்,
ஓய்வுபெற்ற சென்னை உயர்நீதிமன்ற நீதிபதி.

II. உறுப்பினர்கள்

1. செல்வி எம்.எஸ். ரமேஷ், இ.ஆ.ப., (ஓய்வு)
2. திரு. சி. தங்கராசு, இ.ஆ.ப., (ஓய்வு)
3. திரு. ஸி.வி. நரசிம்மன், இ.கா.ப., (ஓய்வு)
4. முனைவர் எம். அனந்தகிருஷ்ணன்,
   முன்னாள் துணைவேந்தர்
   அண்ணா பல்கலைக்கழகம்.
5. திரு.ஏ.ஆர். தாமோதரன்,
   முன்னாள் சட்டமன்ற மேலவை உறுப்பினர்.
6. திரு.கே.எஸ். லட்சுமிகாந்தன் பாரதி, இ.ஆ.ப., (ஓய்வு)

III. செயலர்

அரசு செயலாளர்
பணியாளர் மற்றும் நிர்வாகச் சீர்திருத்தத் துறை,
சென்னை - 600 009.

உயர்நிலைக்குழு செயல்பாடுகள் :

(1) நிர்வாகச் சீர்திருத்தம், நிர்வாக அமைப்பில் மாற்றம் அரசு தலைமைச் செயலகத்திலிருந்து குக்கிராமம் வரை வெளிப்படையான அரசு நிர்வாகம் செய்தல் மற்றும் பொதுமக்களுக்கு அரசு தகவல்களைப் பெறும் உரிமை வழங்குதல் குறித்தும்.

(2) அரசு மற்றும் அரசு சார்ந்த நிறுவனங்கள் / கழகங்கள் பொருட்களை வாங்குதல் குறித்த விதிமுறை மற்றும் விலைப்புள்ளி கோருதல் பற்றிய நடைமுறைகள் குறித்தும்.

(3) ஊழல் தடுப்பு மற்றும் கண்காணிப்புத்துறை மேலும் அதிகத் திறனுடன் செயல்பட வழிமுறை விதிகளில் மாற்றம் செய்வது குறித்தும்.

(4) ஒழுங்கு நடவடிக்கை முறைகளை துரிதமுறையில் முடிவு செய்தல் குறித்தும், ஆய்வு செய்து சீர்திருத்தங்களைப் பரிந்துரை செய்வது குறித்தும்.

IV. காலம்

இந்த உயர்நிலைக்குழு மேற்காணும் **கருத்துக்கள்** குறித்த பரிந்துரை அறிக்கையினை செயல்படும் நாளிலிருந்து ஆறு மாதங்களுக்குள் அரசுக்கு சமர்ப்பிக்குமாறு கேட்டுக்கொள்ளப்படுகிறது.

(ஆளுநரின் ஆணைப்படி)

க.அ. நம்பியார்
அரசு தலைமை செயலாளர்.

பெறுநர் :

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அனைத்து மாவட்ட வருவாய் அதிகாரிகள்.
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// ஆணைப்படி அனுப்பப்படுகிறது //

கோ. சண்முகசுந்தரம்
அரசு இணை செயலாளர்.

Appendix - II

GOVERNMENT OF TAMIL NADU

HIGH LEVEL COMMITTEE FOR ADMINISTRATIVE REFORMS AND PREVENTION OF CORRUPTION

"Panagal Building", IInd Floor, Saidapet, Chennai - 600 015.

QUESTIONNAIRE

TRUTH ALONE TRIUMPHS

R. VARADARAJULU
Member-Secretary

Chennai-600 015
10th January, 1997.

Dear Sir/Madam,

Aware of the public concern about increasing spread of corruption in administration in recent years and the consequent harassment of people who have to interact with government departments at different levels in day to day life, Government of Tamil Nadu have, in G.O.Ms.No.289, dated 2.8.1996 appointed a six member Committee with Thiru. Justice G. Ramanujam as Chairman to examine and make recommendations in regard to the following matters :-

(i) Changes in administrative procedures and practices from the Secretariat down to the village level to

  (a) substantially reduce the scope for corruption and harassment of people in their transactions with government departments and undertakings at various levels.

  (b) secure transparency of administration, and

  (c) secure people's right to information.

(ii) Review the procedure for purchases of materials by government departments and public undertakings to substantially reduce the scope for corruption and favouritism in related matters.

(iii) Measures for making the Directorate of Vigilance and Anti-Corruption more effective in its work.

(iv) Measures for speeding up disciplinary proceedings against delinquent personnel in government departments and public undertakings.

The Committee issued a pressnote on 18th September, 1996 inviting suggestions from the public. We have received over 2000 letters from persons in different walks of life.

The Committee has held a first round of discussions with Secretaries to Government, Heads of Departments and some regional/district officers.

Several suggestions for reform have come up for consideration by the Committee through these discussions and the letters from the public. Some suggestions relate to procedures of direct relevance to the public (including the

elected representatives) in their interaction with government (including local bodies and public undertakings). Other suggestions relate to internal procedures in administration. Two questionnaires have been drawn up by the Committee embodying important suggestions of the two categories. Questionnaire-I relates mostly to matters in which public interact with government. Questionnaire-II relates mostly to internal procedures in administration.

I send herewith the two questionnaires for your perusal. The Committee would be very grateful to have your reply to the questions regarding which you may have specific views and suggestions on the basis of your own experience in or with government departments, local bodies and public undertakings or otherwise. If there is any other matter not expressly included in the questionnaire which you would like the Committee to examine, you may kindly indicate it and send your opinion or suggestions thereon at the end of your reply.

If you desire any part of your replies to be treated as confidential, this may please be indicated and your reply will be treated accordingly.

While furnishing replies, you may kindly mention your full name, address and designation/profession.

The Committee is anxious to conclude its work expeditiously and, therefore, would be most grateful if you could kindly send your reply to reach us by 28.02.1997.

Your reply may please be sent to the following address :-

Member-Secretary,
High Level Committee for Administrative
Reforms and Prevention of Corruption,
2nd Floor, D Wing,
Panagal Building,
Jeenis Road,
Saidapet,
Chennai - 600 015.

Yours faithfully,

R. VARADARAJULU,
MEMBER SECRETARY.

Encl. : Questionnaires I and II.

GOVERNMENT OF TAMIL NADU

HIGH LEVEL COMMITTEE FOR ADMINISTRATIVE REFORMS AND PREVENTION OF CORRUPTION

QUESTIONNAIRE - I

(This is based on suggestions received by the Committee through letters from the public and preliminary discussion with Secretaries to Government and Heads of Departments)

TRUTH ALONE TRIUMPHS

QUESTIONNAIRE-I

(This relates mostly to matters directly concerning the public in their interaction with Government, local bodies and public undertakings)

* * *

1. Transparency in administration can be secured by making the relevant government records accessible for scrutiny by the persons affected by a government decision. What are your detailed suggestions for providing such access to government records to the concerned persons? If the person happens to be illiterate his interests will have to be taken up by welfare and social service organisations who may be accredited for this purpose.

   What are your suggestions in this regard?

2. Each department should identify the areas in its business where the process of deciding an issue should and could be made transparent to assure the people about the public interest, honesty and integrity of the decision.

   Transparency for this purpose will include open publication of the decision and the reasons therefor, and accessibility of the relevant records to accredited public organisations.

   What are your views in this regard?

3. Please suggest the areas or items of work in departments which, in your view as a citizen, should be made transparent in the manner indicated in question No.2.

4. All orders of rejection or refusal of requests from the public addressed to any competent authority in government should not be a one line cryptic order of rejection or refusal, but should invariably mention the reasons for rejection or refusal.

   Would you endorse this suggestion?

5. Orders of appointment, issue of license/permit and like matters should be intimated to the concerned people directly by registered post. Office personnel should be prohibited from delivering them personally to the

parties. The mode of delivery by post will eliminate the scope for delay and corruption at the stage of handing over the communication to the party.

Do you agree to this suggestion ?

6. The emphasis in Annual Reports now presented by government departments is on statistics and budgetary details only. It is suggested that these annual reports should be in a new format to provide a qualitative assessment of the department's performance including the measure of public satisfaction with the department.

What are your suggestions for the new format?

7. It is further suggested that the new format should not be unilaterally evolved by the departments themselves but should be devised in collaboration with reputed social service organisations like the Indian Institute of Public Opinion, Institute of Public Administration, Madras School of Social Work and the like.

What are your suggestions in this regard?

8. Can you suggest a practical method for conducting a periodic poll or any other exercise for ascertaining public opinion about a department's performance from time to time?

9. The prescribed printed forms of application for building plan approval, sanction of loan/subsidy, issue of a certificate or permit for carrying on a particular trade or business, etc., should always be printed with a perforated acknowledgement slip with an identity number which can be torn off and given to the applicant at the time of submission of application. This will facilitate a strict check over the progress of action on the application in concerned office.

Do you endorse this suggestion?

10. The identity numbers of all such applications should be put into a computer. The progress of disposal should also be put into the computer. It would then be possible to know from the computer itself whether an application has been correctly disposed of in due order of seniority. This would be an effective check over queue jumping.

Would you agree that a computerised record of all applications on the above lines may be adopted in all offices?

11. People are presently put to a lot of difficulty in having to secure a variety of certificates from different functionaries in government, particularly in the Revenue Department, for several purposes connected with school admission / employment / securing financial aid from bank / insurance claim / establishment of legal heir etc. Covergence of all such applicants on a single functionary like the Tahsildar of the Revenue Department or a few others like him generates a lot of scope for harassing delays and consequent corruption. This scope can be considerably reduced if a larger number of functionaries in government and local bodies and also retired government officials of and above a specified rank are authorised to issue such certificates based on their personal knowledge, for the correctness of which they will bear the responsibility.

Would you endorse this suggestion?

Please suggest a modified and simple procedure for the issue of the following certificates in particular : birth certificate, death certificate, solvency certificate, legal heir certificate, land holding certificate, community certificate, SSI certificate and income certificate.

13. A Corporation in the State has recently established a counter at the office entrance for receipt of complaints / requests for certificates, loans, etc., so that all such applicants do not have to walk through the office and get involved in questionable contacts with the dealing staff. The staff manning this counter are made responsible for immediate documentation of these applications and their entrustment to the staff concerned. The matter sought by the applicant will also be made available to him within a specified time frame at the counter itself.

Do you favour the introduction of this scheme in all government offices which are frequently visited by the public for securing various services?

14. Day-to-day transaction of business in some offices involves payment of prescribed fees or other charges of substantial value by the public who come to the office for securing a specific service. A system of mamool extra payments as bribe for such services is said to operate in several

offices. It has been suggested that such offices or portions of them should be notified, and departmental disciplinary rules should provide for punishment of the local Head of such an office and the personnel concerned, if it is found at any time that the money held in the office premises and the money held by the personnel working there are not satisfactorily accounted for.

Would you agree to this suggestion?

Beneficiaries of welfare measures, specially in rural areas, should be identified by the panchayats themselves on the basis of norms which should be widely published through radio, television and the press. Supervisory officials in government should only 'audit' the correctness of observance of norms in a few test cases.

Do you agree with this view?

Several development programmes, social welfare schemes and rehabilitative measures of the government involve the disbursement of aid in money or material to the rural people. Fairness and justice require that all such disbursement should be made openly in strict order of seniority in the queue of eligible applications. If the number of eligible applicants happens to be far in excess of the available money and materials, the disbursement should be made by open lot. Responsibility for making disbursement in this manner may be squarely fixed on the district level/block level officers.

Do you agree with this view?

Several welfare and development measures of the government are specially meant for the scheduled castes/tribes and backward communities. Corruption and malpractices in the implementation of these measures result in the denial of intended benefit to the poor and ignorant among these people.

What are your specific suggestions for remedying this situation?

Applications in several matters like registration of SSI Units, allotment of industrial sites, sanction of capital subsidies/interest free loans, sales tax deferrals, power tariff subsidy, etc., are now handled in a manner which has scope for malafide exercise of discretion in either accepting or rejecting the application. It would help straight-forward and expeditious disposal

of such applications if they are made in a format which would itself spell out all the norms for eligibility. The details furnished on the application itself would eliminate the element of discretion in the matter.

Would you endorse this suggestion?

19. The present adoption of the 'target' approach in the implementation of several welfare schemes leads to false reporting, wrong selection of beneficiaries and compromise in the quality of programmes. This malady can be put down if the local panchayats are more actively associated with the exercise of determining the identity of beneficiaries who really need these welfare measures.

Would you endorse this view?

20. All schemes, programmes and measures for the welfare and development of the rural poor should be fully notified and explained in great detail to the villagers so that they may not have to approach middle men and other professionals who actually act as agents for promoting bribery and corruption in the implementation of these schemes.

What are your practical suggestions for securing such publicity for welfare measures in the rural areas?

21. In regard to works for which limited tender enquiries are authorised under the existing rules, would it be helpful to specify that the tender forms may be supplied to the residents of same district only? Such a stipulation may eliminate the entry of outside contractors who may be solely motivated by commercial considerations. If locally resident contractors are given the work they will be better motivated to do a good job to the satisfaction of the local people, avoiding the usual malpractices which creep into a wholly commercial transaction.

What are your views in the matter?

22. A major complaint in regard to tender is that tender forms are given only to some selected and favoured contractors. This directly leads to corruption on a large scale and execution of sub-standard works. Tender enquiries have to be made as open as possible with adequate publicity in the press, particularly the Tamil press, which would make them known to the ordinary people.

What are your suggestions to ensure adequate openness of tender procedure?

23. In the same context it has been suggested that tender forms may be made available on application with a prescribed fee at some public offices as well, like banks.

Would you endorse this suggestion?

24. In regard to construction works of large value exceeding a specified limit, after a competent agency is duly selected by the prescribed tendering process, that agency should be authorised to execute and complete the work on a turn-key basis without the type of intervention by PWD which prevails in ordinary departmental works.

What are your views on this suggestion?

25. Effective vigilance work requires the conduct of surprise checks at sensitive points in government departments which the public deal with in their day to day life. In the present system, the vigilance staff or other departmental officers conduct the surprise checks on their own initiative and by themselves. It would generate greater public satisfaction and public confidence in the effectiveness of the check if volunteers from accredited consumer activist groups or welfare associations are also taken by the vigilance / departmental officers while conducting surprise checks.

Would you support such an arrangement?

26. A comprehensive card may be issued to each agriculturist/farmer to record the disbursement of money/material to him by different departments in different contexts from time to time. This would prevent duplication of supply of material to the same person and also prevent fraudulent supply of material to 'non-existent' persons. The patta pass book presently issued by the Revenue Department may be enlarged and made comprehensive to be used for the above purpose.

What are your views in this regard?

27. During the tours of senior officers in government and for the conduct of official functions, the subordinate staff in districts are required to make arrangements for accommodation, transport, food and several other

connected matters. Expenses incurred in this regard very often exceed the amount permissible under government rules. The money for this purpose is said to be found from the mamool bribes extorted from the public for various services rendered to them in field offices. What are your specific suggestions for devising a legitimate source of funds to meet such unforeseeable and unavoidable expenditure by the district staff so that the obnoxious practice of mamool collection of bribes on this account may be put down.

28. Would you endorse the suggestion that village accounts should be computerised to facilitate quicker processing of applications from the public and they can get any desired information easily from Taluk offices on payment of a prescribed fee?

29. All buildings in which institutions of public services like hospitals, nursing homes, schools and colleges are located are required under the Tamil Nadu Public Building (licensing) Act, 1956 to obtain a license and building stability certificate from the District Collector's office once in three years. The revenue authority in turn asks for Public Works Department clearance. This causes undue harassment to the management of these institutions, besides promoting a system of mamool payment of bribe for obtaining these certificates. It has been suggested that this situation can be eased by authorising the issue of such certificates by statutorily recognised architects and engineers also, instead of the applicant having to depend on the Revenue and Public Works Department officials alone in the matter. Can we also increase the validity period of such certificate?

Please give your views and also alternative suggestions, if any, in this matter.

30. In the present scheme of things, the opening of schools, colleges and other educational institutions requires clearance by government. Government is essentially a power oriented structure and its involvement for the very starting of educational institutions introduces the scope for corruption at the commencement itself. This is highly prejudicial to the value oriented academic atmosphere that has to be carefully nurtured and sustained in all such institutions. The present requirement of government clearance for starting such institutions should be given up. The matter should be left

entirely in the domain of academic bodies like Universities, AICTE, AIMC, Bar Council, etc.

Would you agree with this view?

31. Article 45 of the Constitution stipulates the responsibility of the State to provide free and compulsory education for all children upto the age of 14 years. Government can therefore have a legitimate role in the establishment and running of educational institutions upto the school stage. To ensure satisfactory quality of education, it would be necessary and sufficient for the government to be involved in laying policy guidelines for education, prescribing syllabi and qualifications of teachers at different levels and also in conducting examinations at the final stage in schools. Government should not involve itself in administrative matters like appointment of teachers and enforcement of discipline. These areas should be left to the Head of the school and its Managing Body.

Would you agree with this view?

32. If the above views are accepted, the provisions of Tamil Nadu Private Schools (Regulations) Act will have to be substantially revised to bring about minimum involvement of government in administrative matters and its greater involvement in ensuring academic standards.

What changes would you recommend in aforesaid Act for this purpose?

33. Any scheme for liberally permitting schools and colleges to be run by the private sector carries with it the scope for admissions to be influenced by monetary considerations which would ultimately breed corruption allround. While liberally permitting privately managed institutions to come up, do you think that the government should have a larger role than at present in conducting effective audit of the finance of every school management and the schools run by them?

What are your alternative suggestions in this matter?

34. What are your practical suggestions to put down the malpractices in government run hospitals where money is said to be extorted from poor patients even for entering into hospital wards, getting necessary drugs for their treatment, etc.

35. Do you think that a lot of harassment at the lower levels in hospitals with regard to provision of meals, wheel-chairs, permission to enter the hospital wards, etc., can be avoided to a great extent if some public spirited voluntary organisations are entrusted with these services?

36. Traffic police are presently adopting a ticketing system for levy of 'on-the spot' fine for traffic violations. Do you consider that this has led to better traffic discipline on the roads? What are the draw-backs in this system and what are your suggestions for over-coming them?

37. People frequently complain of failure or reluctance of police to register an FIR on complaints made at the police station.

What are your suggestions for ensuring free registration of complaints made to the police? Would you favour the location of additional reporting centres in Metropolitan areas for ensuring prompt registration of complaints? The reporting centres may be manned by trained home guards or other volunteer groups accredited for this purpose.

Would you endorse such a scheme? If not, What alternative would you suggest?

38. A clean and efficient administrative set up cannot be viewed in isolation from the general state of respect for law and overall discipline and value system in society. The criminal justice system has to be strengthened for better enforcement of law and order. Increasing tendency of the corrupt persons to seek the support of musclemen has to be put down. Police reforms as recommended by the National Police Commission need immediate attention in this context. A small working group should be set up in the Home Department to work out details in this regard.

Would you agree to this suggestion?

39. In the same context, a good value system in society needs to be carefully nurtured and sustained by devising appropriate inputs for the youth in their formative years in schools and colleges.

What are your specific suggestions for this purpose?

40. The present scope for corruption in Transport Department in regard to registration of vehicles, issue of permits/fitness certificate, issue of driving

licenses etc., is well-known. What are your practical suggestions for curbing the malpractices in regard to the above?

Would you recommend the association of some independent bodies like AASI, Red Cross and some reputed welfare and social service organisations in the matter of registering vehicles, collecting taxes, issuing certificates etc.?

41. Service providers like Electricity Board, Housing Board, Corporation, Metro-water Supply and Sewerage Board sometimes come up with demand of arrears of tax and service charges for periods going back 10 or 15 years. This causes a lot of harassment to consumers who may not have retained with them the record of past payments over such a long period. This harassing situation ultimately leads to corruption.

Would you recommend a rule prohibiting any such demand for tax arrears/ service charges for back periods beyond 3 years?

42. If the Housing Boards adopt a system of granting pass books where payment of dues by an allottee is recorded then and there, it would enable speedier finalisation of transfer of sale deeds.

Would you endorse this suggestion?

43. Commercial Taxes and Civil Supplies Department have check posts at strategic places for checking vehicles and their goods. Traffic police also conduct periodic checks of motor vehicles. It would reduce the scope for harassment and ensure more openness of transaction at the check post if a multi-purpose integrated check post could be developed at all such points to serve the purpose of different departments at one place under common overall supervision.

Do you endorse this suggestion?

44. The tax collecting staff in every local body should be required to carry with them complaint books in a prescribed form to enable tax-payers record their complaints, if any, in regard to any particular service rendered by the local body, and get them acknowledged by the tax collector. This would facilitate a prompt follow up and, atleast before the next visit of the tax collector to the same area, the complaints may be rectified.

Would you endorse this suggestion?

45. Periodical press meets by senior officers in government departments would be helpful to keep the public informed correctly about department's activities and projects on hand. Public sittings may also be held by senior officers in rural areas to answer questions from the public on long pending public issues.

What are your views on this suggestion?

46. Openness of transaction of government business at the district level can be secured if District Collectors are authorised to hold regular press briefings on the lines of the weekly press meet held by the Commissioner of Police, Chennai, to keep the public uptodate in regard to various happenings on the law and order and crime side. A regular scheme of weekly press briefing by the District Collector has to be drawn up with suitable guidelines to serve the purpose.

What are your suggestions in this regard?

47. In the actual working of the present system, decisions at government level are taken by the political executive. Secretaries to Government do not have statutory independence of action. A good and effective democratic administration requires that the political executive i.e. Minister should be responsible for deciding policy matters while the permanent services should be responsible for all executive action in pursuance of the policy. To achieve this goal, what are your suggestions to give statutory powers to the Secretaries to Government.

48. Management of Public Undertakings which are to function with emphasis on production, quality and cost effectiveness should have the necessary functional independence. This requires considerable autonomy for the Managing Director in the professional management of the undertaking, subject to overall guidelines issued by the government.

Do you agree with the view that the introduction of only a professional and administrative person at the top level in Public Undertakings would eliminate the scope for arbitrary and non-professional disposal of business which in turn breeds corruption?

49. Several senior officers have mentioned that service associations and employees unions frequently exert pressure for diluting the disciplinary action against erring personnel who may happen to be influential union members. This is cited as a serious handicap in enforcing discipline and integrity of staff in Transport Corporations and other public undertakings.

What practical methods would you suggest to change this position and secure the help of such associations and unions to promote integrity as well as efficiency in services?

50. A Lokpal set up at the State Level is necessary to deal with complaints of corruption against Ministers and high ranking functionaries in government. It may also happen that some cases inquired into by the DVAC attract a lot of political interest even though they are against lower ranking functionaries only. It is necessary to insulate such inquiries from interference by politicians and others. It has been suggested that the State Lokpal may have a judicial member with statutory powers to oversee such sensitive inquiries by the DVAC or the police from time to time, as and when decided by the Lokpal on a petition from an aggrieved party or other information brought to the notice of Lokpal.

Would you endorse this arrangement?

51. Persons harassed by demand of bribes by government personnel in the field offices are very reluctant to complain to higher authorities because of fear of more harassment by the department personnel on subsequent occasions. Further, an inquiry into such a complaint concentrates on the allegation of bribery and does not assure redressal of the complainant's original grievance of non-action in his matter.

What are your suggestions for getting over this practical difficulty in anti-corruption work?

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GOVERNMENT OF TAMIL NADU

HIGH LEVEL COMMITTEE FOR ADMINISTRATIVE REFORMS AND PREVENTION OF CORRUPTION

QUESTIONNAIRE - II

(This is based on suggestions received by the Committee through letters from the public and preliminary discussion with Secretaries to Government and Head of Departments)

TRUTH ALONE TRIUMPHS

QUESTIONNAIRE-II

(This relates mostly to internal procedures in administration)

* * *

1. There are provisions in law and statutory rules and regulations which empower the Government to exercise its discretion to grant approval/ permission for building plans/allotment of houses in deviation of the prescribed rules and regulations. The facility for such discretionary exercise of power has scope for inducing corruption at high levels in Government. Would you endorse the suggestion that all such statutory provisions relating to discretionary exercise of power by Government should also stipulate that such power be exercised only on the recommendation of a committee of officials statutorily constituted for this purpose?

2. Delay in the disposal of applications breeds corruption at various levels through which the papers are processed. A time frame must be evolved for the disposal of business by every dealing officer in Government offices. If any paper is delayed beyond the prescribed time limit, it should be the responsibility of the next higher official to take over the paper himself and deal with it. The lower ranking official who had failed to keep up the time schedule should be effectively punished for his inaction.

   What are your views on this suggestion?

3. Concentration of decision making powers at higher levels in administration contributes to delay in the disposal of matters, besides affording scope for increased corruption on account of this delay. Decentralisation of such powers will help quick disposal of business. What are the areas of work in your department where decentralisation and delegation of powers may now be effected?

4. In public perception there is considerable misuse of government vehicles for personal and private purpose by government officials and the political executive.

   What are your practical suggestions for eliminating the scope for such misuse?

5. In many instances when a citizen needs or desires some facility or service from the government or local bodies he is required to apply in a prescribed form with elaborate details which give scope for harassment of illiterate people, and even arbitrary rejection of the application citing some deficiency in details which may not be material to the issue. In your opinion what are the forms that can be either eliminated or very much reduced in content to make it easy for the common people to ask for and get the required facility or services?

6. Keeping in view the object mentioned in question No.5 each department should also review the various forms and procedures prescribed for transaction of business with the department, and introduce necessary changes in form, procedure and practice. In making this review, the departments should seek the opinion of social service organisations of the type listed in question No.7 of Questionnaire-I.

What are your suggestions in this regard?

7. Please suggest the areas or items of work in departments which, in your view as Government Official, could be made transparent in the manner indicated in question No.2 of Questionnaire-I.

8. Any statutory or executive provision for discretionary exercise of power in the grant of permit/licence etc., gives scope for malafide exercise of such discretion, actuated by corruption. All such provisions in various laws and executive orders must be carefully reviewed and should be circumscribed by appropriate guidelines for the exercise of discretion so that the grounds for the final decision may exfacie show the observance of the prescribed norms.

What are your views in this regard?

9. Applicants for licence/permit in some cases are required to obtain clearance or no objection certificate from some departments for the due processing of their main application. Very often they are subjected to harassing delays in the issue of such clearance certificates. To avoid such delays it may be laid down as a rule that if the applicant is not intimated within a specified time limit, say 30 days, about the issue of clearance, it will be presumed that the department has no objection to the clearances, and the application

will be processed further accordingly. However in certain matters like the issue of income certificate or community certificate which require some verificatory work, the concept of such 'presumption' would not be desirable.

What are the areas or issues relating to your department in which the above 'rule of presumption' may be applied to speed up the disposal of applications?

10. The present system of distribution of fruit plants, vegetable seeds, medicinal plants, flower plants, plantation crops, etc., at subsidised rates to villagers has scope for malpractices which include the following :

i) Subsidies not disbursed in full to the beneficiaries, or not reaching them at all.

ii) Diversion of the materials to outside market.

iii) Irregularity in the purchase of materials resulting in undue monetary benefit to favoured persons.

What are your suggestions for putting down these malpractices?

11. Presently cooperative societies are audited by persons who come within the disciplinary control of the Head of the Department. In this scheme large scale frauds in cooperative societies which are committed with the connivance of influential persons at the top, may not get exposed. It is necessary to ensure an independent audit system for all cooperative societies.

What are your suggestions in this regard?

12. In the existing scheme of things cooperative societies get a preferential treatment whenever a work has to be executed or some material has to be supplied to the government. While the original intention behind this arrangement may have been to benefit the members of the cooperative society who are directly engaged in the connected trade and industry, in practice it has led to a lot of malpractices to facilitate sank outsiders and commercial people entering the field under the guise of being members of the cooperative societies.

What are your suggestions for plugging this loophole?

13. The rates quoted in tender documents at the time of issue have been found in many cases to be in excess of market rates. This has resulted in inflated rates being accepted at the end of the tender exercise, even though the accepted rates turned out to be the lowest among the rates received on record. It is necessary to ensure that the rates quoted in the tender are close to the market rate. What method would you suggest to ascertain the market rate in a realistic and unbiased manner for this purpose?

14. The present tender procedure envisages a committee for scrutiny of tenders at the initial stage and recommending the most suitable tender. Responsibility for accepting a tender and issuing the order for supply or construction work usually rests on an individual officer at the higher levels. Award of contracts of large value is susceptible to influence and pressure from various quarters. A committee of officers will be able to resist such pressure and influence more effectively than an individual officer. It is therefore suggested that apart from a Tender Scrutiny Committee (TSC) at the initial stage for a technical analysis of tenders and preparation of an assessment note thereon, there should be an another Committee called Tender Acceptance Committee (TAC) which shall be responsible for taking final decision for the award of the tender. The TSC shall have three members - one each from finance, technical and administrative branches of the department. The TAC will be chaired by a specified senior functionary of the department and will have two other members of appropriate rank- one from the same department and another from a sister department.

What are your views on this suggestion?

15. It is alleged that during the construction of residential/commercial blocks/ complexes the number of clearances to be obtained are so many and the rules are so complicated that the applicants are compelled to pay bribes to come out of the maze of restrictions and regulations.

What are your suggestions for simplification of connected procedures in this matter?

16. There is presently a District Inspection Cell headed by a Tahsildar to make surprise checks in field offices and generally look into grievance complaints endorsed to them by the Collector. If this cell is expanded as a multi-disciplinary body including some engineers and accounting staff and is

headed by an officer of the rank of Deputy Collector, it can more effectively check the execution of construction works, standard of materials used, maintenance of accounts, etc. in the implementation of various welfare schemes in the district. This will largely help the District Collector and Sub-Divisional Officer to maintain integrity and efficiency of the personnel down the line in different departments.

Would you endorse this suggestion?

17. Regular inspections of field offices in the districts, which used to be a prominent feature of administration in the old times, are now said to be practically absent. What are your suggestions for reviving the scheme of such inspections and appropriate follow up of inspection notes?

18. Would it be useful to have a quarterly meeting at the district level chaired by the District Collector for a performance evaluation of the different departments within the district to identify the areas for rectification of defects and improvement of services?

19. Corruption has spread into the examination system in schools and colleges. Malpractices and misconduct by teachers can be curbed only by strict enforcement of discipline among them. Disciplinary powers for this purpose should be vested with the Head of the institution and the Management themselves. This would also require substantial amendments to the Tamil Nadu Private Schools (Regulation) Act and Tamil Nadu Private Colleges (Regulation) Act.

Would you agree with this view?

20. The examination system in schools and Universities is now beset with malpractices of all kinds. Various preventive measures adopted from time to time including the dummy number system do not seem to have been effective.

What reforms would you suggest in the examination system to ensure its integrity and cleanliness?

21. Do you think appointments and transfers of Principals and Senior Processors in government run educational institutions may be left to the Head of the Department concerned instead of being handled at government level, to

facilitate more effective maintenance of discipline which in turn would help more effective curbing of corruption and allied malpractices?

22. It is alleged that the system of centralised purchase of medicine and drugs for use in government hospitals is not free from corruption and malpractices. It is alleged that a part of the medicine and drugs brought for use in government hospitals ultimately find their way for sale in the outside open market.

What practical arrangements would you suggest for putting down this malady?

23. Would it be a good arrangement to associate some reputed physicians from outside the government with the central purchase committee for buying medicines and drugs?

24. Agents and touts are said to be operating in a big way in Regional Transport Offices and Registration Offices for extraction of mamools for issue of driving licence, registration of documents and related services.

What are your suggestions for putting down such activities?

25. Driving schools are also known to collect extra money from applicants for driving licences under the name of 'service charges' for payment to the Transport Staff.

What are your suggestions for putting down this malady?

Can a system be introduced for licencing the driving schools and making them account for their collection of fees?

26. Determination of guideline value in regard to registration of land transaction has to be done in a rational and realistic manner to avoid the scope for corruption in this regard. What are your suggestions for a fair and proper determination of guideline values in different parts of the State and in different areas in an urban complex?

27. There is a widespread impression that transfers and postings of officers are determined by extraneous considerations. This often results in honest

and straight forward officers being subjected to frequent transfers and unfair postings.

What are your suggestions to prevent such arbitrary/vindictive transfers and postings?

28. High level posts in departments and government secretariat should be manned by competent and clean officers with a high reputation for integrity and efficiency. To ensure objectivity and selection based on merit and suitability for the post, postings and transfers of officers at senior level should be done by a small committee of Secretaries with the approval of the Minister concerned. This Committee may be called the 'Personnel Committee'. The Head of Department shall be associated with the proceedings of this Committee in regard to posts in his department. Such a scheme would eliminate the scope for capricious or prejudiced selection of officers for high level posts.

Would you endorse this suggestion?

29. The working of Employment Exchanges affords scope for favouritism and corruption in sponsoring candidates for recruitment interviews. Supreme Court has recently ruled that the recruitment process in government offices should not be limited to candidates sponsored by the Employment Exchanges alone but should include candidates from the open market as well. Consequent on this ruling, the Employment Exchanges will have a reduced role in the appointment process in Government. Employment Exchanges may confine themselves to the documentation of details of candidates in the reserved categories alone so that all recruiting agencies may have an authorised source of information about the availability of candidates in the reserved categories to facilitate due observance of the reservation policy adopted by Government. This change in the volume and nature of work handled by Employment Exchanges will also reduce the scope for corruption.

Do you agree?

30. There are certain posts which provide relatively large scope for corrupt practices. It is generally known that the incumbents in these posts manoeuvre for prolonged stay and rotative transfers among such posts

only. It is suggested that all posts in each department be categorised as 'sensitive' and 'non-sensitive' from this point of view. It may then be laid down as a rigid departmental rule that a certain prescribed number of years of service in 'non-sensitive' posts will be necessary for an Officer to quality for promotion to the next higher level.

Would you endorse this suggestion?

31. An additional check on corruption would be to enforce more stringent conduct rules in respect of the personnel working in such sensitive posts. The conduct rules relating to buying, selling and holding properties may be more rigorously applied to holders of these posts.

Do you endorse this suggestion?

If you do, please suggest some more special rules of conduct for this purpose.

32. Field units in the Public Distribution System (PDS) under the Civil Supplies Department are vulnerable to a variety of malpractices and corruption which result in sub-standard and deficient supply of essential commodities to the common people. The staff on duty in PDS Units have to be specially selected and trained to perform their duties to public satisfaction. Presently, the staff in PDS are mostly drawn from the Revenue Department and their posting seems to be done in a very routine manner without any special check of their aptitude and suitability for their job from the public point of view. Chairman and Managing Director of the Civil Supplies Department should be empowered to devise a special system for the recruitment, and training and posting of the staff in PDS Units.

What are your views in this matter?

33. Government policy in regard to periodical transfer of Government personnel is spelt out in G.O.(Ms.) No.10, P&AR Department dated 7-1-1994. If you consider that this policy requires some modification, not only for prompt removal of corrupt personnel from sensitive posts but also for the protection of straightforward officers from vindictive transfers ordered by the corrupt superiors, what are your suggestions for modification?

34. With the abolition of the system of 'Annual Confidential Reports' on the performance of government personnel, it has become impossible to assess the suitability of a government servant for a particular post, having regard to his integrity, aptitude for work, his public relations, etc. A new system of 'Annual Performance Appraisal Report' may now be introduced to facilitate the selection of appropriate personnel for specific posts from time to time. This can be an open system and reports may be used for determining postings only. Their use for deciding promotions may be suitably evolved in due course with safeguards against injustice.

Would you favour such a new system? If you are not in favour, please give reasons for your views.

35. What is the practical method by which an employee in a government office or undertaking who comes to know the corruption involved in a particular transaction can bring it to the notice of an appropriate authority at higher levels for immediate corrective action for stopping the further course of the corrupt transaction and for inquiring and punishing the corrupt official concerned? Presently an honest subordinate in an office cannot freely expose the corruption of a dishonest superior, because the subordinate is most likely to be victimised on this account by a variety of disciplinary measures over his head.

What is your suggestion for remedying this situation?

36. What is the practical method by which service associations can express their disapproval of the improper and unethical conduct of senior members of the service, who are known to be associated with corruption and malpractices. Whenever any attempt is made by the junior officers to secure some such arrangement within the services, it is immediately viewed as an act of indiscipline and is discouraged on that score.

What is the practical method by which the desired objectives can be secured without prejudice to discipline?

37. A fundamental principle in vigilance and anti-corruption work is that the Head of each department should be squarely held responsible for preventing corruption in his department. He should be enabled to discharge this responsibility by being given more freedom to enforce discipline among

his staff and make proper postings and transfers and also organise surprise checks periodically at sensitive points.

Would you endorse this fundamental principle?

38. The Head of each department should have the assistance of a vigilance officer to discharge this responsibility. Presently, a senior officer of the department is designated to function as Vigilance Officer in addition to his other normal duties. Such a part-time Vigilance Officer cannot possibly meet the requirements of the present situation.

In your opinion, which are the departments that merit whole time Vigilance Officer for this purpose?

39. Pay and special allowances admissible to Vigilance Officers and their staff and also the staff of the Directorate of Vigilance and Anti-Corruption (DV&AC) should be sufficiently attractive to get good officers to function effectively in these posts with adequate motivation and service pride.

What are your specific suggestions in this regard?

40. Enquiries handled by DV & AC in present times require a multi-disciplinary approach. Engineers, accountants and auditors have an increasing role in the conduct of comprehensive investigations into allegations of corruption and malpractices, particularly at higher levels.

What special arrangements would you suggest for the DV & AC to be staffed by such professionals, besides police officers?

41. DV & AC is presently functioning as a police organisation exercising all its powers of investigation under the provisions of Cr.P.C. Since vigilance inquiries are now tending to be a multi-disciplinary task, it would be advantageous to have a separate enactment for the DV & AC on the lines of the Income Tax Act, Central Excise and Customs Act, etc. which will spell out all the necessary powers for making searches, arrests and investigations by their own staff in respect of specified offences. Such a separate enactment would make the DV & AC inquiries and investigations stand on their own footing without being dragged down by 100 year old court rulings applicable to the regular police. Evidence recorded by the DV & AC as a multi-disciplinary body would then command greater credibility and be assessed on its merits during court proceedings.

Would you favour this reform? If not, give reasons.

42. Financial irregularities brought out in the periodic audit reports on departments prepared by the Accountant-General are sometimes linkable with acts of corruption by the functionaries concerned. As and when the audit report on a department is received by the Government, it should be scrutinised from the vigilance angle also besides the usual administrative angle connected with financial regulations and budgetary provisions.

What practical method would you suggest for prompt scrutiny of audit reports from the vigilance angle even as they are processed in the normal course for scrutiny by the Public Accounts Committee?

43. Effective maintenance of discipline is very essential for keeping corrupt subordinates under check. In the present scheme of things, the authority to initiate disciplinary proceedings against erring subordinates is vested with officers at relatively higher levels. This system fails to have necessary impact on day-to-day maintenance of discipline which really counts for putting down corruption. The system has to be revised so that all disciplinary powers in regard to any particular rank can be exercised by an authority not more than two levels above that rank. Appellate powers may be exercisable by the authority three levels higher. Would you endorse such a system?

44. What are the drawbacks and deficiencies in the existing system of disciplinary control in Government departments? What are the factors contributing to delay in the disciplinary proceedings and harassment to the personnel involved?

Can you suggest any remedial measures in this regard?

45. Lapses in the observance of rules and procedures in the conduct of disciplinary proceedings lead to delay and ultimate failure of action. There should be a scheme for periodical training of departmental officers at the supervisory level in conducting enquiries and holding disciplinary proceedings.

What are your specific suggestions for strengthening such an arrangement for training.

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