

**NEW DELHI MUNICIPAL COUNCIL**  
**PALIKA KENDRA : NEW DELHI.**

**COUNCIL'S MEETING NO. 03/2013-14 DATED 23.07.2013 AT 4-00 P.M.**

**Arrangement of business**

<b>ITEM NO.</b>	<b>SUBJECT</b>	<b>PAGE</b>	<b>ANNEXURE</b>
01 (C-07)	Confirmation and signing of the minutes of the Council's Meeting No. 02/2013-14 held on 27.06.2013.	2	3 - 7
02 (B-02)	Preliminary estimate for "Replacement /Augmentation of Sub-station equipment at 8 nos. Sub-stations (Vidyut Bhawan, Nehru Park, Aurbindo Marg, Korea Embassy, Hungry Embassy, Aliganj No. 1 Delhi Earth Centre, Teaching Block) in M/S Area.	8 – 11	
03 (A-06)	Imp/Upgradation of Shivaji Stadium. SH: C/o Sports facility block, hockey stadium, warm-up pitch, two level basement for parking including electrical, fire-fighting & protection, HVAC, lift etc. complete as composite work.	12 – 17	18 – 55
04 (A-07)	Construction of Old Age Home at Kali Bari Marg.	56 – 65	66 – 95
05 (A-08)	Development of Rain Water Harvesting system in Laxmi Bai Nagar, Sarojini Nagar, Nauroji Nagar, Netaji Nagar and Moti Bagh.	96 – 101	
06 (D-02)	Re-appropriation of Funds in Budget Estimates 2013-14.	102 – 104	105 – 106
07 (O-01)	Audit Comments on Financial Statements/Accounts of NDMC for the year ending March, 2012.	107 – 109	Separate Booklet enclosed
08 (T-01)	Annual Administrative Report for the year 2012-13.	110 – 112	Separate Booklet enclosed
09 (C-08)	Contracts/Schemes involving an expenditure of Rs.1 Lac but not exceeding Rs.200 lacs. (For information of the Council)	113	114 – 129
10 (C-09)	Action Taken Report on the status of ongoing schemes/works approved by the Council. (For information of the Council)	130	131 – 163

11 (S-03)	Issuance of orders for exoneration for Sh. S.M. Mustafa, Retired, A.E.(C) after making disagreement with the advice given by the Commission during Second Stage Advice.	164 – 168	169 – 224
12 (S-04)	Major penalty proceedings against Sh. D.K. Srivastava, Head Asstt. (Retd.)	225 – 229	230 – 258
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**ITEM NO. 01 (C-07)**

Confirmation and signing of the minutes of the Council's Meeting No. 02/2013-14 held on 27.06.2013. (See pages 3 - 7 )

**COUNCIL'S DECISION**

Minutes confirmed and signed.

**NEW DELHI MUNICIPAL COUNCIL**  
**PALIKA KENDRA : NEW DELHI**

**DRAFT MINUTES OF THE COUNCIL'S MEETING NO. 02/2013-14 HELD ON 27.06.2013, AT 2-30 P.M. IN THE COUNCIL ROOM, PALIKA KENDRA, NEW DELHI.**

<b>MEETING NO.</b>	<b>:</b>	<b>02/2013-14</b>
<b>DATE</b>	<b>:</b>	<b>27.06.2013</b>
<b>TIME</b>	<b>:</b>	<b>2-30 P.M.</b>
<b>PLACE</b>	<b>:</b>	<b>PALIKA KENDRA, NEW DELHI.</b>

**PRESENT :**

- |           |                         |   |                          |
|-----------|-------------------------|---|--------------------------|
| <b>1.</b> | <b>Sheila Dikshit</b>   | - | <b>Presiding Officer</b> |
| 2.        | Ms. Archana Arora       | - | Chairperson              |
| 3.        | Smt. Tajdar Babar       | - | Vice Chairperson         |
| 4.        | Sh. Karan Singh Tanwar- |   | Member                   |
| 5.        | Sh. Ashok Ahuja         | - | Member                   |
| 6.        | Sh. D. Diptivilasa      | - | Member                   |
| 7.        | Sh. Dharampal           | - | Member                   |
| 8.        | Sh. Santosh D. Vaidya   | - | Member                   |
| 9.        | Sh. Vikas Anand         | - | Secretary                |

ITEM NO.	SUBJECT	DECISION
01 (C-04)	Confirmation and signing of the minutes of the Council's Meeting No. 01/2013-14 held on 23.05.2013.	Minutes confirmed and signed.
02 (E-02)	Registration of pharmaceutical firms for procurement of Allopathic Medicines for the next three years w.e.f. 18.06.2013.	Resolved by the Council to accord approval of the registration of pharmaceutical firms for procurement of Allopathic Medicines for a period of 3 years w.e.f. 18.06.2013.  It was further resolved that instead of having 3 year period expiring midway, it was decided to have the period of registration valid upto 31.03.2016.

		It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.
03 (G-01)	New Settlement Scheme, 2013 for recovering pending outstanding electricity/water dues.	<p>Resolved by the Council to accord approval to the proposal of the department contained in para 4 (iii) (a to f) of the agenda.</p> <p>It was further directed that on expiry of the scheme period, strict action against all defaulters needs to be taken by the Department.</p> <p>It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.</p>
04 (L-01)	Moratorium period in respect of Dilli Haat, INA, A Joint Venture of NDMC and DTTDC.	<p>Resolved by the Council to accord approval, for moratorium on enhanced licence fee in terms of approval of the Council vide Reso. No.07 (L-02) dt. 30.9.2011 for a period of two years i.e. from 1.4.2013 to 31.3.2015 during which DTTDC will pay licence fee @ 50% of receipts from sale of entry tickets or `1 crore whichever is higher. This would be through a separate agreement. The licence fees as per terms of Council decided vide Reso. No.7 (L-02) dt. 30.9.2011 fixed at a minimum of ` 1 crore per annum payable @ `.25 lacs per quarter or 60% of receipt from sale of entry tickets whichever is higher would continue thereafter.</p> <p>It was further resolved by the Council that the moratorium would be for two years or till the work of DMRC is completed or till the original status is restored by DMRC which ever is earlier and after that DTTDC will revert back to the original agreement as decided by the Council i.e. 60% of receipt of entry tickets or `1 crore per annum which ever is higher.</p> <p>It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.</p>

05 (L-02)	Modification/Clarification in Estate Policy approved by the Council vide Reso. No. 9(L-1) dt. 30.9.2004 in respect of charging of security deposit from Govt. Departments.	Resolved by the Council to approve the recommendations of the Department as contained in Para 15 of the agenda.
06 (D-01)	Conduct of Audit of New Delhi Municipal Council by C&AG.	The facts of the case were explained by the Chief Auditor. The issue was deliberated at length and it was unanimously resolved that a reference may be made to the Chief Secretary, GNCTD, giving facts of the case and seeking further directions.
07 (L-03)	Report on agenda item regarding operation and maintenance of five star hotel property at 1, Man Singh Road, New Delhi, placed before the Council vide Item No. 07 (L-05) in its Meeting held on 26 <sup>th</sup> March, 2013.	<p>Council considered the report put up by the Estate-I Department with reference to Item No. 7 (L-05) placed in the Council Meeting held on 10.04.2013, regarding decision on RFP document for operation and maintenance of 5 star property at 1, Man Singh Road, New Delhi.</p> <p>Secretary initially explained that some of our members have raised issue of recording of minutes. He further explained that as per practice being followed only decision arrived at in the meeting are recorded in the minutes. However, considering the importance and sensitivity of the case and varied views of Members of the Council, it was proposed to record the minutes of the item in detail, as one time exception.</p> <p>With the permission of the Chair, Secretary briefed the Council about the developments that have taken place in the matter subsequent to the last meeting of the Council dt. 10.04.2013, brief of which is enclosed as Annexure "I".</p> <p>While deliberating on the issue the Presiding Officer mentioned that though there was a clause under which continuation of the licence was possible, the issue could not be resolved resulting in the matter reaching present stage. It was further indicated that members from MOUD are inclined to obtain an</p>

		<p>opinion from the Solicitor General of India in the matter.</p> <p>At this stage, the Council was informed that the Solicitor General and Additional Solicitor General enjoy the same level as per rules on the subject and therefore, it would be better if we have an opinion from Attorney General, it at all required. Adv. (R&amp;L) also expressed the same opinion that the Solicitor General and Additional Solicitor General enjoy the same level.</p> <p>Shri Santosh D. Vaidya, Member was of the opinion that the decision for the bidding taken in the Council meeting dated 12.09.2012 should be implemented.</p> <p>Shri D. Diptivilasa, Member contended that the differing views of the MHA &amp; MoUD would be resolved only by a reference to a higher authority such as the Solicitor General of India.</p> <p>In the background of the detailed briefing and deliberations on the subject, it was resolved by majority to forward the matter seeking advice of Solicitor General of India through the Ministry of Home Affairs.</p>
08 (C-05)	Contracts/Schemes involving an expenditure of Rs.1 Lac but not exceeding Rs.200 lacs.	Information noted.
09 (C-06)	Action Taken Report on the status of ongoing schemes/works approved by the Council.	Information noted.
10 (K-01)	Scheme for improvement in working of Dhobi Ghats in NDMC area.	Resolved by the Council to approve the proposal of Welfare Department to have a Management Committee of Licencees in the form of a Registered Society, registered under the Societies Registration Act, 1960, to manage the affairs of each Dhobi Ghat. The Society shall also be responsible for payment of Electric & Water dues of the respective Dhobi Ghat.

		<p>It was further unanimously resolved to increase the annual License Fee from ` 3/- per annum to `100/- per annum.</p> <p>The Council also desired that a detailed survey of Dhobi Ghats may be undertaken to identify those who are not working as Dhobis or are using other electrical gazettes for washing / dry cleaning in these Ghats.</p>
11 (M-02)	Up gradation of three Secondary NDMC Schools to Senior Secondary level.	<p>(a) The Council noted the following information put up by the Deptt. :</p> <p>(i) Upgradation of N.P. Co.ed. Sec. School, Lodhi Road up to Sr. Sec. Level.</p> <p>(ii) Upgradation of N. P. Co-ed. Sec. School, Aurangzeb Lane up to Sr. Sec. Level.</p> <p>(iii) N. P. Girls Sec. School, Havelock Square be converted in a Co-ed school &amp; be up- graded to Sr. Sec. Level.</p> <p>(b) It was further resolved by the Council to accord approval for creation of 3 (three) posts of Principal in the pay scale of `15600-39100/- plus grade pay of `7600/-.</p> <p>(c) It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.</p>
12 (S-02)	Major penalty proceedings initiated against Sh. Karan Singh S/O Shri Binda Prasad, Pump Driver, (Retired on 31.12.2010), R-II Division, Civil Engg. Department, NDMC, New Delhi.	<p>Considering the facts of the case in totality the Council unanimously resolved to impose a penalty of 5% reduction in pension for a period of five years on the charged officer, Sh. Karan Singh S/o Sh. Binda Prasad, Ex. Pump Driver (Retd. on 31.12.2010).</p> <p>It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.</p>



**(VIKAS ANAND)**  
**SECRETARY**

**(ARCHNA ARORA)**  
**CHAIRPERSON**

**ANNEXURE – I**

	<b>Development since the last meeting of the Council</b>	<b>Remarks</b>
<b>1.</b>	Copy of the order dated 9 <sup>th</sup> April 2013 of the High court in the case of IHCL vs. NDMC received. The operative part is of the order is at page 60 of the agenda item No. 07.	No injunction granted. Listed for 9 <sup>th</sup> July 2013. <b><u>Conclusion:</u></b> The court has nowhere restrained the NDMC in proceeding ahead with the bid process.
<b>2.</b>	SLP filed by the petitioner against the outcome of the writ petition No.6615/2012 before the HC titled Mithilesh Kumar Pandey vs. NDMC on various questions of Law as mentioned at page 59 of the agenda.	Notices have been issued. Listed for 9 <sup>th</sup> July 2013. However, in the Writ petition No.6615/ 2012 before the HC, NDMC has undertaken to hold the public auction with ROFR within a 6 months from the date of order (17 <sup>th</sup> Oct. 2012)
<b>3.</b>	Letter dated 22 <sup>nd</sup> April 2013 of Mr. C K Khaitan, Joint Secretary (MoUD) & Member, NDMC placed at page 68 as Annexure II to the agenda item No. 07 regarding non-recording of the discussion of meeting dated 10 <sup>th</sup> April 2013 and seeking of the opinion of the Solicitor General.	In the council meetings only the decision is recorded as resolution. In the meeting dated 10 <sup>th</sup> April the decision taken by majority was to wait for the copy of the order in the pending case and then matter to be discussed in the special meeting of the council. However, this being an important agenda having diverse views of the members we may resort to recording of the discussion also as an exception. Regarding the opinion of the Solicitor General same was never decided in the meeting and also same is not required as the opinion of the ASG is already on record (it need not be emphasized that the term SG also includes ASG& LA would like to elaborate).
<b>4.</b>	Letter dated 27 <sup>th</sup> May 2013 of Shri Diptivilasa, Addl. Secretary (MoUD) & Member, NDMC placed at page 70 as Annexure III to the agenda items No. 07 on similar lines and his displeasure over confirmation of only the decision taken in the meeting date 10 <sup>th</sup> April without recording the minutes and views expressed by Mr. Khaitan vide his letter dated 22 <sup>nd</sup> April 2013.	As Above. Also the minutes were confirmed by majority.
<b>5.</b>	Letter dated 10 <sup>th</sup> May 2013 of MHA placed at page 70 as Annexure IV to the agenda	In the meeting dated 12 <sup>th</sup> Sept. 2012 council has already decided to go for public auction with FROR and

<p>items No. 07 whereby Ministry is of the considered opinion that first Right of refusal should not be allowed to the IHC in the proposed auction and fresh lease be granted by public auction.</p>	<p>also conveyed to the IHC about the same and also incorporated in the RFP. However, the logic of MHA that the FROR is not provided in the lease deed &amp; same may result in lower bids in the public auction is reasonable &amp; with merit.</p>
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**ITEM NO. 02 (B-02)****1. Name of the subject.**

Preliminary estimate for "Replacement /Augmentation of Sub-station equipment at 8 nos. Sub-stations (Vidyut Bhawan, Nehru Park, Aurbindo Marg, Korea Embassy, Hungry Embassy, Aliganj No. 1 Delhi Earth Centre, Teaching Block) in M/S Area.

**2. Name of the Department : Electricity****3. Brief history of the subject:**

Maintenance Division requested to frame the estimate for replacement of sub-station equipments of 8 nos. existing S/S in (M/S) area. The credit sheet of the equipment to be replaced and proposal has been provided by EE (M/S). As per Credit sheet, S/S equipment considered for replacement have served their useful life.

As mentioned, all the existing 11KV panels, LT panels & transformers proposed in the estimate to be replaced are of bulk oil type and have served for more than 25 years as on date and the proposal is also in line with the Y.P. Singh Committee report. The spare part of these panels is no longer available in the market. Whenever any parts gets damaged, it has to be got fabricated through contractor / open market. Dates on which fault occurred on these panels Sub-station wise is already provided by Maintenance Division. It is seen as per the fault details that regular fault occurred in these panels. Therefore, operations and maintenance of these panels is considered un-economical.

The estimate has been framed for Replacement/Augmentation of S/S Equipment at 8 nos. Sub-Stations (Vidyut Bhawan, Nehru Park, Aurbindo Marg, Korea Embassy, Hungry Embassy, Ali Ganj No. 1, Delhi Earth Centre, Teaching Block) in M/S Area.

**4. Detailed proposal on the subject:**

The sub-Station wise details of the proposed HT. Panels, LT. Panels/ Transformers were prepared for replacement /augmentation of 8 nos Sub-stations at M/S area. The S/S equipment to be dismantled & their credit value has been provided by M/S division.

EE (M/S) proposed to augment the existing (1X750 KVA & 1X 1000 KVA) transformers at S/S Aurbindo Marg with 2 X 1600 KVA dry-type transformers as electric load of these transformer have been increased and over-loaded. The same has been considered in the estimate. As per Indian Electricity Rule, the transformers containing oil not more than 2000 litre need not to be replaced with Dry-Type Transformers, hence only oil-type transformers are taken in the estimate for 500 KVA capacity.

Credit for the existing S/S equipment to be replaced has been afforded to the estimate as per credit sheet provided by EE (M/S). Although existing HT. Cable shall be dismantled to the extent economy and credit shall be given to municipal revenue. The existing earthing, bus-ducting/LT. Mains shall be dismantled & credit shall be afforded to the municipal revenue as per actuals.

#### **5. Financial implications of the proposed project:**

Financial Implications in the proposal is anticipated to be ` 7,03,45,308/-

#### **6. Implementation schedule with timeliness for reach stage including internal processing:**

Six months

#### **7. Comments of the Finance Department on the subject:**

We seek following clarifications from the department:-

1. The department has proposed to replace the various panels on mass level without brining on record the present conditions of the same. Replacing these equipments merely on the ground that the same have served their use of life is not justified. Further, it is evident from the list prepared by the department That some of equipments served more than 42 years of life against their useful life of 20 years. Therefore it would be of fitness of thing that the

- replacement be done gradually and in face manner i.e. the equipments which are giving frequent trouble may be replaced first.
2. Whether the panels, proposed to be replaced are not reliable, giving frequent trouble or otherwise needs to be brought on record. A Sub-station wise condition of these equipment may be brought on record along with a reference of fault occurred during last 3 years. In support of the facts that the same are not reliable / beyond economical repair.
  3. It has been observed that existing (1 X 750 KVA & 1 X 1000KVA) transformers at Sub-station Aurbindo Marg are also proposed to be replaced with 2 X 1500KVA dry type transformers. The details reason for the same may also be brought on record. A details of fault occurrence report/ repair if any carried out in these transformer for last 3 year may also be bought on record.
  4. The Project Repot has not been signed by the various office of Electricity Department. The same needs to be got signed by all the concerned I,We. EE (M/S), EE (Planning), Concerned SE(E), ACE and by CE(E-II). The detail reference / clarification to point no. 2 as above may also be mentioned in the project report.
  5. The contingency charges levied in the estimate are not as per provision of 1.1.5 of CPWD manual. Further, no separate provision for cost of testing charges need to be taken in the estimate as the same is covered under contingency. Hence need correction.
  6. Since huge expenditure is involved, the department may bring the comments/views of advisor (Power) & advisor (Elect.) on the subject.
  7. The Deptt. may also clarify that there is no other case of similar nature of stated site are in pipeline.

#### **8. Comments of the department on comments of Finance Department.**

Point wise reply to the observations of finance department is as under:

**Pt.No. 1, 2 & 3:** Reply/clarification is submitted by user department i.e. M/S division regarding point no. 1, 2 & 3 and the same is appearing at CP/103-104 & again in form of reply to Advisor(Power) at N/P-26.

**Pt. No. 4** Needful done.

**Pt. No. 5:-** The estimated amount is exceeding 1 crore therefore contingency @ of 3% has been taken in the estimate. Testing charges are included in the estimate as per past practice.

**Pt. No. 6:-** Advisor (Power) has also seen the proposal and cleared it for concurrence in Finance Department appearing at NP-27.

**Pt. No. 7:-** Presently there is no other case of similar nature of stated site is in pipe line.

### **9. Final views of Finance Department.**

The proposal of EE(E)P-11KV Electrical Deptt. regarding Replacement / Augmentation of Sub-station Equipment at 8 Nos. Sub-stations (Vidyut Bhawan, Nehru Park, Aurbindo Marg, Korea Embassy, Hungry Embassy, Aliganj No. 1, Delhi Earth Centre, Teaching Block) in M/s Area at an estimated cost of ` 7,11,94,558/- at P-20/N) was examined / considered in the light of the followings :-

- (i) The Electricity Deptt./CE(E-I) recommended the project after being (a) technically satisfied itself about the Project / Estimate ; and (b) Assessed the project /Estimate.
- (ii) The P.E. amounting to ` 7,03,45,308/-(G) after deletion of inspection and Testing Charges as per the Section 4.1.5 of CPWD Manual 2012 will take care of the Project.
- (iii) Observations of Finance Deptt. on broad financial parameters have been addressed by the Deptt.

**Deptt. may process the case for consideration of Competent Authority for grant of A/A & E/S of ` 7,03,45,308/-(G).**

Final reply of the department on the observations of Finance are as under:

- (i) Matter of record.
- (ii) The P.E. is amended and is now amounting to ` 7,03,45,308/-(G) after deletion of inspection and Testing Charges as per the Section 4.1.5 of CPWD Manual 2012 will take care of the Project.
- (iii) Certified that observations of Finance Deptt. on broad financial parameters have been addressed.

### **10. Legal implication of the subject**

Nil

### **11. Details of previous Council Resolutions, existing law of Parliament and Assembly on the subject.**

Nil

**12. Comments of the Department on the comments of Law Department.**

Nil

**13. Final view of Law Department [wherever necessary].**

No legal angle is involved in the agenda item to be placed before the Council.

**14. Certificate that all Central Vigilance Commission's guidelines have been followed while processing the case.**

It is certified that all Central Vigilance Commission (CVC) guidelines have been followed in processing the case.

**15. Recommendation:**

The Preliminary estimate amounting to ` 7,03,45,308/- for replacement /Augmentation of Sub-station equipment at 8 nos. Sub-station (Vidyut Bhawan, Nehru Park, Aurbindo Marg, Korea Embassy, Hungry Embassy, Aliganj No. 1 Delhi Earth Centre, Teaching Block) in M/S Area may be placed before the council to accord administrative approval and expenditure sanction. Approval may also be accorded to take further action in anticipation to confirmation of the minutes of Council Meeting.

**16. Draft Resolution:**

Resolved by the Council that Administrative Approval and expenditure sanction is granted to the Preliminary Estimate ` 7,03,45,308/- for replacement /Augmentation of Sub-station equipment at 8 nos. Sub-station (Vidyut Bhawan, Nehru Park, Aurbindo Marg, Korea Embassy, Hungry Embassy, Aliganj No. 1 Delhi Earth Centre, Teaching Block) in M/S Area. Approval is also accorded to take further action in anticipation to confirmation of the minutes of council meeting.

**COUNCIL'S DECISION**

Resolved by the Council to accord administrative approval and expenditure sanction to the Preliminary Estimate amounting to `7,03,45,308/- for replacement /Augmentation of Sub-station



equipment at 8 nos. Sub-station (Vidyut Bhawan, Nehru Park, Aurbindo Marg, Korea Embassy, Hungry Embassy, Aliganj No. 1 Delhi Earth Centre, Teaching Block) in M/S Area.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

**ITEM NO.03 (A-06)****1. NAME OF THE PROJECT:**

**Sub: Imp/Upgradation of Shivaji Stadium.**

**SH: C/o Sports facility block, hockey stadium, warm-up pitch, two level basement for parking including electrical, fire-fighting & protection, HVAC, lift etc. complete as composite work.**

**2. NAME OF THE DEPARTMENT: CIVIL ENGINEERING DEPARTMENT, NDMC****3. BRIEF HISTORY OF THE PROJECT:**

The work "Imp/Upgradation of Shivaji Stadium. SH: C/o sports facility block, hockey stadium, warm-up pitch, two level basement for parking including electrical, fire-fighting & protection, HVAC, lift etc. complete as composite work" was awarded to M/s China Railway Shisiju Group Corporation (M/s CRSGC) for Rs. 1,60,27,16,430/- and revised administrative approval and expenditure sanction for Rs. 185 Crores (Approx.) vide resolution No. 29(A-19) dated 28.04.2008 (**Annexure-I See pages 18 - 23**), with the stipulated date of start and completion as 29.05.2008 and 28.11.2009. The complete site could not be handed over to the agency due to court decisions and other hindrances. Finally, Hon'ble High Court dismissed stay on 03.03.2009 for Common Wealth Games. The site vacated by demolishing of the restaurant, was handed over to the agency on 04.03.2009. The work could not be completed before CWG-2010 and remain suspended due to CWG. The work was restarted after CWG-2010.

Upto the last payment made in July, 2011 the gross value of the work done is Rs.99,42,43,463/-. No payment since July, 2011 has been made to M/s China Railway Shisiju Group Corporation (M/s CRSGC) due to freezing of bank account of M/s China Railway Shisiju Group Corporation (M/s CRSGC) by CBI. However, no intimation regarding freezing of bank account by CBI has been given to NDMC. The value of work done since July, 2011 is approximately Rs. 30 Crores subject to finalization of quantities and rates. The balance work mainly Electrical works is Approx. of Rs.80 lacs.

**4. DETAILED PROPOSAL ON THE SUBJECT/PROJECT:**

During course of execution the work was investigated by various agencies viz. Shungloo Committee, CAG, CTE, including High Level Committee. They have observed

that M/s China Railway Shisiju Group Corporation has sublet the work. Further, CTE has observed on 30.12.2009 regarding subletting of the work in its report at para 3.3 as under:

“As per clause 21 page 526 of agreement, the contract shall not be assigned or sublet without the written approval of Engineer-in-charge failing which the NDMC shall have the powers to take action as specified in Clause 3 (When contract can be determined) of the contract. It has been observed during inspection that M/s China Railway has sublet the entire work to M/s Simplex Projects Ltd. without any approval which is evident from the vouchers for purchase of steel, cement and RMC which are in the name of M/s Simplex. But no action has been taken against the contractor till date. Responsibility needs to be fixed for illegal subletting of work”. **(Annexure-II See pages 24 - 26)**

The CTE para was replied vide No. EE(Stadia Project)/377/D dated 11.05.2010 as under:

“The work has been awarded to M/s China Railway Shisiju Group Corp. and the agreement was executed. During the course of execution of the work and procurement of materials are being made, running account bills are submitted by M/s China Railway Shisiju Group Corp. and accordingly, the payment is released to M/s China Railway Shisiju Group Corp. However, department is ensuring that the material procured is as per requirement of agreement. M/s China Railway Shisiju Group Corp. intimated that the procurement of material was being done through various suppliers including M/s Simplex Projects Ltd. because of lack of infrastructure facilities of their company in Delhi and they have engaged M/s Simplex Projects Ltd. as one of their procurement of goods/material to carry out the work smoothly, being a time bound and a Commonwealth Games project”. **(Annexure-III See pages 27 - 29)**. M/s China Railway Shisiju Group Corp. has intimated vide letter No. CRSSG/HM/0410 dated 12 Apr.'10 **(Annexure-III-A See page 30)**.

During investigation by CAG and Shungloo High Level Committee in late 2010, it was observed that the work was sub-let illegally.

Accordingly, M/s China Railway Shisiju Group Corporation was issued a letter No. EE(St.Project)/D/1835 dated 02.05.2011 **(Annexure-IV See page 31)** and subsequent reminders No. EE(St.Project)/D/2074 dated 10.10.2011 **(Annexure-V See page 32)** and dated 12.06.2012 **(Annexure-VI See page 33)**, vide which the agency was informed/requested to explain/offer comments in this regard. Finally, Show Cause Notice under Clause 3 of the agreement was issued vide No. D/2403/EE(St. Project) dated 02.08.2012. **(Annexure-VII See page 34)** In response to letter dated 02.08.2012, the agency has submitted their reply vide letter No. CRSSG/NDMC-SS/1708 dated

17.08.2012(**Annexure-VIII See page 35**) wherein the agency has stated that he had tie-up with various agencies including M/s Simplex Projects Ltd. for which they had entered into a work agreement with M/s Simplex Projects Ltd. However, to consider the reply for proper justice another letter was issued to the agency vide this office letter No. EE(St. Project)/D/ 2452 dated 19.09.2012 (**Annexure-IX See page 36**) with a request to submit a copy of the said agreement. But, the agency did not furnish the copy of agreement as sought vide letter dated 19.09.2012. As a parallel action letters vide No. EE(St.Project)/D3122 dated 08.02.2013 (**Annexure-X See page 37**) & EE(St.Project)/D3127 dated 08.02.2013 (**Annexure-XI See page 38**) was sent to Income Tax Deptt. and Commissioner of Trade & Taxes respectively with a request to share documents available with them in this regard.

In the mean time a reference from EE(MES) Shillong vide No. C/89314/LEI/192/E8 dated 10 Jan.'13 (**Annexure-XII See page 39**) was also received wherein they had enclosed a list of works executed by M/s Simplex Projects Ltd. mentioning that M/s Simplex Projects Ltd. has claimed the execution of work of Shivaji Stadium as a joint venture with M/s China Railway Shisiju Group Corporation. Accordingly, Vide letter No. EE(St. Project)/D/ 3115-17 dated 08.02.2013, M/s China Railway Shisiju Group Corporation was given final opportunity to clarify within 10 days of issue of letter with regards to claim of M/s Simplex Projects Ltd. as joint venture. (**Annexure-XII-A See page 40**)

Similarly, M/s Simplex was also requested to provide a copy of agreement between M/s China Railway Shisiju Group Corporation & M/s Simplex Projects Ltd. vide letter No. EE(St. Project)/D/3110 dt. 08.02.2013. (**Annexure-XIII See page 41**).

A letter was also sent to CBI vide this office letter No. EE(St.Project)/D/3132 dated 12.02.2013 (**Annexure-XIV See page 42**) requesting to share the documents available with them by which it can be establish that the work in question was sub-letted by M/s China Railway Shisiju Group Corporation to M/s Simplex Projects Ltd. In response to our letter, CBI has replied that the investigation related to Shivaji Stadium is still under investigation, therefore, records pertaining to the case cannot be shared at this stage. (**Annexure-XV See page 43**). In reference to our letter No. 3223/EE(Stadia Project) dated 01 May'13 (**Annexure-XV-A See page 44**), a reference vide No. 3285/3/RC 2172011A0004/AC-II dated 30.05.2013 was received vide which Supdt. of Police, CBI has informed that their investigation has established that M/s CRSGC has not executed any part of the work. (**Annexure-XVI See page 45**)

The matter was pursued with VAT Deptt. and after a long persuasion VAT Deptt. has furnished a copy of agreement between M/s. CRSGC and M/s. Simplex Projects Ltd. (two pages- incomplete agreement) (**Annexure-XVII See pages 46 - 48**). This agreement

also establishes that the work has been executed by M/s Simplex Projects Ltd. on back to back basis by way of illegal subletting of contract.

In this regard, it is submitted that Show Cause Notice (SCN) under Clause-3 & Clause-2 was served to M/s. CRSGC vide No. EE(St.Project)/D/3133 dated 12.02.2013 (**Annexure-XVIII See page 49**) and EE(St.Project)/D/3134 dated 12.02.2013, respectively. (**Annexure-XIX See page 50**) M/s. CRSGC vide their letter No. CRSSG/NDMC-SS/2302 dated 23.02.2013 (**Annexure-XX See page 51**) has requested to grant 30 days time to give reply to SCN on the plea that they have to examine voluminous records for preparing reply to SCN. A period of four months has since been passed but M/s. CRSGC has not submitted their reply to SCN under Clause-2 & Clause-3 of the agreement.

The fact of subletting has been reinforced by the letter No. 3285/3/RC 2172011A0004/AC-II dated 30.05.2013 (**Annexure-XVI See page 45**) by SP, CBI. And the reply of agency has not been found satisfactory, the agency has made itself liable for action as per section- 33.3.2 (3) of CPWD Manual for action under provisions of the contract and the agreement may be rescinded after approval of the tender accepting authority.

In the instant case the tender was accepted by the Council, hence, approval of the council is required before issue of final notice under Clause 3 of the agreement.

#### **5. FINANCIAL IMPLICATION OF THE PROPOSED PROJECT:**

Due to rescission of the contract the Performance Guarantee @ 5% of the contract value amounting to Rs.8,01,35,822/- and Security Deposit @ 5% of the work done will be fore-fitted. The action under Clause -2 will also be taken as per agreement. The balance work basically related to Electric for approx Rs.80.00 lacs will be got executed as per Clause-3 of the agreement, through other agency. The work of air-conditioning only will be got executed at the risk and cost of M/s China Railway Shisiju Group Corporation. The agency whose contract is rescinded i.e. M/s China Railway Shisiju Group Corporation shall not be allowed to participate in the tendering process for the balance work.

#### **6. IMPLEMENTATION SCHEDULE WITH TIME LIMITS FOR SUCH STAGE INCLUDING INTERNAL PROCESSING**

Final notice under Clause 3 will be served to M/s China Railway Shisiju Group Corporation as per provisions in CPWD Manual for final measurement of the work.

**7. COMMENTS OF THE FINANCE DEPARTMENT ON THE SUBJECT:**

The proposal of the department is for rescinding the contract in terms of provision of agreement. Perusal of record made available shows that show cause notice under clause 3 and 2 of the agreement dated 12.02.2013 placed at P-549/C and 550/C respectively were issued to the contractor regarding breach of contract and wrongful delay & slow progress of work. From Correspondence portion of file at P-519/C, it has been observed that department had also issued a show cause notice dated 2.8.12 under clause 3 to the firm regarding sub-letting of the work against the provisions of the agreement. It appears from perusal of P-143/N that the department has not received satisfactory reply from M/s. CRSGS and initiated the proposal for rescinding the contract under clause 3.

CBI vide their letter dated 30.5.2013 placed at P-664/C inter-alia also informed that no payment should be made to M/s. CRSGS without further direction of the CBI/Court. The law department has also seen the proposal and opined that department may take action as per terms and condition of the agreement.

In view of above , the department may process their proposal for consideration of competent authority bringing on record the following information:

1. Cause of action
2. The action taken by the department as per provisions of agreement, including that of resorting to penalty clause.
3. Proposal of the department with support that proposed action is as per provisions of agreement.
4. Further course of action for unexecuted work with quantum and financial implications.

**8. COMMENTS OF THE DEPARTMENT ON THE COMMENTS OF FINANCE DEPARTMENT**

Reply to FD's suggestions are as under :-

1. The work is being rescinded as per agreement condition due to unlawful sub letting the work by the agency.
2. The action by the department is governed under clause-2 of the agreement.
3. The work is being rescinded as per agreement condition due to unlawful activity by the agency of sub letting the work as per agreement condition clause 21 and clause 3.
4. The specialized works of (i) DG set (ii) Lifts (iii) HVAC (iv) High Mast, will be got executed from the OEMs & IEI works will be executed through other agencies. The approximate financial implication will be Rs. 80 lacs for execution of balance works, as per agreement.

Apart from this defects noticed are also required to be attended. As per agreement condition final notice under clause 3 is to be given after approval from the Council.

**9. FINAL VIEWS OF THE FINANCE DEPARTMENT.**

Finance Department vide their diary No. 1204/Finance/R-Civil dated 26 Jun.'13 has commented that "Draft Agenda has been seen. May ensure all codal provisions are followed in respect of this case."

**10. LEGAL IMPLICATION OF THE SUBJECT/PROJECT:**

Nil

**11. DETAILS OF PREVIOUS COUNCIL RESOLUTION EXISTING LAW OF PARLIAMENT AND ASSEMBLY ON THE SUBJECT:**

Resolution No. 10(A-9) dated 22.07.2005 (Annexure- XXI See pages 52 - 55)

Resolution No. 29(A-19) dated 28.04.2008 (Annexure-I See pages 18 – 23 )

**12. COMMENTS OF LAW DEPARTMENT ON SUBJECT:**

Department may take action as per the terms and conditions of the agreement. Note at page 141 and 143 has not brought out any legal issue in this case.

**13. COMMENTS OF THE DEPARTMENT ON THE COMMENTS OF LAW DEPARTMENT**

No comments in view of the comments of the law department.

**14. FINAL VIEWS OF THE LAW DEPARTMENT.**

No comments

**15. CERTIFICATION BY THE DEPARTMENT THAT ALL CVC GUIDELINES HAVE BEEN FOLLOWED WHILE PROCESSING THE CASE**

Certified that all CVC guidelines have been followed while processing the case.

**16. RECOMMENDATION**

The case may be placed before the Council for approval of the following:-

1. To process the final notice under clause-3 for rescinding the work of M/s China Railway Shisiju Group Corporation vide agreement No. 05/EE(BM-I)/AB/2008-09.
2. Approval may kindly be accorded for rescinding of the work of M/s China Railway Shisiju Group Corporation vide agreement No. 05/EE(BM-I)/AB/2008-09 and for taking action clause 2 (Extension of Time) and clause 3 of the Agreement as mentioned at para 5.



3. Approval may kindly be granted for executing the balance work through other agencies by call of tender.
4. The firm of M/s China Railway Shisiju Group Corporation shall be debarred from participating in NDMC for three years.
5. Permission may also be granted for taking action in anticipation of the confirmation of the minutes.

## **17. DRAFT RESOLUTION**

Resolved by the council that

1. Permission granted to process the final notice under clause-3 for rescinding the work of M/s China Railway Shisiju Group Corporation vide agreement No. 05/EE(BM-I)/AB/2008-09.
2. Approval accorded for rescinding of the work of M/s China Railway Shisiju Group Corporation vide agreement No. 05/EE(BM-I)/AB/2008-09 and for taking action clause 2 (Extension of Time) and clause 3 of the Agreement as mentioned at para 5.
3. Permission granted for executing the balance work through other agencies by call of tender.
4. Approval granted for initiating action to debar the firm of M/s China Railway Shisiju Group Corporation from participating in NDMC for three years.
5. Permission granted for taking action in anticipation of the confirmation of the minutes.

### **COUNCIL'S DECISION**

Resolved by the Council that :

1. Permission is granted to process the final notice under clause-3 for rescinding the work of M/s China Railway Shisiju Group Corporation vide agreement No. 05/EE(BM-I)/AB/2008-09.
2. Approval is accorded for rescinding of the work of M/s China Railway Shisiju Group Corporation vide agreement No. 05/EE(BM-I)/AB/2008-09 and for taking action clause 2 (Extension of Time) and clause 3 of the Agreement as mentioned at para 5.

3. Permission is granted for executing the balance work through other agencies by call of tender.
4. Approval is granted for initiating action to debar the firm of M/s China Railway Shisiju Group Corporation from participating in NDMC for three years.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

AnnexuresWWW

18 – 55

















































































Annexure ends



**ITEM NO. 04 (A-07)****1. NAME OF THE PROJECT:****Sub: Construction of Old Age Home at Kali Bari Marg.****2. NAME OF THE DEPARTMENT:****CIVIL ENGINEERING DEPARTMENT -II, NDMC****3. BRIEF HISTORY OF THE PROJECT:**

An area of 42.74 Sq. Kilometers of VVIP area comes under the jurisdiction of New Delhi Municipal Council. This area includes the prominent Central Government Buildings, Rashtrapati Bhawan, the Prime Minister's office and the residences of the members of Parliaments, Diplomats, and Central Government employees. The New Delhi Municipal Council provides all basic civic amenities to its residents and also ensures various social, cultural, educational and medical facilities especially to the Government/ Municipal employees and other weaker sections of the society.

About 15,000 NDMC employees are engaged to maintain this area to provide services to the population living in NDMC area. A piece of land of 2000 sqmt. was allotted by L&DO for the construction of Child Welfare Centre but later on it was decided that Old Age People Home be constructed on the said plot looking at the pressing need for setting up a Centre for welfare of Aged. NDMC has prepared a proposal for setting up the Centre for the welfare of aged on this plot which is permitted as per the Zonal Development Plan Zone-D. The proposal has been accorded in principle and approved by competent authority of NDMC. Then it has been decided to construct the old age home at Kali Bari Marg for the old age people so that needy people can get this facility.

Accordingly, case was submitted to Council for seeking Administrative approval and expenditure sanction. Council has accorded Administrative Approval and Expenditure Sanction vide Resolution No.03(A-28) dt.30.10.2012 for ` 11,84,82,590/-.

**4. DETAILED PROPOSAL ON THE SUBJECT/PROJECT:**

The item rate tenders were invited through e- procurement system by uploading the tenders on the website for wide publicity and advertisement in daily news papers as per N.D.M.C. policy. Tender Notices have also been issued to other division/departments by giving sufficient time of publicity by fixing pre bid meeting on 26.4.2013 and last date and

time of opening of tender as 09.5.2013. In pre-bid meeting some queries were raised and on examination and finalization of the queries, certain amendments in electrical conditions, the date of submission of bid and opening of bid extended as 20.5.2013 and 22.5.2013 respectively were issued.

In response to the wide publicity on due date and time of opening of tender box, it was found that the following five firms participated in e-Tendering system of Delhi Govt.

- 1 M/s. R.C.C Developers
- 2 M/s. Aadhar Stumbh Township Pvt. Ltd.
- 3 M/s. H.R. Builders
4. M/s. Tirupati Cement Product.
5. M/s. Rama Construction Co.

On opening of tender box it was found that following four agencies submitted the Earnest Money and other hard copies of documents in tender box and M/s. R.C.C Developers has not submitted the EMD and other documents in tender box, hence not opened on computer. The technical bid of remaining four bidders was opened.

1. M/s. Aadhar Stumbh Township Pvt. Ltd.
2. M/s. H.R. Builders
3. M/s. Tirupati Cement
4. M/s. Rama Construction Co

Accordingly technical comparative statement for electrical work in respect of Lift Technical Data has been prepared separately for facilitation of Electric Deptt.

Electrical Department communicated deficiencies in the Technical Data Sheet of lift and other minor deficiencies noticed in the tendered document. The same were communicated to the bidders. In response to our letter all the bidders submitted their documents/ details. Accordingly the case was again forwarded to Electrical Department for giving their recommendation in respect of Technical Data of lift. Electrical Department recommended their eligibility subject to confirmation from M/s Aadhar Stumbh and M/s Tirupati Cement Products regarding passenger cum bed lift undertaking. Both the firms submitted the requisite details. Thereafter the case was again sent to Electrical Department for their confirmation. The Electrical Department has given their approval of the same.

Comparative Statement for all the bidders whose technical bid was opened namely M/s H.R. Builders, M/s Aadhar Stumbh Township Pvt. Ltd., M/s Tirupati Cement Products and M/s Rama Construction Co. was prepared on the basis of documents submitted and placed before the technical evaluation committee for their evaluation and recommendation.

Technical evaluation committee meeting was held on 20.06.2013, after evaluating the technical and eligibility parameters recommended that the firm M/s Tirupati Cement Product who is not meeting the requirement of eligibility of similar nature of work as per laid down criteria in the NIT, therefore not qualified and the following remaining three firms who meet the requisite eligibility criteria as laid down in NIT are technically qualified for opening of their financial bids.

1. M/s H.R. Builders
2. M/s Aadhar Stumbh Township Pvt. Ltd.
3. M/s Rama Construction Co.

The recommendation of technical evaluation committee was approved by competent authority after the same was examined in Finance Department. After approval of competent authority the financial bids of eligible bidders were opened. The details of the quoted amount are as per comparative statement given below.

ESTIMATED COST= ` 11,57,14,152/-

S. NO.	Bidder Name	Amount	Bid Rank	% below/ above Estimated cost
1	M/s Aadhar Stumbh Township Pvt. Ltd.	` 9,79,76,217.00	L1	15.33 %below
2	M/s Rama Construction Co.	` 9,82,10,027.00	L2	15.13%below
3	M/s H.R. Builders	` 11,98,65,196.00	L3	3.59%above

From the above comparative it is evident that M/s Aadhar Stumbh Township Pvt. Ltd. has quoted the lowest rates of ` 9,79,76,217.00 i.e.15.33% below the estimated cost of ` 11,57,14,152.00. The justification of composite work including civil, electrical and fire-fighting after due scrutiny by main planning of Civil Engineering Department, Electrical Department and Fire Department works which works out to 1.17 % above the estimated cost of ` 11,57,14,152.00. The quoted rate by the lowest tenderer is 16.30% below the justified rate. The case was submitted to Finance Department for their scrutiny and concurrence. Finance has concurred the proposal for acceptance of the tender in respect M/s. Aadhar Stumbh Township Pvt. Ltd. for quoted amount of ` 9,79,76,217.00.

#### 5. FINANCIAL IMPLICATION OF THE PROPOSED PROJECT:

` 11,84,82,590.00 plus permissible deviation 10%.

## 6. IMPLEMENTATION SCHEDULE WITH TIME LIMITS FOR SUCH STAGE INCLUDING INTERNAL PROCESSING

Time of completion of the project is considered as 15 months after award of work.

## 7. COMMENTS OF THE FINANCE DEPARTMENT ON THE SUBJECT:

Finance Department vide their diary No. 1196/R-CE (C) dt. 25.06.2013 raised observations:-

1. A/A & E/S was accorded for ` 11,84,82,590.00 includes the civil, Electrical, Fire & Horticulture work. Department has invited tender for civil, electrical & fire work but it has not been brought on record for execution of horticulture work. The department may bring on record the information w.r.t amount in r/o PE, DE, NIT, tender & justified cost of each component in tabular form.
2. Recommendations of the Technical Evaluation Committee as at NP-60, are as indicated at NP-62, purely the responsibility of the Technical Department and since no financial matter were put forward for advice, FD takes no responsibility for the committee's recommendations for opening of financial bids.
3. Perusal of the file shows that the justification cost has been computed prior to opening of financial bids.
4. Copy of resolution no. 04 (A-01) dated 23.05.2013 has not been found placed on record. The department may add the same with information regarding action taken on directions, if any, given by the Council in the said resolution.
5. Justification has been checked by Electric planning for ` 1,49,08,121/- for electrical works whereas the same has been taken as ` 1,53,55,364/- in the combined abstract of justification, needs clarification. It appears from justification statement of electrical works, justified cost of some items are prepared on rates of DSR 2012, DE, but why lowest prevailing market rates have not been taken for justification.
6. In fire justification, justified cost has been worked out ` 42,98,243/- as 1% above EC of ` 42,47,171/- but in combined abstract of justification it has been taken as ` 43,83,358/-, this issues needs clarification.
7. It has been seen that various analysis of rates have not been signed by EE (P). The same may be got signed by EE (P).
8. Department may ensure & certify that justification (consolidated and separately prepared for each part) has been prepared strictly as per codal provision and in the light Section 20.4.3.1 of CPWD Work Manual and updated time to time and

no overheads/cost/factor has been loaded in the justification beyond the codal provision.

9. It may be certified that rates of L-1 firm are in proximity of trend of rates of similar nature of work.
10. Department may ensure & certify that the due publicity has been given to tender as per NDMC advertisement policy including codal provision in this regard.

Finance Department vide their diary no.1240/Finance/R-Civil dated 10.07.2013 raised observations as follows:-

1. Regarding point 5, department has stated that revised justification of electrical work is added based on current prevailing market rates, but it is observed that nothing has been changed in the amount of revised justification taken in the abstract of justification of overall work. Justified cost of some items are still based on DSR 2012 & DE amount, department may certify that rates taken for electrical items in the justification based on DSR 2012 & DE are lower the lowest prevailing market rates and also submit the modified consolidated abstract of justification.
2. Department may bring on record as to why justification was computed prior to opening of financial bids.
3. Department needs to certify that no overheads/cost/factor has been loaded in the justification beyond the provisions of CPWD Works Manual.
4. When department has stated that no similar nature of works executed in NDMC then why reference of "work of Bakarwala" has been made in checklist as LAR/similar work, needs to be clarified.
5. Department has still not brought on record, how the horticulture work would be got executed, when it was not part of this tender.
6. Regarding 10, FD has not sought the details of publicity of the tender for perusal. Department was asked to certify that tender was given due publicity as per codal provision, which has still not brought on record.
7. Deptt. may certify that the L-1 rates are reasonable.
8. FD reiterates the view given at NP-62 that pertaining to the recommendations of the Technical Evaluation Committee at NP-56, since no specific point for financial advice was referred to FD, no specific comment/advice was given by Dir. (Finance). It is reiterated that FD takes no responsibility for the recommendation of the Technical sub-committee which is a purely technical matter. It is also advised that

in such cases while putting up the file to competent authority the case should be put up on facts and not presumptions ('X' at NP-83).

## 8. COMMENTS OF THE DEPARTMENT ON THE COMMENTS OF FINANCE DEPARTMENT

In reference to the observations of the Finance Department dated 25.06.2013, it is submitted that inspite of urgency the case is required to be examined properly to avoid future litigation. The parawise replies of the finance clarification are given here as under:-

1. A/A and E/S was accorded for ` 11,84,82,590/- on PAR 2007 which included civil, electrical, Fire & Horticulture work. The instant case is on the basis of approved NIT comprising of Civil, Electrical and Fire works for which tenders were invited and the same was forwarded for scrutiny in finance. The Horticulture work is not part of this tender. As desired by finance though the complete details is available in record and ongoing paras the same has been tabulated and given as under:-

S. No.	Part	Preliminary Estimate	Detailed Estimate	NIT	Justified Cost
1.	Civil	` 9,23,77,600/-	` 9,93,22,000/-	` 9,64,31,178/-	` 9,45,89,137/-
2.	Electrical	` 1,83,06,880/-	` 1,54,86,877/-	` 1,50,35,803/-	` 1,53,55,364/-
3.	Fire	` 41,95,821/-	` 44,46,200/-	` 42,47,171/-	` 43,83,358/-
4.	Horticulture	` 1,51,340/-	---	---	---
	Total	` 11,84,82,590/-	` 11,92,55,077/-	` 11,57,14,152/-	` 11,43,27,859/-

2. In this connection it is submitted that the case has been referred to Finance Department by Secretary, NDMC at NP-60. The case has been examined by Finance Department and as observed by Finance Department at NP-62, the technical evaluation sheet has been signed by all members and forwarded for approval of Competent Authority.
3. Matter of record.
4. The minutes have not been confirmed as yet and hence no copy of resolution can be added at this point of time. However Council decision of the meeting dated 23.05.2013 is already exists at NP-45 recorded by Director (GA) which may please be persuaded. The

matter is regarding seeking funds from plan funds and any action required is to be taken by Finance Department.

5. As per manual clause 20.4.3.1 the addition of 1% Cess and 2% VAT is required to be added in justification and the same have incorporated in composite justification. The revised justification of Electrical work is based on current prevailing market prices which can be persuaded from the noting of justification of Electrical Department which already exist with the case.
6. As per manual clause 20.4.3.1 the addition of 1% Cess and 2% VAT is required to be added in justification and the same have incorporated in composite justification.
7. The abstract of justification is duly signed by SE (P) and EE (P-I). However few analyses of rates not signed by EE (P-I) inadvertently have been signed now.
8. The justification has been prepared as per codal provision laid down in clause 20.4.3.1.
9. In recent past there is no similar nature of work executed in NDMC. However details are given in Check list enclosed in the work file.
10. The complete detail regarding publicity and uploading of the tender have already been given at NP-66 which may please be seen.

Finance Department vide their diary No. 1240/finance /R-civil dt. 10.07.2013 raised observations which are clarified here as under:-

1. Necessary certificate regarding adoption of lowest market rate has been given by Electrical Department at NP-88.
2. The justification was prepared only after submission / last date for uploading of the tender (technical and financial bid) through e-tendering on e-portal system i.e. 20.05.2013 whereas the justification was processed only on 29.05.2013 which may be seen from NP 69. After due formalities and approval of technical evaluation committee recommendation by Competent Authority on 22.06.2013, the financial bid was opened on 22.06.2013.
3. The reply given at Sr. No. 8 on NP-81 is retreated as that the justification has been prepared as per codal provision laid down in clause-20.4.3.1 which is duly checked by Planning. It is also certified that no overhead / cost / factor except as laid down in Manual has been added in justification.
4. It is reiterated that no similar nature of work has been awarded in recent past in NDMC however the project at Bakarwala is last approved rate in NDMC but of construction of five story structure but not similar to the project in question which is basement plus four storied with lift and air conditioning.

5. It is brought to notice that the Horticulture work not being part of this project shall be executed through separate call of tender.
6. The tender was published on Delhi Govt. website vide tender ID No. 2013\_NDMC\_34427\_1. Letter was sent to Director PR vide this office letter No. EE (S.P.) /AB/D/469 dt.17.04.2013 for publishing the same in newspapers as per approved NDMC policy. The tender was published in the leading newspaper. The tender notice was also issued to other divisions/ department vide this office letter No. EE (S.P.) / 481-99/D dt. 17.04.2013 for giving due publicity to the tender to meet the codal requirement for due publicity. The complete details were given on NP-64.
7. It is certified that the rates are reasonable.
8. In this connection it is intimated that the technical bid also has got various financial aspects and it may not be correct to conclude that such a bid is exclusively technical in nature. For such reasons only a member of finance department has also been kept in the sub- committee. The case was referred by Secy. (N.P.-60) to finance department for their scrutiny & comment. Only after the same and intimation of the observation, the compliance of the observation was done and case was put-up again. It is therefore intimated that the case was put-up on facts only. Though various certificates as desired has been given, it is requested the same may please be examined at your end.

**9. FINAL VIEWS OF THE FINANCE DEPARTMENT.**

Finance Department vide their diary No. 1357/finance /R-civil dt. 16.07.2013 concurred the case.

The department being administratively, technically & financially competent for the proposed project framed a PE, at an estimated cost of ` 11,84,82,590/- based on PAR 2007 with cost index 61 % and DSR 2012 with upto date cost index. Based on the approved PE, department and prepared DE for ` 11,92,55,077/- and processed it for NIT(` 11,57,4,152/-) which was published in 20.04.2013 in newspapers, viz. (151/c of work file) . Web based publicity for the NIT was made though e-tendering 2 bid system was followed. As a follow up 5(numbers) bid were received.

Committee for evaluating technical bids consisting of 11 members headed by Chief Engineer-II( Civil) , being technically competent for the job, evaluated the technical bids and had recommended three (3) bidders as qualified out of five (5) bidders qualified for



the further consideration. Two nos. of bidders did not technically qualify on account of the reasons cited by the department at NP-56 (one firm did not submit the EMD physically in the tender box and other one firm did not fulfill the requirement of eligibility of similar nature of work as per technical eligibility criteria laid down in NIT). Finance Department has no role as such in the process. Account functionary of the department concerned was associated with the process being Associate Finance for the department. Financial bids were opened by financial bids committee comprising of EE & AAO as indicated in comparative statement and minutes at Flag 'Z'. Financial bids of all the three (3) qualified bidders were opened and it resulted in declaring M/s Aadhar Stumbh Township Pvt. Ltd. as L-1 on the basis of comparative statement and minutes of the Tender (Appraisal) Committee at Flag Z.

Finally, the proposal was forwarded to this department with specific recommendations of the Deptt. concerned, it has been examined keeping in view the fact that

- (1) AA&ES was granted by Council for ` 11,84,82,590/-,
- (2) Bids has been administratively, technically and financially evaluated by the respective Committees/department.
- (3) Department concluded the process by earmarking the L-1 and recommended bid for consideration.

The proposal was examined within the domain of broad financial parameters including availability of AA/ES appropriate quantum of EMD/SD/PG, availability of budget, appropriate class/category of bidders, mode of publicity and number of call of tender. The examination has resulted in the fulfillment of these conditions in the following manner:-

S.No.	Financial Parameters	Status of fulfillment of R/P
1.	Availability of AA/ES	Yes
2.	Appropriate quantum of a. EMD b. SD c. PG	` 21,57,142/-
3.	Availability of budget	Yes
4.	Appropriate class/category of	B & R contractor/construction

	bidders	agencies/firms (Class-I)
5.	Mode of publicity	Through website & newspapers
6.	Number of call of tender.	First Call

The bid amount is justified by the department in the following manner.

Part	PE	DE	NIT	Justified cost
Civil	`9,23,77,600	`9,93,22,000	`9,64,31,178	`9,45,89,137
Electrical	`1,83,06,880	`1,54,86,877	`1,50,35,803	`1,53,55,364
Fire	`41,95,821	`44,46,200	`42,47,171	`43,83,358
Horticulture	`1,51,340	--	--	--
Total	`11,84,82,590	`11,92,55,077	`11,57,14,152	`11,43,27,859

Remarks on the clarifications of the department against observation of the FD:-

(1)

Observations of FD at Page-79/N	Clarifications of the department at Page-81/N	Remarks of FD
Department may bring on record as to why justification was computed prior to opening of financial bids.	Justification was prepared only after submission /last date of uploading of the tender through e-tendering on 29.5.2013 whereas the justification was processed only on 29.5.2013 may be seen from NP-69. After approval of the competent authority financial bids were opened on 22.6.2013.	Appropriate reply has not been given as to why it was computed prior to opening of Financial bids.

Observations of FD at Page-79/N	Clarifications of the department at Page-81/N	Remarks of FD
FD reiterates that view	It is intimated that the technical bid	The technical

<p>given at NP-62 that pertaining to the recommendations of the Technical Evaluation Committee at NP-56, since no specific point for financial advice was referred to FD, no specific comments/advice was given by Dir (Finance). It is reiterated that FD takes no responsibility for the recommendation of the Technical Sub-Committee which is a purely technical matter. It is certified that in such cases while putting up the file to competent authority the case should be put up on facts and not presumption (X at NP-83).</p>	<p>also has got various financial aspects and it may not be correct to conclude that such a bid is exclusively technical in nature. For such reasons only a member of finance department has also been kept in the sub committee.</p>	<p>committee for evaluation of bids examines the technical qualification of the bidders; presence of member of finance department is that of an observer not as participant. His presence in the committee does not constitute approval of the FD. As far as technical bids are concerned, these are evaluated on the basis of criteria fixed by the NIT approving authority i.e. the competent officer of the department. Associated Finance in form of AO/AAO is provided in the department FDs observations as at Point no. 8 at NP-85 still hold good.</p>
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(2)

Keeping in view that department has technically, administratively, financially satisfied itself about all the aspect/requirements upto the stage of tender process and recommended the tender for approval, department may place the matter before the Council for approval of award of work of L-1 firm M/s Aadhar Stumbh Township Pvt. Ltd. at the tendered amount of ` 9,79,76,217/- which is 15.33% below the EC of `11,57,14,152/- against the justification of 1.17% above EC and 16.30% below the justified cost, subject to the above remarks on the clarifications of the department against observation of FD.

**Remarks of Civil Engineering Department:-**

- i. The reply given at NP-89 is reiterated as the justification was prepared only after submission / last date for uploading of the tender (technical and financial bid) through e-tendering on e-portal system i.e. 20.05.2013 whereas the justification was processed only on 29.05.2013 which may be seen from NP 69. After due formalities and approval of technical evaluation committee recommendation by Competent Authority on 22.06.2013, the financial bid was opened on 22.06.2013. It is also clarified that no change in the submission of bid after closing of the submission date is possible in the e-tendering system therefore there is no relevance to raise again and again such type of observation without specifying the details of observations/objection to the procedure adopted.
- ii. The remarks given at NP-89 is reiterated as that the technical bid also has got various financial and procedural aspects and it may not be correct to conclude that such a bid is exclusively technical in nature. For such reasons only a member of finance department has also been kept in the sub- committee. No where it has been stated that presence of the finance member constitutes approval of FD. In the instant case, the details of the case has been examined by FD and their observations complied with by Deptt. In this connection FD letter No. FD(U-I)/SO/2005-06 dated 11.04.2005 may also be referred. The case was referred by Secy. (N.P.-60) to finance department for their scrutiny & comment. Only after examination of the same and intimation of the observation, the compliance of the observation was done and case was put-up again. It is therefore intimated that the case was put-up on facts only.

**10. LEGAL IMPLICATION OF THE SUBJECT / PROJECT :**

NIL

**11. DETAILS OF PREVIOUS COUNCIL RESOLUTION EXISTING LAW OF PARLIAMENT AND ASSEMBLY ON THE SUBJECT:**

- (i) Resolution No.03 (A-28) dt.30.10.2012 for A/A & E/S for ` 11,84,82,590/- **(Enclosed as Annexure I (See pages 66 - 75 )**

- (ii) Resolution No.04 (A-01) dt.23.05.2013 for charging of expenditure of the project from NDMC fund pending release of funds from GNCT of Delhi. **(Enclosed as Annexure II (See pages 76 - 95))**

**12. COMMENTS OF LAW DEPARTMENT ON SUBJECT:**

It is a tender case and has no legal issue. We concur with the proposal.

**13. COMMENTS OF THE DEPARTMENT ON THE COMMENTS OF LAW DEPARTMENT**

No comments in view of the comments of the Law Department.

**14. FINAL VIEWS OF THE LAW DEPARTMENT.**

No comments.

**15. CERTIFICATION BY THE DEPARTMENT THAT ALL CVC GUIDELINES HAVE BEEN FOLLOWED WHILE PROJECSSING THE CASE**

Certified that necessary guidelines of CVC have been followed while processing the case.

**16. RECOMMENDATION**

The case is placed before the Council for acceptance and award of Work to the lowest tenderer i.e. M/s. Aadhar Stumbh Township Pvt. Ltd with the tendered amount of `9,79,76,217.00 which is 15.33% below the estimated cost of `11,57,14,512.00/-. The justified cost is 1.17% above the estimated cost. The quoted amount is 16.30% below the justified cost. Permission be also accorded for taking necessary action for award of work in anticipation of confirmation of the minutes of the Council.

**17. Draft Resolution**

Resolved by the Council that Council has accepted lowest tender of M/s. Aadhar Stumbh Township Pvt. Ltd and awarded the work to M/s. Aadhar Stumbh Township Pvt. Ltd with the quoted amount of ` 9,79,76,217.00 which is 15.33% below the estimated cost of `11,57,14,152.00/-. The quoted amount is 16.30% below the justified cost. Permission is

also granted for taking necessary action for award of work in anticipation of confirmation of the minutes of the Council.

**COUNCIL'S DECISION**

Resolved by the Council to accord approval for awarding the work to the lowest tenderer M/s. Aadhar Stumbh Township Pvt. Ltd. with the quoted amount of `9,79,76,217.00 which is 15.33% below the estimated cost of `11,57,14,152.00/- and 16.30% below the justified cost.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.

Annexures

30 pages

































































Annexure ends

**ITEM NO. 05 (A-08)****1. Name of Work / Project:**

Development of Rain Water Harvesting system in Laxmi Bai Nagar, Sarojini Nagar, Nauroji Nagar, Netaji Nagar and Moti Bagh.

**1. Name of Department:**

Civil Engineering Department

**2. Brief History of the subject / Project:**

- (i) A meeting was convened under the Chairmanship of Addl. CE(O) Delhi Jal Board on 19.12.2011 at 3.00 P.M. for over all development of rain water harvesting technology and its prompt implementation with necessary financial support in Delhi to the RWA, NGO, Schools or like, vide minutes of this meeting (enclosed in file). HOD's of all deptt. of Delhi, NCT and consultants who are popular in this field had joined the meeting. Every deptt. in Delhi was asked to explore the locations where rain water harvesting pits can be developed.
- (ii) In pursuance of the decision taken in meeting, a proposal for developing rain harvesting pits in R-III Division area had framed and submitted to chairperson NDMC through secretary NDMC for approval in principal. Chairperson NDMC has approved the proposal on 30.11.12 vide NP – 14 and subsequently preliminary estimate has been framed.
- (iii) Details of 110 proposed locations of Rain Water Harvesting pits in various colonies under R-III Divn. is as under:-

a) Laxmi Bai Nagar	- 46
b) Sarojini Nagar	- 17
c) Nauroji Nagar	- 4
d) Netaji Nagar	- 8
e) Moti Bagh	<u>- 35</u>
<b>Total:</b>	<b><u>- 110</u></b>

The above locations were marked on area map and the proposal then submitted to Central Ground Water Board, Ministry of Water Resources, Govt. of India for proper

design of harvesting pits. C.G.W.B. subsequently has submitted its report and design of each harvesting pit to NDMC vide No.52-2/SUO-ND/CWGB/RWH/Delhi-12-13/423 dated 28.08.12.

- (iv) Preliminary Estimate has been prepared amounting to Rs.2,50,61,000/- based on DSR 2012 + Cost Index 8% + 3% contingencies and checked by the Planning.

### **3. Detailed proposal on the subject/project:**

Scope of work:

- a) Earth work in excavation.
- b) Boring and drilling well.
- c) Providing & laying CC 1:5:10.
- d) Brick work in foundation.
- e) Providing & laying RCC pipe 300 mm dia.
- f) Supplying & lowering MS pipe 100 mm dia.
- g) Construction of manholes and gully gratings etc.

### **4. Financial Implication of the proposed project/Subject:**

Financial implication of the proposal works out to Rs. 2,50,61,000/-.

### **5. Implementation schedule with time for such stage including internal processing:**

Preliminary Estimate	- July 2013
Detailed Estimate & NIT	- September 2013
Tender	- November 2013
Approval of tender	- December 2013
Work will be awarded	- January 2014
Scheduled time of completion	- 15 months after award of work.

**6. Comments of the Finance Department on the subject:**

*Finance has seen the case and raised observations vide diary No.75/Finance/R-Civil dated 31.01.2013 at NP-19 as under:-*

1. Deptt. may clarify under which scheme/mandate the proposal has been prepared, whether AIP of Chairperson for these new RWH works have been obtained.
2. Perusal of record reveals that the proposed estimate has been initiated for development of rain water harvesting system in the light of minutes of meeting held under Chairmanship of CEO, DJB on 19<sup>th</sup> December 2011 as per minutes placed at page 69 to 77/c. It has been seen that DJB also extend financial assistance for implementation of artificial recharge structure for rain harvesting as mentioned at 'X' page 69/c. The department may bring on record whether any financial assistance will be obtained from DJB for the proposed work and if so what action has been taken by the department in this regard? Further, whether any permission /intimation is to be obtained /given to DJB or CGWB in this regard and if so the action taken in the matter may be brought on record.
3. Para 6 at page 14/N shows that there are various existing RWH pits in R-III, R-IV Division. The department may bring on record whether these are being maintained properly along with their present condition. The satisfaction level for achieving desired results for which they were developed/constructed also needs to be brought on record. As the instant proposal involves financial implications over Rs. 2.50 core, the department needs to examine the proposal based on their past experience as per aforesaid points so that the expenditure cannot be a wasteful one.
4. The department may list the identified locations on record and also add Detailed Project Report as per standing order in this regard.
5. The instant proposal is only for Road –III Division. The department may bring on record if there are proposals of other divisions also and if so why a consolidated estimate has not been prepared for the same identifying the locations in entire NDMC area.
6. Specific budget head/CAO with provisions and budget book page number needs to be mentioned.

7. CE(R) may also sign the estimate at appropriate place marked for the same.

*Further, it was observed by the Finance vide diary No.208/Finance/R-Civil dated 21.02.2013 at NP-22 as under:-*

1. In view of observations of FD at point no. 4, though the department has stated that project report has been framed, but still no project report has been found prepared & placed on Record.
2. It appears from the reply furnished at point 2 of FD observations that department has not confirmed from/asked to DJB/CGWB or any Govt. institutions regarding financial assistance for this work. Department has not brought on record any action any action taken in this regard.

*Again, it was observed by the Finance vide diary No.606/Finance/R-Civil dated 08.05.2013 at NP-24 as under:-*

1. In view of revised policy of GNCTD minutes issued recently, DLB will provide assistance as promised earlier or not be gathered.
2. Estimates are based on DSR/MR/LAR.
  - a) Dates /Period of MR/LAR be indicated.
  - b) It may be indicated any Cost Index/Cost Escalation Component was added. If yes, justification for the same.
3. The measurement may be approved /signed by Engineers of appropriate rank.
4. Flag `A` need be identified.
8. **Comments of the Department on observations of Finance Department:**

*Replies* of observations raised by the Finance vide diary No.75/Finance/R-Civil dated 31.01.2013 at NP-19 are as under:-

1. The budget provision has taken/ under new scheme proposed head 25-412-40-02. AIP has already been obtained from Chairperson on dated 30.11.12 vide NP-14.
2. The project was put up to CGWB and they have approved the proposal with issuing the design & drawing of each Harvesting pit. CGWC report lying in the file. No.



financial assistance has been /given assured by Delhi Jal Board/CGWC during the time of taking permission.

3. The existing Harvesting pits are well in chargeable condition. Every year before rain the pits are got cleaned & recharge as required. The existing harvesting pits are working properly and take rain water during monsoon. Further it is certifies that the project will remain successful and helpful in raising ground water table of the surrounding area.
4. The list of 110 harvesting pits is already lying in file. However, the project report has framed and submitted herewith.
5. At this time no proposal has been initiated by any division. Hence, this proposal may be approved.
6. The proposal has considered under new scheme in 25-412-40-02.
7. CE(C) has signed on Abstract of cost.

**Replies** of observations of the Finance vide diary No.208/Finance/R-Civil dated 21.02.2013 at NP-22 are as under:-

1. The Project Report has already been framed and attached on flag `A` in preliminary Estimate file.
2. Regarding financial assistance the project was put up to CGWB and they have approved the proposal with issuing the necessary drawings and CGWB. Report is also attached herewith and no financial assistance was given by them.

Regarding financial assistance sought from Delhi al Board, a request letter was sent to Addl. CEO Delhi Jal Board for release financial assistance to NDMC on account of Const. of 110 nos. rain water harvesting pits in NDMC area. Reply has not been received so far but verbally matter was discussed with them in their office then it was informed that Delhi Jal Board can give only one lac for any assistance regarding above said subject.

**Replies** of observations raised by the Finance vide diary No.606/Finance/R-Civil dated 08.05.2013 at NP-24 are as under:-

1. Initially Preliminary Estimate was sent to finance Department for their concurrence dt. 15.01.13 thereafter, file returned back on 31.01.13, then further reply was sent to

Finance Department dt. 12.02.13 and file again returned back on 21.02.13 in third time file sent to finance department on 09.04.13 thereafter this case was also discussed during meeting held in chamber of F.A. where CE(C-I) and Dir. (Fin.) were also present, then it was suggested by Dir.(Finance)that recently a meeting was held in Delhi Jal Board in first Week of May 2013. Where some discussion was held for release financially help to execute similar nature work and thereafter same file return back with some observation on 02.05.13.

The matter has been personally discussed with Sh. J.P. Goel, CE(Delhi Jal Board), Office No. 23541442, M-9650291121 and he has informed that there is no such type direction has been discussed as well as finalized to release fund by Jal Board to execute similar nature scheme by any Govt. Deptt.

In this regard, a consent letter has already been given by Delhi Jal Board vide no.DJB/EE(RWH)/2013/268 dated 09.04.13 on Flag 'B' where Rs.1.00 lac help will be given to RWAs and other private housing complexes for increase rain water harvesting pits in area.

2. a) The preliminary estimate is totally based on DSR 2012 and analyses are also prepared on the basis of DSR-2012 rates. No item has been considered on Market Rate.
- b) Cost Index has been consider in the scheme as per plinth area rate time to time circulated by CPWD through their corrigendum and same adopted in NDMC as cost Index i.e. difference over the DSR rates, which matter was also discussed in meeting held in Chamber of F.A. during 1<sup>st</sup> week of May 2013. Cost Index has been added in the P.E. as per NDMC O.O. No. D/84/EE(P-II) dt. 25.09.12.
3. Measurement has been signed by Assistant Engineer who is competent for recording measurement.
4. Flag 'A' was de-attached earlier, now affixed again to the project report.

**9. Final views of Finance Department:**

Finance has examined the case vide diary No. 919/Finance/R-Civil dated 21.06.2013 at NP-28 and mentioned that in view of AIP of the competent authority at NP-14 and clarification brought on record at NP-27 & 28/N, competent authority may consider the proposed estimate amounting to Rs. 2,50,61,000/- (Rupees Two Crores Fifty Lacs sixty one thousands only) for the above cited subject against the HOA : 25-412-40-02. However, availability of funds may be ensured before incurring and liability.

In this regard, it is informed that required fund shall be sought in Revised Estimate of 2013-14 and next financial year 2014-15.

**10. Legal implications on the subject/project:**

N.A.

**11. Details of previous Council Resolution existing law of parliament and Assembly on the subject:**

N.A.

**12. Comments of Law Department on the subject:**

No law point is involved.

**13. Comments of the department on the comments of Law Departments:**

N.A.

**14. Final views of Law Department:**

N.A.

**15. Certification by the department that all Central Vigilance commission (CVC) guidelines have been followed while processing the case:**

All the Central Vigilance Commission guidelines have been followed.

**16. Recommendations :**

The case is placed before the Council for consideration for accord of:

- a) Administrative approval and expenditure sanction for Rs. 2,50,61,000/- for the work ***Development of Rain Water Harvesting system in Laxmi Bai Nagar, Sarojini Nagar, Nauroji Nagar, Netaji Nagar and Moti Bagh.***
- b) Further action in the matter be taken up in anticipation of confirmation of minutes of the Council Meeting.

**17. Draft Resolution:**

- a) Resolved by the Council to accord administrative approval and expenditure sanction for Rs. 2,50,61,000/- for the work ***Development of Rain Water Harvesting system in Laxmi Bai Nagar, Sarojini Nagar, Nauroji Nagar, Netaji Nagar and Moti Bagh.***
- b) Further action in the matter be taken up in anticipation of confirmation of minutes of the Council Meeting.

**COUNCIL'S DECISION**

Resolved by the Council to accord administrative approval and expenditure sanction for `2,50,61,000/- for the work 'Development of Rain Water Harvesting system in Laxmi Bai Nagar, Sarojini Nagar, Nauroji Nagar, Netaji Nagar and Moti Bagh'.

It was also resolved by the Council that further action may be taken by the Department in anticipation of confirmation of the Minutes by the Council.



**ITEM NO. 06 (D-02)****1. Name of the Subject/Project**

Re-appropriation of Funds in Budget Estimates 2013-14

**2. Name of the Department/departments concerned**

Finance (Budget) Department

**3. Brief history of the Subject/Project**

Regulation 8 of the NDMC (Budget Estimates) Regulations, 2010, notified in Delhi Gazette on 23.11.2010, prescribes for re-appropriation of budget allocation as under:

“If at any time during the year, it becomes necessary to increase or reduce Budget Estimates of the current year under one function to another function or from one major head to another major head within the same function, or from one minor head to another minor head within the same major head, and the expenditure for the same cannot wait adoption of Revised Estimates by the Council on the recommendations of the Financial Advisor, the Chairperson, in anticipation of the approval of the Council, may authorize such alteration and place before the Council within one month from the end of the quarter, a report of such alteration and give effect to any order that may be passed by the Council in relation thereto.....”

Further, Section 56 of the NDMC Act,1994, prescribes that the Council may from time to time , during the year, transfer the amount or portion of the amount of the budget grant under any head to any other head.

Sub-section (2) of Section 56 further stipulates that every increase in a budget grant and every additional budget grant made in any year under sub-section (1) shall be deemed to be included in the budget estimates finally adopted for that year.

**4. Detailed proposal on the Subject/Project**

In pursuance of directions as contained in Section 56 of the NDMC Act,1994 & Regulation 8 of the NDMC (Budget Estimates) Regulations, 2010, a report of the re-appropriations in Budget Estimates 2013-14 authorized during 1<sup>st</sup> Quarter of 2013-14 as per details enclosed at Annexure-I is placed before the Council for information and approval.

**5. Financial implication of the proposed Project/Subject**

No financial implication is involved as it involves only reappropriation within the total Budget. The total amount of reappropriation is as under :

(` in thousand)

	Plan	Non-Plan
Capital Section	Nil	2514
Revenue Section	Nil	7000
<b>Total</b>	<b>Nil</b>	<b>9514</b>

**6. Implementation schedule with timelines for each stage including internal processing.**

Not applicable as Finance Department is not implementing department.

**7. Comments of the Finance Department on the subject**

Not applicable as the proposal itself is of Finance Department.

**8. Comments of the department on comments of Finance Department.**

Not applicable as the proposal itself is of Finance Department.

**9. Final views of Finance Department**

Not applicable as the proposal itself is of Finance Department.

**10. Legal Implication of the Subject/Project**

Nil

**11. Details of previous Council Resolution, existing law of Parliament and Assembly on the subject.**

- Council vide its Reso. No.-10 (D-05) dated 26.03.2013 approved re-appropriation of funds authorized up to 31.03.2013.
- Regulation 8 of the NDMC (Budget Estimates) Regulations, 2010, notified in Delhi Gazette on 23.11.2010, prescribes for re-appropriation of budget allocation

**12. Comments of the Law Department on the Subject/Project.**

Not applicable as it does not involve any legal aspect.

**13. Comments of the Department on the comments of Law Department**

Not applicable as it does not involve any legal aspect.

**14. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case.**

Not applicable, being reappropriation of existing Budget provision.

**15. Recommendation**

Re-appropriation in Budget Estimates 2013-14 authorized during 1<sup>st</sup> Quarter of 2013-14 as detailed in **Annexure-I (See pages 105 - 106 )** be approved by the Council in terms of Section 56 of the NDMC Act 1994 & Regulation 8 of the NDMC (Budget Estimates) Regulations, 2010.

**16. Draft Resolution**

Resolved that the Re-appropriations in Budget Estimates 2013-14 authorized during 1<sup>st</sup> Quarter of 2013-14 as detailed in **Annexure-I (See pages 105 - 106)** are approved in terms of Section 56 of the NDMC Act 1994 & Regulation 8 of the NDMC (Budget Estimates) Regulations, 2010.



**COUNCIL'S DECISION**

Resolved by the Council that the Re-appropriations in Budget Estimates 2013-14 authorized during 1<sup>st</sup> Quarter of 2013-14 as detailed in Annexure-I of the preamble are approved in terms of Section 56 of the NDMC Act 1994 & Regulation 8 of the NDMC (Budget Estimates) Regulations, 2010.

**ANNEXURE-I**

**Re-appropriation of funds in Budget Estimates 2013-14 during 1<sup>st</sup> Quarter vide RAO  
No. 1 to 3**

**Statement-IX— Detailed Statement of Expenditure**

( ` In Thousands)

	CoA	Field Code/ Deptt.	Particulars	B.E. 2013-14	B.E. 2013-14 Till last Re- Appro.	B.E. 2013-14 after current Re-Appro.	Amount Re-appro.	Remarks/ Reasons for Re-Appro.	RAO No./Sanction order No. & Date
From	02.220.52.00	334 Computer Billing Section	Professional and Other Fees	2000	2000	500	-1500	For making payment of professional charges	<b>RAO-1</b> Budget/ 142/ / SA-I / Fin(B) Dated 08.05.2013
To	02.220.52.00	311 Accounts Branch	Professional and Other Fees	Nil	Nil	1500	1500		

From	02.220.21.03	319 General Branch	Forms and Stationery	12000	12000	9000	-3000	For making Payment/ Adjustment of Advances given to Arbitrators	<b>RAO-1</b> Budget/ 142/ / SA-I / Fin(B) Dated 08.05.2013
To	06.220.51.00	328 Estate Comml. Branch	Legal Expenses	Nil	Nil	3000	3000		

From	02.220.80.01	323 P.R. Deptt.	HRD Activities (Training & Seminars)	2500	2500	NIL	-2500	For making payment on account of HRD Activities &	<b>RAO-2</b> Budget/ 167/ / SA-I / Fin(B) Dated 27.05.2013
To	02.220.80.01	311 Accounts	HRD Activities (Training &	Nil	Nil	2500	2500		

		Branch	Seminars)					Training	
<b>Total</b>					<b>16500</b>	<b>16500</b>			

Re-appropriation of funds in Budget Estimates 2013-14 during 1<sup>st</sup> Quarter vide RAO No. 1 to 3.

**ANNEXURE-I**

Statement-X— **Details of Capital Expenditure/Capital works in progress**

(` In Thousands)

	CoA	Scheme No./Sub Scheme No.	Field Code/ Deptt.	Particulars	B.E. 2013-14	B.E. 2013-14 Till last Re-Appro.	B.E. 2013-14 after current Re-Appro.	Amount Re-appro.	Remarks/ Reasons for Re-Appro.	RAO No./Sanction order No. & Date
From	51.490.90.21	21/22	115 Water Supply	Replacement of old C.I. pipe line in NDMC area	1000	1000	Nil	-1000	Funds required for execution of works	<b>RAO-3</b> Budget/ 201/ / SA-I / Fin(B) Dated 20.06.2013
To	51.490.90.21	24/2	115 Water Supply	Replacement of 2Nos. 20 HP pump sets with 2 Nos. New 30 HP pump sets alongwith new LT Cubical Board with electrical and Mechanical Fixtures at Rajdoot Marg WBS	Nil	Nil	1000	1000		

From	21.412.40.00	20/40	104 R-I Div.	Improvement to lawyers parking at Bhagwan Dass Road by Providing mastic asphaltic wearing course.	5000	5000	3686	-1314	Funds required for execution of work	<b>RAO-3</b> Budget/ 201/ / SA-I / Fin(B) Dated 20.06.2013
To	21.412.40.00	20/42	104 R-I Div.	Providing Table Top at Entries of C-Hexagon	100	100	630	530		
To	21.412.40.00	31/06	104 R-I Div.	Resurfacing of Internal Roads in Asia House, K.G. Marg.	Nil	Nil	784	784		

From	61.412.40.00	36/1	307 Hort. Deptt.	C/O Roll Call shelters at Various Enquiries	1000	1000	800	-200	For making payment to agency	<b>RAO-3</b> Budget/ 201/ / SA-I / Fin(B) Dated 20.06.2013
To	61.412.40.00	35/4	307 Hort. Deptt.	Improvement to Purana Quila Nursery	900	900	1100	200		

<b>Total</b>					<b>8000</b>	<b>8000</b>				
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Re-appropriation of funds in Budget Estimates 2013-14 during 1<sup>st</sup> Quarter vide RAO No. 1 to 3.

Re-appropriation of funds in Budget Estimates 2013-14 during 1<sup>st</sup> Quarter vide RAO No. 1 to 3

**ITEM NO. 07 (O-01)****1. Name of the subject/project**

Audit Comments on Financial Statements/Accounts of NDMC for the year ending March, 2012.

**2. Name of the Department/Departments Concerned**

Office of the Chief Auditor, New Delhi Municipal Council.

**3. Brief history of the subject/project**

As per Council Resolution No. 3(xii) dated 24.04.2002, NDMC decided to switch over to Accrual Based Double Entry System of accounting with effect from the year 2004-05. Accrual Based Financial Statements for the year ended March, 2012 received in the office of the Chief Auditor were audited and observations thereon were communicated to Financial Advisor, NDMC in February, 2013 for obtaining the replies/comments as per provisions contained in Section 59 of NDMC Act, 1994. The draft comments were discussed in the Exit conference held on 2 April 2013 with a team of Accounts Department headed by the then Financial Advisor which was followed by the replies of the department received in June 2013. Incorporating the replies received in the Exit conference and subsequently received in June, 2013, the report on the Accounts of NDMC for the year ending 31.03.2012 has been finalized. As contemplated in the Section of NDMC Act, audit comments on Financial Statements for the year ended March, 2012 prepared on Accrual Basis are submitted for information of the Council.

**4. Detailed proposal on the subject/project**

Audit comments on the Financial Statements for the year ended March, 2012 are **enclosed as a separate booklet**, for information of the Council.

**5. Financial implications of the proposed project/subject**

Nil

6. **Implementation schedule with timelines for each stage including internal processing**

Not Applicable.

7. **Comments of the Finance Department on the Subject**

Not applicable, since Draft Agenda Item incorporates the comments on the Financial Statements for the year ended March, 2012 prepared on Accrual Basis as part of Statutory Audit Function, envisaged in NDMC Act, 1994.

8. **Comments of the Department on comments of Finance Department**

Not Applicable.

9. **Legal implication of the subject/project**

Nil

10. **Details of previous Council Resolutions, existing laws of Parliament and Assembly on the subject**

The details of previous Council Resolutions are as under:

<b>S. No</b>	<b>Resolution Number and Date</b>	<b>Particulars</b>
1.	Item No. 09(01) dated 28.04.08	Audit Comments on Financial Statements (Double Entry) for the year ended March, 2005
2.	Item No. 07(D-07) dated 21.01.09	Audit Comments on Financial Statements (Double Entry) for the year ended March, 2006
3.	Item No. 11(0-03) dated 15.01.2010	Audit Comments on Financial Statements (Double Entry) for the year ended March, 2007

4.	Item No. 12(0-04) dated 15.01.2010	Audit Comments on Financial Statements (Double Entry) for the year ended March, 2008
5.	Item No. 08(0-01) dated 25.06.2012	Audit Comments on Financial Statements (Double Entry) for the year ended March, 2009
6.	Item No. 06(0-02) dated 25.07.2012	Audit Comments on Financial Statements (Double Entry) for the year ended March, 2010
7.	Item No. 05(O-03) dated 28.08.2012	Audit Comments on Financial Statements (Double Entry) for the year ended March, 2011.

**11. Comments of the Law Department on the subject/project**

Not applicable, since draft Agenda Item incorporates Comments on the Financial Statements for the year ended March, 2012 prepared on Accrual Basis as part of Statutory Audit Function envisaged in NDMC Act, 1994.

**12. Comments of the Department on comments of Law Department**

Not Applicable.

**13. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case**

Not applicable.

**14. Recommendation**

The Audit Comments on the Financial Statements for the year ended March, 2012 prepared on Accrual Basis, may be presented to the Council for information.

**15. Draft Resolution**

Resolved by the Council that information regarding Audit comments on the Financial Statements on accrual basis for the year ended March, 2012 reported by the Chief Auditor is noted. The Accounts Department is advised to carry out the necessary rectifications in the Accounts for the subsequent years and submit an Action Taken Report on the comments of the Chief Auditor.

**COUNCIL'S DECISION**

Resolved by the Council that, information regarding Audit comments on the Financial Statements, on accrual basis for the year ended March, 2012, as reported by the Chief Auditor, is noted. The Accounts Department is advised to carry out the necessary rectifications in the Accounts for the subsequent years and submit an Action Taken Report on the comments of the Chief Auditor.



**ITEM NO. 08 (T-01)****1. Name of the subject/Project**

Annual Administrative Report for the year 2012-13.

**2. Name of the department/departments concerned**

Co-ordination Department

**3. Brief history of the subject/project:**

As per Section 410 of NDMC Act, 1994 a detailed report of the Municipal Govt. of New Delhi is required to be sent to the Central Government :

"Annual Administration Report"-

- (1) As soon as may be after the first day of April in every year and not later than such date as may be fixed by the Central Government in this behalf, the Council shall submit to that Government a detailed report of the Municipal Government of New Delhi during the preceding year in such form as that Government may direct.
- (2) The Chairperson shall prepare such report and the Council shall consider it and forward the same to the Central Government with its resolution thereon, if any.

As the Central Govt. has not prescribed any format for the AAR, or the content, the Annual Administrative Report used to be sent in the form of a letter alongwith inputs provided by the different departments without any formatting. Since 2007-08, the report is compiled in the format approved by the Chairman, NDMC.

**4. Detailed proposal on the subject/project**

The Annual Administrative Report for 2012-13 has been prepared keeping in view the specific requirements of Section 410 of the NDMC Act. The proposed report contains the achievements of 2012-13 and projections for 2013-14 alongwith photographs of important projects/events. The report contains XXXI chapters and is of 101 pages. (Enclosed in separate booklet.)

**5. Financial implications of the proposed project/subject:**

Nil

**6. Implementation schedule with timeliness for each stage including internal processing:**

N.A.

**7. Comments of the Finance Department on the subject with diary no. & date:**

Finance Department is of the view that the Draft Agendum, as prepared by the Department appears to be in order. However, Department is advised to mention the opinion given by Law Department in the Draft Agenda. (Dairy No.1162/Finance/R.Secy. Dated 24.06.2013).

**8. Comments of the department on comments of Finance Department**

Opinion given by the Law Department has been mentioned in the agenda.

**9. Final views of the Finance Department (if any).**

Not Applicable.

**10. Legal implications of the subject/project**

Not Applicable.

**11. Detail of previous Council Resolutions, existing law of Parliament and Assembly on the subject:**

Annual Administrative Report of NDMC for the preceding year i.e. 2011-12 was approved by the Council vide Reso. No.09 (C-09) dated 25.06.2012.

**12. Comments of the Law department on the subject/project**

This is an annual exercise and statutory requirement. May like to have initials of concerned HODs on the office copy of Report (Dairy No.R-08/PS/LA/13 Dated 18.06.2013).

**13. Comments of the Department on the comments of Law Department**

Initials of concerned HODs has been taken on the office copy of the report.

**14. Final views of the Law Department (if any).**

Not Applicable.

**15. Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case**

Not applicable.

**16. Recommendation:**

As per the requirement of Section 410(2) of the Act, the said report is placed for consideration of the Council and approval for forwarding the same to the Central Govt.

**17. Draft Resolution**

Resolved by the Council that the Annual Administrative Report for the year 2012-13 is approved and the same may be forwarded to the Central Govt.

**COUNCIL'S DECISION**

Resolved by the Council that the Annual Administrative Report for the year 2012-13 is approved and the same may be forwarded to the Central Govt.

**ITEM NO. 09 (C-08)**

**CONTRACTS/SCHEMES INVOLVING AN EXPENDITURE OF RS. 1 LAC BUT NOT EXCEEDING RS. 200 LACS.**

Section 143 (d) of NDMC Act, 1994 provides that every contract involving an expenditure of Rs.1 lac but not exceeding Rs.200 lacs under clause 143 (c) shall be reported to the Council. In pursuance of these provisions, a list of contracts entered/executed upto June, 2013, have been prepared.

A list of the contracts, entered into for the various schemes, is accordingly laid before the Council for information. **(See pages 114 - 129 )**.

**COUNCIL'S DECISION**

Information noted.

Annexur114 – 129

































Annecure end

**ITEM NO. 10 (C-09)**

**ACTION TAKEN REPORT ON THE STATUS OF ONGOING SCHEMES/WORKS APPROVED BY THE COUNCIL.**

In the Council Meeting held on 28.8.1998, it was decided that the status of execution of all ongoing schemes/works approved by the Council indicating the value of work, date of award/start of work, stipulated date of completion & the present position thereof be placed before the Council for information.

The said report on the status of the ongoing schemes/works upto May, 2013, had already been included in the Agenda for the Council Meeting held on 26.07.2013.

A report on the status of execution of the ongoing schemes/works awarded upto June, 2013, is placed before the Council for information. **(See pages 131 - 163 )**.

**COUNCIL'S DECISION**

Information noted.

Annexure







































































Annexure ends

**ITEM NO. 11 (S-03)**

1. **Subject: Issuance of orders for exoneration for Sh. S.M. Mustafa, Retired, A.E.(C) after making disagreement with the advice given by the Commission during Second Stage Advice.**
2. **Name of the Department: Vigilance Department**

**Brief History of the subject:**

An Inquiry was carried out and it is mentioned in the report of I.O. **(Annexure-I See pages 170 - 202)** that the points/charges could not be proved during the course of Inquiry. On the basis of analysis **(Annexure-II See pages 203 - 205)**, Chairperson/Disciplinary Authority has accepted the Inquiry Report and the matter were referred to CVC for Second Stage Advice. CVC observed that certain points were not touched in detail as they were considered by the Chairperson/Disciplinary Authority while accepting the Inquiry Report. Therefore after the approval of the Chairperson **(Annexure-III See pages 206 - 207)**, the agenda is put up to the Council for making this disagreement with the Second Stage Advice of CVC and to exonerate the CO from all the charges.

**3. Details of the case:**

Sh. S.M. Mustafa, (the then) J.E. was served upon a Charge sheet vide Memorandum No.47/CH/Vig/Imp/TO(C-II)/2008 dated 07.09.09 **(Annexure-IV See pages 208 - 213)** by Disciplinary Authority with the directions to submit his written statement of defence. In the reply, the CO denied all the charges imposed upon him. Thereafter an inquiry was carried out and in the report, it was mentioned that the charges against the CO are "NOT PROVED".

**Articles of Charge**

While working as Jr. Engineer (C), NDMC on the NDCC Phase-II Project, Sh. S.M. Mustafa has failed to maintain absolute devotion to duty in as much as that:-

The work of 'Construction of NDCC Phase-II was awarded to M/s NBCC vide letter No.D/843/EE(C)-VI dated 18.08.94 at an estimated cost of Rs.23,64,25,882/- with stipulated date of start of the work as 02.09.1994 and completion as 01.09.97. He was responsible for getting the



works executed as per various clauses mentioned in the agreement/supplementary agreement duly executed with M/s NBCC.

The work was inspected by CTE's organization, CVC during the period from 02.04.2002 to 05.04.2002 and from 08.04.02 to 10.04.02 and Intensive Examination report was sent by them vide letter No.05-02-H-06-WT-37 dated 28.06.2002 raising a number of observations therein to the NDMC for clarifications. The clarifications sent to CTE's Organization, CVC were not found satisfactory by them. Thus, he was responsible for the lapses and acts of commission and omission pointed out in the said para as he was supervising the works as J.E.

The above misconduct on the part of Sh.S.M. Mustafa, JE(Civil), NDMC amounts to conduct unbecoming of municipal employee and he has, thus, violated the provisions of Rule 3 of CCS (Conduct) Rules-1964.

**(ii) Statement of imputation of misconduct**

While working as Jr. Engineer (Civil) on the NDCC Phase-II Project Shri S.M. Mustafa has failed to maintain absolute devotion to duty in as much as that:

The work of 'Construction of NBCC Phase-II' was awarded to M/s NBCC vide letter No.D-843/EE(C-VI) dated 18.08.94 at an estimated cost of Rs.23,64,25,882/-, tendered cost of Rs.23,18,81,978/- with stipulated date of start of the work as 02.09.1994 and completion as 01.09.1997. He was responsible for getting the works executed as per the various clauses mentioned in the agreement with M/s NBCC.

The work was inspected by CTE's Organization, CVC during the period from 02.04.2002 to 05.04.2002 and from 08.04.02 to 10.04.02 and Intensive Examination report was sent by them vide letter No.05-02-H-06-WT-37 dated 28.06.2002 raising a number of observations therein to the NDMC for clarifications. The clarifications sent to CTE's Organization, CVC were not found satisfactory by them. He is responsible for the following paras:-

**Para-11.2.1.2-** Hindrance at SI.6 page-6 has occurred on 03.05.99 whereas hindrance at SI.No.7, page-7 has occurred on 03.04.99 prior to occurrence of hindrance at S.No.6 Hence, the hindrance recorded in the register appears to be fabricated as these have not been entered on the due date as per order of occurrence of hindrance. This shows lack of devotion to duty, as hindrance register is very important document. This has also resulted in huge payment of escalation and other loss to NDMC.

**Para-11.2.12-** The agreement items like plastering, water proofing treatment and RCC works have been paid in part rates for want of rectification of major defects (as mentioned in part rate

statement). In fact, items that were executed with substandard/defective manner should not have been paid at all. Minor amount retained has not served the purpose.

**Para-4.2.7-** As per Cl.1.16 of supplementary agmt., in case of architect's failure in submission of designs and drawing Rs.1800/- per day compensation was to be imposed on them subject to maximum 10% of the fee. As per hindrance register following delays in work due to non-issue of drawings by the consultants in time occurred.

- i. Layout of piles in 'B' block-from 16.12.95 to 06.07.96 = 200 days.
- ii. Structural design of retaining walls & pile caps/raft in 'B'block-Drg. Upto Plaza level – from 08.06.96 to 23.06.97 = 380 days.
- iii. Non availability of structural drawing for auditorium-cum-library block-from 23.06.97 to 24.03.99 = 635 days.
- iv. Non availability of structural drawing for auditorium-cum-library block above plaza level – From 22.3.99 to 7.6.99 = 97 days.
- v. Non availability of toilets drg – From 22.3.99 to 7.6.99= 78 days.
- vi. Non availability of details/drawings for toilets, flooring dado and door shutter. – From 22.3.99 to 15.3.2000 = 360 days.

The above hindrances prove substantial delay due to the fault of the consultant.

**Para-12.2.2.1.1-** Site order book was maintained only up to 22.10.96. There was no entry in the site order book after 22.10.96 to the date of inspection i.e. 10.04.2002 (i.e. for about 5-1/2 years, there was no entry in site order book).

**Para-12.2.2.1.2-** During the above period, how the instructions were given to the contractor and complied with are off the record.

**Para-12.2.2.1.3-** Most of site order book instructions were not complied with. Without recording the compliance to the instructions issued through site order book, how it was ensured that the action has been taken in actual.

Thus he is responsible for the lapses pointed out in the said paras as the works were under his overall supervision.

The above acts on the part of Sh. S.M. Mustafa, J.E.(Civil), NDMC amounts to conduct unbecoming of a municipal employee and he has thus violated the provisions of Rule 3 of CCS (Conduct) Rules, 1964.

#### **4. Action on Charge-sheet**

The allegations could not be established by the P.O. and his attempts to do so through prosecution witness. Most of the listed prosecution documents sought were not shown and denied as "Not available". Charges are vague and wild. Sh. S.M. Mustafa requested to hold the charges 'Not proved'. He has further requested to save him from mental agony and social harassment at the end of his service career, as he was due to superannuate in mid of following year 2012.

## **5. Finding of Inquiring Authority**

The Inquiring Authority submitted its report dt. 13.04.12 (**already enclosed as Annexure-I See pages 170 - 202**) by analyzing the case as per the brief of the P.O. and C.O., are as under:-

Para No.4.2.3 and 13.2.2 of CTE's Report shows that CTE Organization was convinced that the supervision services were entrusted to the Architect Consultant and that they were themselves critical of bad quality of concrete and wrote several letters criticizing the quality of concrete work done by M/s NBCC. CTE also admitted that NDMC too wrote the letters to NBCC about bad quality of concrete work.

The quality of concrete was being monitored at much higher level than that of C.O. This defective work was in the knowledge of the Architect Consultant, the Engineer-in-Charge, the Chief Engineer. There was ample time since June 1998 to initiate pecuniary action against the contractor.

In reply of para 4.2.3 and 4.2.3.1 the Engineer-in-Charge and Chief Engineer, NDMC maintained that the supervision of the work was not assigned to the NDMC engineers who were deployed for coordination work only. There is no evidence, oral or documentary, to prove that C.O. was assigned for supervision of work. Therefore, C.O. cannot be charged for lapses of lack of supervision.

**Having come to the conclusion that there is no evidence even to suggest that the C.O. was entrusted the supervision of the work, I.O. is of the opinion that the charges against the C.O. are 'NOT PROVED'.**

## **6. Action on the Inquiry reports**

On the basis of analysis made (refer Annexure-II) the findings of the Inquiring Authority was accepted by the Chairperson/Disciplinary Authority thereafter the matter was referred

to CVC for Second Stage Advice vide letter No.1476/Vig/Imp/TO(C-II)/2012 dated 29.06.12 **(Annexure-V See page 214)**.

**7. CVC Advice:**

After accepting the report of Inquiry Officer by Chairperson/Disciplinary Authority vide which it was intimated that the charges against the C.O. were not proved. Thereafter, the case was sent to CVC for Second Stage Advice vide letter No.1476/Vig/Imp/TO(C-II)/2012 dated 29.06.12 (refer annexure VI).

In reply to above, an office Memo was received from Director (CVC) vide No.002/NDM/002-190356 dated 10.10.12 **(Annexure-VI See page 215)** with the advice, **"imposition of suitable Major Penalty on Sh. S.M. Mustafa, J.E.(C) and Sh. Rajesh Shukla, J.E.(C), NDMC"**.

**8. Submission of Vigilance Department**

Inquiry Officer has given a report dated 13.04.12, stating that the charges against Sh. S.M. Mustafa (C.O.) are 'NOT PROVED'.

On the basis of analysis the Inquiry Report is accepted by Chairperson/Disciplinary Authority. Thereafter, matter was referred to CVC for Second Stage Advice. In the reply of CVC the points that were not considered in their Second Stage Advice whereas on the basis of the same points the Inquiry Report was accepted by the Chairperson/Disciplinary Authority. Therefore, the report of Inquiring Authority was considered and accepted by Disciplinary Authority in case of both the officers S/Sh. S.M. Mustafa, Retd. A.E.(C) and Rajesh Sukla, J.E.(C) as well as the CVC Second Stage Advice was disagreed too.

As Sh. S.M. Mustafa, Retd. A.E.(C) has already retired by attaining the age of superannuation on 30.06.12, in this case power of Disciplinary Authority is vested in the Council to take a decision on the issue either of accepting advice of CVC or otherwise. Resolution is put up to the Council for making disagreement with CVC Advice as well as to grant approval to issue the order of exoneration of Sh. S.M. Mustafa, Retd. A.E.(C).

In case of Sh. Rajesh Shukla, J.E.(C), Chairperson is competent authority to take decision, which would be processed after the Resolution of this case.

9. **Financial implication:** Nil

10. **Implementation schedule:**

Exoneration orders of Sh. S.M. Mustafa, Retd. A.E.(C) shall be issued immediately after the sanction/approval of the Council along with making disagreement with the CVC Advice in the Council.

11. **Comments of the Finance :** N.A.

12. **Legal implication:** N.A.

13. **Details of previous council Resolution:** N.A.

14. **Comments of the Department on the  
Comments of the Law Department:** N.A.

15. **Final View of the Law Department:** N.A.

16. **Rule position : As per CCS Pension Rules**

17. **COMPETENCY OF THE COUNCIL**

As Sh. S.M. Mustafa, Retd. A.E.(C) was retired on attaining the age of superannuation on 30.06.12, the powers of Disciplinary Authority for taking any decision against a retired employee are vested with the President and as per Resolution No.2 dated 29.06.1973 read with Resolution No.12 dated 27.07.1973 and Section No.416 of NDMC Act, **(Annexure-VII See pages 216 - 224)**, Council is vested to exercise the Powers of President in Disciplinary matters.

18. **Recommendation:**

It is recommended that alongwith making disagreement with CVC Advice an order for exoneration of Sh. S.M. Mustafa, Retd. A.E.(C) (C.O.) from all the charges may be issued if approved in the Council.

**COUNCIL'S DECISION**

Considering the facts of the case in totality the Council unanimously resolved to impose a penalty of 5% reduction in pension for a period of two years on the charged officer, Sh. S.M. Mustafa, Ex. A.E. (C) (Retd. on 30.06.2012).

ANNEXURES

56 pages



























































































































Annexure ends

**ITEM NO. 12 (S-04)**

1. **Subject: Major penalty proceedings against Sh. D.K. Srivastava, Head Asstt. (Retd.)**
2. **Name of the Department: Vigilance Department**

**Brief History of the subject:**

Major penalty proceedings were initiated against Sh. D.K. Srivastava, Head Asstt. (Retd.) under Rule-14 of CCS(CCA) Rule-1965 as he failed to take appropriate timely action to refer the case to the court of Estate Officer, NDMC for eviction of the unauthorized occupant and to effect the recovery of the outstanding dues against the Shop No. 19, Palika Bazar, NDMC, New Delhi.

**3. Details of the case:**

Major penalty proceedings were initiated against Sh. D.K. Srivastava, Head Asstt. (Retd.) under Rule-14 of CCS(CCA) Rule-1965 vide Memorandum No.61/CH/Vig./Imp./IOV-III/2009 dated 16.12.2009 (**Annexure-I See pages 230 - 234**) by the Chairman, NDMC as Disciplinary Authority, as follows:-

**Articles of Charge**

While working as Sr. Asstt., in Estate Department, NDMC, New Delhi, during the period 2005, Sh. D.K. Srivastava has failed to maintain absolute devotion to duty in as much as:-

He has failed, to take appropriate timely action to refer the case to the court of Estate Officer, NDMC for eviction of the unauthorized occupant and to effect the recovery of the outstanding dues against the shop No. 19, Palika Bazar, NDMC, New Delhi.

The above act on his part amounts to gross misconduct and unbecoming of a Council Servant. He has thus violated the provisions of Rulle-03 of the CCS (Conduct) Rules, 1964.

**(ii) Statement of imputation of misconduct**

While working as Sr. Asstt., in Estate Department, NDMC, New Delhi, during the period 2005, Sh. D.K. Srivastava has failed to maintain absolute devotion to duty in as much as that:-

Shop No. 19, Palika Bazar was allotted to Sh. Subhash Chander and Sh. Harish Chander on 11.01.1983 at a monthly license fee of Rs. 1310/- for 5 Years for running the trade under Zone

No.3 of Trade Zoning Plan and subsequently, the allotment was cancelled w.e.f. 21.11.1983 for non-payment of the license fee/dues under the orders of the then Administrator, NDMC imposing 30% cancellation charges upon the unauthorized occupant. The said allottee automatically became unauthorized occupant of the said shop as soon as the allotment of the same was cancelled w.e.f. 21.11.1983. Though, the allottee was not paying the damage charges as per demand raised by the NDMC, he was still allowed to make payment of Rs. 2540/- per month. He dealt with the cases of the shops pertaining to Palika Bazar including of the Shop No. 19, but did not process the case to effect the recovery of the dues from the unauthorized occupant and for eviction of the allottee during his entire tenure remains posted in Estate Deptt.

The above act on his part amounts to gross misconduct and unbecoming of a Council Servant. He has thus violated the provisions of Rule-03 of the CCS (Conduct) Rules, 1964.

#### **4. Action on Charge-sheet**

He denied the charges leveled against him Vide his defense dated 14.05.2010 **(Annexure-II See pages 235 - 236)** stating therein that he was transferred to Estate Deptt. in the year-2005 and had taken the charge of Palika Bazar seat, handed over to him by his predecessor, Sh. R.P. Tiwari, Sr. Asstt. & the unit file of Shop No. 19, Palika Bazar was not handed over to him. Accordingly, Sh. N.K. Tanwar, SE (E-I) of Electric Department was appointed as Inquiring Authority to inquire into the charges leveled against him vide Letter No.17/Enq./Vig./Imp./IOV-III/11 dated 14.12.2011.

#### **5. Finding of Inquiring Authority**

The Inquiring Authority submitted its report dated 07.01.13 **(Annexure-III See pages 237 - 250)** by analyzing the case as per the charges as follows:

The C.O.-II dealt with the case of shops pertaining to Palika Bazar including 19, Palika Bazar and did not process the case to effect the recovery of the dues from the u/a occupant and for eviction of the allottee during this entire tenure remains posted in Estate Deptt. & he has failed to take timely appropriate action to refer the case to the court of Estate Officer, NDMC for eviction of the u/a occupant or to effect the recovery of the outstanding dues against the shop No. 19, Palika Bazar, NDMC, New Delhi.

As in the similar matter, the matter went upto Hon'ble Supreme court in 1996 and certain guidelines were issued by the Hon'ble Supreme Court after 1996 and it was the duty of the C.O. to take up the matter accordingly.



In the defense, brief of Sh. D.K. Srivastava that as per Exhibit D-I and D-8 that stay of deposition subject to petition depositing of all the arrears of license fee and to continue pay license fee at reserve rate which was being paid by u/a occupants is not acceptable. The stay was vacated by the Hon'ble High Court on 29.08.2002.

During examination and cross examination/ re-examination by PW-I, PW-2 & PW-3 it was brought out that C.O. should have taken necessary steps for reconstruction of Unit file as record does reveal that the Original Unit file was missing for a long time. As mentioned in the defense brief of C.O. it is not correct that he has recorded that during the course of proceedings the issue of reconstruction of Unit File will not be discussed. Further it does not mean that the C.O. was free from the duty to reconstruct the unit file of shop No. 19, Palika Bazar, NDMC, New Delhi. It is also on the record that there was a stay on the said unit and the stay was vacated in the year 2002 by the Hon'ble High Court of Delhi. Which clearly mentions about of cases of the order mentions about cases of Gurusharan Singh and others versus NDMC and other AIR1996 SC-1175 which dealt with the license fee and zoning issues of Palika Bazar in detail and upheld NDMC policies on the subject. Since the matter of Charging of License fee was already decided by the Apex Court the High court apparently disposed off the petition under question and also dismissed CM-2517 of 85.

In the defense note by the C.O. it has been mentioned that PW-3 in his answer to question NO. 4 asked by the DA that all dues along with the interest have been recovered. In this regard his view that the PW-3 in the answer given stated that it is a matter of record. Further to mention here that the inquiry against Sh. D.K. Srivastava has been done on the documents by which the articles of charge framed against the C.O. i.e. noting P/I to P/16/N and correspondence P-I/C to P-49/C whereas the CO. has stated about the recovery of interest at the very later stage that is not part of the inquiry.

The charges imposed upon the Charge Official are "**Partially Proved**".

#### **6. Action on the Inquiry reports**

The finding of the Inquiring Authority was accepted by the Chairperson as original Disciplinary Authority and conveyed to the C.O. vide letter dated 21.02.2013 (**Annexure-IV See page 251**).

#### **7. Submission made by C.O. against the findings of Inquiring Authority.**

He vide his representation dated 08.03.13 (**Annexure-V See pages 252 - 258**) has stated that observation of the learned IA are not correct. He has submitted before the learned IA that there were orders dt. 30.07.85 from the Hon'ble High court of Delhi vide which stay against dispossession was granted subject to the petitioner's depositing all the arrears of license fee at the reserve rate within 3 weeks and to continue to pay the license fee in future at reserved rate. The said stay was vacated vide order dt. 29.08.2002. The Estate Officer had already been moved as is evident from the preamble dated July, 85. Both the orders of Hon'ble court are enclosed herewith as annexure 'A' & 'B'. These orders were also placed before the learned IA as defense documents and were exhibited as D-I & D-8. His tenure in the Estate Deptt. was from Nov., Aug., 2004 to Dec. 2005. It is pertinent to mention here a High Power Committee was constituted in 2004 and it was taking due action for recovery of dues and settlement of dispute. He requested for documents related to "High Power committee" to be provided to him as defence documents, but the same were not provided to him deliberately, consequently he has been deprived of the opportunity to prove that the High Power Committee was taking the recovery action as per decision taken by the Council and there was no need to take action separately.

Observation of learned IA cannot be appreciated because the matter which went up to the Hon'ble Supreme Court was regarding implementation of trade zone system. Many shops were cancelled on account of trade violation and all such shops were covered under the case submitted before the Hon'ble Supreme Court in the year 1983. In the instant case, allotment was cancelled on account of nonpayment and stay against dispossession and recovery beyond the reserved rate was granted by the Hon'ble High court of Delhi on 30.07.1985. Had the instant case been similar to the cases having trade violation, the Hon'ble High court would have not treated it as a different case and would have not granted any type of stay. Hence it is quite apparent that the instant case was not similar to the other cases covered under the judgment of Hon'ble Supreme Court.

The learned IA has found defense brief given by him unacceptable but he has failed to give any reason as to why the defense brief was not acceptable, although it was supported by defense documents D-I & D-8 which are orders of the Hon'ble High Court and are beyond the scope of any doubt about their genuineness.

It is correct that he did not reconstruct the unit file since the original file was missing. It is however submitted that during his tenure at the said seat, no occasion/necessity arose that could have lead me to reconstruct the file. In fact he never received any communication either from the allottee or from the Hon'ble Court which could have necessitated reconstruction of file. Further it is humbly submitted that the P.O. has raised additional issue of reconstruction of file whereas it is not a part of charge sheet, hence he could not contest the said issue in its right prospective and he did not produce any defense document/witness in his support. During the

course of proceedings, his DA had submitted before the learned IA that the charge of reconstruction of file was not a part of charge sheet and should not be allowed to be discussed. The IA had verbally agreed to the said submission of his DA.

It is submitted that it is a fact that all the dues along with interest have been received from the allottee. The case has been settled in the onetime settlement scheme. A report received from Estate Deptt. in this context is available with Vig. Deptt.

**8. Comments of Vigilance Department**

Inquiring Authority has submitted his findings vide Inquiry Report dt. 07.01.13 that the charges leveled against Sh. D.K. Srivastava, Sr. Asstt. (CO-II) are **"Partially Proved"**.

- |     |  |                       |
|-----|--|-----------------------|
| 9.  | <b><u>Financial implication:</u></b>                               | Nil                   |
| 10. | <b><u>Implementation schedule:</u></b><br>approval of the Council. | Immediately after the |
| 11. | <b><u>Comments of the Finance :</u></b>                            | N.A.                  |
| 12. | <b><u>Legal implication:</u></b>                                   | N.A.                  |
| 13. | <b><u>Details of previous Council Resolution:</u></b>              | N.A.                  |
| 14. | <b><u>Comments of the Law Department:</u></b>                      | N.A.                  |
| 15. | <b><u>CVC Advice:</u></b>  | N.A.                  |
| 16. | <b>Rule position about quantum of withdrawal of pension:-</b>      |                       |

**Under Rule 9 of CCS (Pension) Rule.**

**9. Right of President (Council in this case) to withhold or withdraw pension.**

- (1) The Council reserves to the right of withholding a pension or gratuity, or both either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave mis-conduct or negligence during the period of service, including service rendered upon re-employment after retirement:

Provided that the Union Public Service Commission shall be consulted before any final orders are passed:

Provided further that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the amount of rupees three hundred and seventy-five (Rupees Three thousand five hundred from 1.1.2006) per mensem.

It means that:-

- (1) Pension can be withdrawn in full by the Council on account of misconduct.
- (2) If part pension is withdrawn that it cannot be reduced below rupees three thousand five hundred.

**17. COMPETENCY OF THE COUNCIL**

As per Resolution No.02 dated 29.06.1973 read with Resolution No.12 dated 27.07.1973 and Section No. 416 of NDMC Act, Council is vested to exercises the power of President in disciplinary matters.

Any withdrawal of pension can be made with the approval of the President (in case of NDMC employee, power is vested with Council) under the CCS (Pension) Rules and also only in case of disciplinary case of grave misconduct.

Therefore, he has committed misconduct and has failed to take timely appropriate action to refer the case to the court of Estate Officer, NDMC for eviction of the unauthorized occupant and to effect the recovery of the outstanding dues against the Shop No.19, Palika Bazar, NDMC, New Delhi and the Inquiring Authority vide Inquiry Report dt. 07.01.13 have concluded that the

charges leveled against Sh. D.K. Srivastava, Sr. Asstt. (CO-II) are "**Partially Proved**". As such a penalty of withholding of pension may be imposed upon him.

**18. Recommendation:**

Council is to consider the imposition of penalty of "**Reduction/withholding of Pension**" upon Sh. D.K. Srivastava, Head Asstt. (Retd.)

**COUNCIL'S DECISION**

Considering the facts of the case in totality the Council unanimously resolved to impose a penalty of 5% reduction in pension for a period of two years on the charged officer, Sh.D.K. Srivastava, Head Asstt. (Retd.).

Annexure 230 – 268































































Annexure ends

**AGENDA NOTE FOR THE COUNCIL MEETING DATED 23.07.2013.**

A letter is received from the Ministry of Home Affairs, Govt. of India, vide F.No. 14016/04/2013-UTS-I dated 22<sup>nd</sup> July, 2013 **(copy enclosed as Annexure I (See page 260))**. Vide the said letter a notice under sub-section (2) of Section 13 of the New Delhi Municipal Council Act, 1994, is given to the NDMC that it has been decided to replace the services of Smt. Archana Arora, Chairperson, NDMC.

The aforesaid letter is placed before the Council for information.

**COUNCIL'S DECISION**

Information noted.

**(VIKAS ANAND)**  
**SECRETARY**

**(JALAJ SHRIVASTAVA)**  
**CHAIRPERSON / PRESIDING OFFICER**

