



Government of Jammu and Kashmir  
Public Works (R&B) Department  
Civil Secretariat, Jammu/Kashmir.  
(HRM-Branch)

Subject: Initiation of RDA against Er. Akhter Hussain Shah, Assistant Executive Engineer, Er. Irshad Ahmad, Junior Engineer and Er. Sonu Sharma, Junior Engineer of PMGSY, Gandoh

Government order No. 235 PW(R&B) of 2022  
Dated: 21-07-2022

Whereas, the General Administration Department vide O.M No. GAD vide O.M.No.GAD (Vig) 148-RDA/2017 dated 26.12.2017, forwarded a copy of letter No.VO-UD- JSC-02/2013-15746-47 dated: 15.09.2017 of Vigilance Organization (now ACB) along with allied documents viz. draft Article of Charges, Statement of Imputations and Gist of Evidence to this Department for Initiation of Regular Departmental Action against the subject, in terms of J&K Civil Services (Classification, Control & Appeal) Rules, 1956.

Whereas, the Vigilance Organization(now ACB) intimated that a complaint was received in the organization wherein it was alleged that in the work of the construction of road from Barry to Gandoh, Sub Standard material was being used by the subject, who were constructing Drop walls by filling Boulders (90%) instead of constructing RCC drop walls. During the course of joint Surprise Check (JSC) and perusal of records, it revealed that the work for the construction of road from Tendla(Jakieas) to Gandoh length 4.55 KMs under package No.JK04-44, Block Bhalessa District Doda(Phase V) was accepted by the contract committee for the contract price of Rs. 242.40 lacs in favour of M/S Cube Construction Engineering Ltd. B.O. 618 D/C Gandhi Nagar Jammu as per the letter of acceptance issued by the Chief Engineer, PMGSY J&K State vide his No.CE/PMGSY/J/4782-88 dated: 07.01.2008. The total gross payment made to the contractor vide C.C 9th recorded on M.Book No.20, page (32-40) is Rs.1,74,00,716/- in which the payments of D/Walls and catch pits of H.P culverts and RCC culverts have been made in plain cement concrete. The total payment of plain cement concrete M-15 grade paid vide item-12, Page (39-40) of M.Book 20 for 1074.58 cum @ Rs.3239/cum is Rs.34,80,567/- and the net payment after deducting rebate @ 2% i.e, Rs. 69,611/- is Rs.34,10,953/-. The spot inspection was conducted and the test pits were made in presence of complainant/JEs which reveal as under:-

- (i) H.P.Culvert in Km 2<sup>nd</sup> RD-225: Test pits on black side wall and left side wall of catch pit were made by way of dismantling the concrete walls and it was found that boulders were used in the concrete work and the payment for the plain cement concrete M-15 (1:2 ½:1) was used as per M.Book No.11/PMGSY,Page 92.
- (ii) H.P.Culvert in Km.3rd RD (625-650): Test pit on R/Side wall of catch pit was made by way of dismantling the concrete wall and it was found that boulder have been used in the concrete work and the payment of the plain cement concrete M-15 (1:2 ½:5)has been made used as per M.Book.

Moreover, at following two spots, the material/malba of dismantled walls was seen.

(iii) RCC Culvert in KM.3rd RD (350-375): Measurement of the slab of the culvert was taken which tallied with the charged measurements. During spot inspection, the dismantled material/malba of concrete walls / abutments was seen on downside of the culvert and it was evident that the boulders have been used in construction of concrete walls as the same were visible in dismantled material/malba.

(iv) RCC culvert in KM.3rd RD (525-535): Measurement of the slab of the culvert was taken which tallied with the charged measurements. The dismantled material/malba of concrete walls/abutments were seen on spot and it was evident that the boulders have been used in construction of concrete walls as the same were visible in dismantled material/malba. The Junior Engineers present on spot deposed that the works were got dismantled by the department as the works were sub standard.

Whereas, the Vigilance Organization (now ACB) further intimated that during the Joint Surprise Check it was found that the dismantled material was used in the construction of culverts/walls at the spots where test pits were made, however the exact percentage of boulders used in the concrete and its ratio could not be ascertained during the course of Joint Surprise Check. The actual quantity of boulders cannot be calculated without dismantling the complete structure which is not viable as such the lapses on the part of the subject warrants departmental action against them together with recovery of the amount proportionate to the loss after evaluating the quantum of boulders inside concrete.

Whereas, vide this department letter No.PW(R&B)HRM/02/2018-Vig. Dated 26.07.2018, the article of charges were served to the subject through Chief Engineer, PMGSY, Jammu. All the three accused Engineers submitted replies to the article of charges. The case was examined in the department and decided to conduct inquiry in the matter.

Whereas, vide Government Order No.27-PW(R&B) of 2019 dated 09.01.2019, a committee was constituted comprising the following officers to enquire into the matter:-

1. Chief Engineer, Mughal Road Project, J&K, Jammu.
2. Director Finance, PW(R&B) Department.
3. Executive Engineer, PW(R&B) Division Doda.
4. Analyst/RO, DIQC, J&K.

Whereas, vide communication No.CEMRP/2051-56 dated 14.03.2022, the Chief Engineer, J&K Project Organization Mughal Road, Jammu forwarded the report of committee as:

*"As per record of PMGSY Thathri, the scheme namely road from Jhakyas to Gundoo, sanctioned under Phase Vth, Package No.JK04-44 was allotted to agency M/S Cube construction Engineering Ltd. B/o 61/DC,*

Gandhi Nagar, Jammu for an amount of Rs.242.40 Lacs. The executing agency started the works on 10.03.2008, after execution of earth work, the cross drainage works were started in April 2009".

- a) During the course of construction of road, of the ongoing works were inspected by State Quality Monitors(SQMS) besides the field staff of the Department. The SQM's inspected the ongoing works of road on 20.10.2012, 29.11.2013, 19.01.2016 and 24.06.2016. The observations for cross drainage works were graded "Satisfactory" by the SQM's. Also as per final report on OMMAS, the overall grading to the road is satisfactory.
- b) The quality control register prepared by the concerned division was maintained properly and was inspected accordingly by inspecting authorities and test reports recorded by field staff of the concerned division found satisfactory.
- c) Regarding the concrete work i.e use of boulders in PCC, it was stated by the concerned various structures (Culverts) were dismantled and reconstructed as per specifications laid down in BOQ. Volume of boulders used cannot be ascertained at this stage as far that the structures require to be dismantled. However as per the record made available except dismantled structures and 20% of quantity of cement concrete (PCC) M-15 grade for quantity was disallowed in CC 10th only vide MB No. 20, page No. 50 & 10% of quantity was disallowed from overall quantity of work in final Bill of the contractor on MBG No. 20, Page No.71, For any undetected defects, approximately Rs.0.94 Lacs has been withheld out of the deposit of the contractor. However the total amount deducted on account of defects in PCC works out Rs. 5.88 Lacs from total amount of Rs. 42.30 Lacs. As per IS. Code (IS:457-1957) Page No.20 and practices in PWD, the use of Plums upto 20% of quantity in PC does not Hamper the overall strength of concrete.
- d) All the records i.e DPR, Allotment/Agreement, MBs, Cash Vouchers have been scrutinized and found in order.
- e) The physical and financial achievements are in confirmative with the date uploaded on OMMAS.
- f) The contractor is fully responsible for the quality of work as per specifications. As per section 4 of SBD i.e conditions of contract, Part II, special conditions of contract: Para 5 states that "the contractor shall ensure that all the materials conforming to the standard specifications as stipulated by the IRC are used. Materials found wanting in quality shall be rejected out rightly to be disposed of by the contractor at his own cost". Para 7 states that

"the contractor shall be personally liable for the civil and criminal prosecution under the law if the specifications of the material used are found in contravention to the specifications prescribed during execution of

*the work even after the completing and finalization of the contract upto the expiry of defect liability period". As per BD clauses contractor is fully responsible for maintaining specifications of work and is liable for criminal proceeding. The Inquiry Committee has recommended that the contractor should be debarred at least for three years from participating in tendering".*

Whereas, the Chief Engineer, J&K Project organization/Mughal Road has intimated / reported that Rs. 0.94 Lakhs deposit of contractor has been kept with held as per the Contractor ledger provided by the concerned Executive Engineer PMGSY Division Tharthi and in addition to committee members recommendations, it is recommended that Rs.0.94 Lakhs kept withheld out of deposit of the contractor by the Executive Engineer PMGSY, Tharthi should be forfeited henceforth.

Whereas, the instant case referred to the Development Commissioner (Works) for comments in the matter. The DCW returned the file with the following views:-

*"From the perusal of file and inquiry report, it has been confirmed by the medium of the notices issued by the site Engineer that the contractor has executed the work under specification. It was the prime duty of site Engineers as well as Contractor to get the defective work dismantled in first instant with a proof of videography or photographs same would have been reconstructed as per the specification of SBD with authentic proof of videography & photographs. Avoiding all these process of dismantling and reconstruction the site engineer selected the process of payment by deducting the cost of boulder & later on withholding an amount of Rs. 5.88 Lacs against the payment of Rs. 42.30 lacs shall not absolve the duty of field engineers/site engineers and as well as SQM/NQM(i.e First tyre/second tyre/Third tyre quality control mechanism). In light of the PMGSY guidelines & keeping in view the reports of the committee, it is recommended that the full amount paid in favour of contractor for the defective work shall be recovered from the contractors deposit if available with the department or from the on-going works of same contractor in PMGSY organization. Furthermore the strict warning may be given to the field / site engineers to implement the guidelines regarding supervision of works well in time during execution of work. If the contractor does not compile the instruction of field /site engineers, the contractor is liable for termination but that action has not been seen in the whole process of inquiry report as well as statements of field engineers/site engineers".*

Whereas, the case was submitted to the competent authorities for a decision of the same and the authorities have approved the case by:-

*"The contractor be "debarred" and the defect amount as calculated be recovered from him.*

*The engineers concerned be given "Censure" for their negligence and lack of supervision".*

Now, therefore, in terms of Rule 30(i) of the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, Er. Akhter Hussain Shah, Assistant Executive Engineer, Er. Irshad Ahmad, Junior Engineer and Er. Sonu Sharma, Junior Engineer of PMGSY, Gandoh are hereby "Censured" for their negligence and lack of supervision and case is hereby closed. CE Concerned shall initiate process for debarring the contractor from participating in tender process following due procedure.

By order of the Government of Jammu and Kashmir.


Sd/-  
(Shailendra Kumar) IAS  
Principal Secretary to the Government

No. PWD-RDA/27/2021-01-Dept of PWD R&B (C.No.22585) Dated: 21/07/2022

Copy to the:-

1. Principal Secretary to the Government, General Administration Department. This is with the reference to his O.M No. GAD(Vig)148-RDA/2017 dated 26.12.2017.
2. Development Commissioner (Works), PW(R&B) Department.
3. Director, Anti Corruption Bureau, J&K.
4. Director Archaeology & Archives, J&K.
5. Chief Engineer, PMGSY, Jammu for information and with the request to furnish ATR in respect of contractor as ordered above.
6. Concerned.
7. Private Secretary to Principal Secretary to Government, Public Works (R&B) Department.
8. Government Order file/Stock file.

Copy also to the Joint Secretary (J&K), Ministry of Home Affairs Government of India.

  
(Farooq Ahmad Malik) JKAS 21/7/22  
Deputy Secretary to the Government

