

PUBLIC ACCOUNTS COMMITTEE (1991-93)



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SIXTY-NINTH REPORT

(NINTH ASSEMBLY)

REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON THE
ACTION TAKEN OR PROPOSED TO BE TAKEN BY THE
GOVERNMENT ON VARIOUS RECOMMENDATIONS,
SUGGESTIONS OR REMARKS MADE BY THE
COMMITTEE CONTAINED ON THEIR
FIFTY-SECOND REPORT ON TOWN
AND COUNTRY PLANNING
DEPARTMENT, GOVERNMENT
OF ASSAM

Presented to the House on 14th October, 1993

ASSAM LEGISLATIVE ASSEMBLY
DISPUR : : GUWAHATI-6

C O N T E N T S

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Composition of the Committee

(1991-93)

REPRODUCTION
OF THIS DOCUMENT

CHAIRMAN :

1. Shri Sasha Kamal Handique, MLA

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MEMBERS :

2. Shri Upendra Nath Sanatan, MLA
3. Shri Rameswar Dhanowar, MLA
4. Shri Alauddin Sarkar, MLA
5. Shri Joy Chandra Nagbonshi, MLA
6. Shri Zoi Nath Sarma, MLA
7. Shri Debendra Nath Barua, MLA
8. Shri Lakshmi Prasad Borgohain, MLA
9. Shri Kosheswar Barua, MLA
10. Shri Kali Ranjan Deb, MLA
11. Shri Derhagra Muchahary, MLA
12. Shri Hitendra Nath Goswami, MLA
13. Shri Liakat Ali Khan, MLA

SECRETARIAT :

1. Shri D. Talukdar, Secretary,
2. Shri A.R.Chetia, Under Secretary
3. Shri Subimal Kumar Das, Committee Officer.

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PREFATORY REMARKS

1. I, Shri Sasha Kamal Handique, Chairman of the Committee on Public Accounts, having been authorised to submit the Report on their behalf present this ~~sixty-ninth~~ Report of the Committee on the action taken or proposed to be taken by Government on their ~~fifty-second~~ Report on Town & Country Planning Department, Government of Assam.
2. The Committee scrutinised the para-wise Written Memorandum of the Department and took evidence of the Departmental Witness in their meetings held on 6-1-93 & 23-08-93. The Sub-Committee (as at Annexure-I) finalised the draft Report in their meetings held on 30-07-93 & 31-07-93.
3. The Committee has considered the draft Report and adopted the same in its sitting held on ~~11-10-93~~
4. The Committee wishes to express their thanks to the representatives of the Government in the Town & Country Planning Department for their kind co-operation in furnishing the relevant information/clarification to the Committee.

DISPUR
The 12th October, 1993.

S.K. HANDIQUE,
CHAIRMAN,
Committee on Public Accounts.

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SIXTY-NINETH REPORT OF THE PUBLIC ACCOUNTS
COMMITTEE, ASSAM LEGISLATIVE ASSEMBLY
ON THE ACTION TAKEN OR PROPOSED
TO BE TAKEN BY GOVERN-
MENT ON THEIR
FIFTY-SECOND
REPORT.

(THE REPORT)

OBSERVATION/RECOMMENDATION IN FIFTY-SECOND
REPORT

1.1. The Public Accounts Committee has made some assessment/Observation in this Report in respect of Scheme implemented and other matter on the basis of Reports of the Comptroller and Auditor General of India (Civil) upto the year 1980-81. Now, the Committee would like to have a brief report from the Department on achievement both physical and financial of the Plan Scheme implemented during last 10 years or so.

REPLY OF THE DEPARTMENT

1.2. (The Town & Country Planning Department has furnished a partial reply as at Annexure-II).

OBSERVATION/RECOMMENDATION

1.3. The Committee express their dissatisfaction for non submission of a proper report by the Department. The Committee further observe that year-wise physical achievement as furnished in Annexure-II is also partial and incomplete as break-up wise expenditure of each scheme has not been shown.

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CHAPTER -II

Mis-appropriation Case.

RECOMMENDATION IN FIFTY-SECOND REPORT

2.1.1. In course of oral evidence, it transpired that no departmental action against the delinquent persons were taken. They were under suspension during pendency of the case and after the Judgment they were re-instated with normal pay and allowance. On the other hand the mis-appropriated money have also remained unrealised.

2.1.2. The Committee is constrained to note that the Department did not draw-up departmental proceeding against the delinquent officer. In this connection, the Committee re-iterate to the recommendation at para 9.3.2 in the 46th Report which is quoted :

"In most of the defalcative cases it is observed that no follow up actions are pursued. In some cases it is observed that criminal cases were instituted but no departmental proceedings were drawn up. It appears that there is a confusion as to the appropriate steps to be taken by the Authority. It is found that the Authority thought it sufficient by bringing criminal cases only whereas a delinquent official under the circumstances of a case may not be found guilty criminally but nonetheless became liable for punishment for violation of Departmental Rules. The Committee is of opinion that criminal prosecution is no substitution of departmental proceedings or viceversa."

REPLY OF THE DEPARTMENT

2.2. Instructions have been issued to all concerned that in all cases of defalcation apart from the criminal cases, departmental proceedings should also be invariably initiated. In the instant case departmental proceedings have been initiated against the delinquent officer(Shri B. Das,UDA) vide Annexure-III.

OBSERVATION/RECOMMENDATION

2.3. The Committee, in course of oral deposition wanted to know the charges levelled in departmental proceedings against the person responsible for the mis-appropriation. The Department complied with the request . It is seen that the proceeding was drawn and charges framed too lately

despite of Committee's recommendation in the 52nd Report which was presented before the House on 8th December, 1989. The reasons for such in-ordinate delay are not explained.

2.4. From the judgment of the Hon'ble High Court (Annexure-I) it prima-facie appears that nowhere there is any reference to the closing balance of the Cash Book and whether that tallied with what was alleged. It is true that the net figures having been entered in the Cash Book the excesses having not been entered, the Cash Book would not reveal the excess. In view of this position, it can be safely concluded that the entries in the Cash Book were not properly scrutinised and verified by the Drawing and Disbursing Officer/Officers. The Drawing and Disbursing Officer cannot shift his responsibility upon others. The Public Accounts Committee would be interested to know if the Drawing and Disbursing Officers working in the period in question has also been charges for his lapses/lack of supervision/irresponsibility in the matters of proper accounting. A detailed report on this issue may be furnished within a period of three months from the date of presentation of this Report before the House.

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CHAPTER-III

A-Wasteful Expenditure.

RECOMMENDATION IN FIFTY-SECOND REPORT

3.1. The Public Accounts Committee fails to understand as to why the loan was taken without getting the land in question for which the Board had to incur wasteful expenditure of Rs.0.76 lakhs. Public Accounts Committee feels that the Department should take measures in formulation of schemes in a manner whereby non availability of land nullified the implementation of the scheme as a whole.

REPLY OF THE DEPARTMENT

3.2. The Assam State Housing Board submitted a proposal for acquisition of 39B-4K-5Ls of land at Zoo Road on 19-11-75 for implementation of "Own your Flat scheme to the D.C, Kamrup. The Govt. of Assam approved schemes on 11-1-76 for Zoo Road and Dispur involving a fund of Rs.121.65 lakhs. The scheme are to be financed by Housing and Urban Development Corpn., New Delhi. In the meantime the Board took steps to arrange guarantee from State Govt. for obtaining fund from HUDCO and Govt. accordingly under letter dated 11-1-76, Govt. agreed to stand guaranter for the fund. After completing the formalities the Board draw the 1st instalment of loan of Rs.13.00 lakhs on 4-3-76 for this scheme. The Board also took possession of 19B-0K-13Ls^{and 6B-3K-3L} of land at Zoo Road on 17-3-78 and 18-5-78 respectively. As per U.O endorsement dated 26-4-78 of Govt. the detailed position regarding this land on the Public petitions was communicated. But the Board after taking possession of land started constructing boundary walls and spent Rs.11,343/- i.e. say Rs.12,000/- for the safety of land. But the Govt. on 19-5-76 directed the Assam State Housing Board not to undertake "Own your flat" scheme near capital complex and instead to consider for "Rental Housing Scheme". In the meantime the Govt. finally decided to allot the above land to AIR and as such the Board could not go ahead with the above sanctioned scheme and refunded the entire loan of Rs.13,00 lakhs to HUDCO together with interest of Rs.0.51 lakhs. The Deputy Commissioner also referred to the Govt. on 31-3-82 regarding expenditure of Rs.11,343/- spent for erecting boundary walls. As such the actual wasteful expenditure comes to Rs.51,000/- + Rs.11,343/- = Rs.62,343/- and not Rs.76,000/- as incorporated in the report. The loss was, therefore, inevitable. Necessary steps have been taken to realise the entire expenditure with interest and boundary walls from AIR through D.C.

OBSERVATION/RECOMMENDATION

3.3. The Audit objection was that the Department incurred a wasteful expenditure of Rs.0.76 lakhs by way of payment of interest and miscellaneous expenditure in connection with acquisition of a plot of land for which the Department took loan and refunded the same with interest for not having the land. The land in question was subsequently utilised for establishing the Guwahati Doordarshan Kendra and necessary steps have been initiated to realise the entire expenditure incurred from AIR through the Deputy Commissioner. Under the circumstances the Committee dropped the objection.

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B- OVER PAYMENT

OBSERVATION/RECOMMENDATION IN FIFTY-SECOND REPORT

3.4.1. The Public Accounts Committee observes that the construction of the building at an estimated cost of Rs.1.07 lakhs stipulated with the condition that it will be completed within August, 1973 has now been "expected to complete by September, 1989 at a revised estimate of Rs. 5.23 lakhs". The Committee views it as a serious matter involving lack of responsibility towards the poor.

3.4.2. The Committee recommends that in the light of observation made, the Department will take action against the person/persons for inordinate delay in completing the Project and its non-utilisation till date .

REPLY OF THE DEPARTMENT

3.4.3. After due investigation it was found that no employee of the Housing Board can be really held responsible for inordinate delay in completing the project as there were variety of factors which caused the delay and in particular lengthy proceedings in the court of law initiated by the Contractor . The Project has however been completed in all respect in the month of April, 1991 and since then the entire building consisting of 4 Flats is under occupation and rents are being regularly realised .

OBSERVATION/RECOMMENDATION

3.4.4. The Committee would like to know the following points :-

- (i) What are the factors for the inordinate delay to complete the construction work of the scheme ?
- (ii) Why and what for the contractor took shelter of law ?
- (iii) What is the judgement of the Court in this matter ? A copy of the judgement may be furnished to the Committee .

Contd.....7.

C- NON ACCOUNTAL OF GRANT

OBSERVATION/RECOMMENDATION IN FIFTY-SECOND REPORT

3.5.1. The Public Accounts Committee cannot but feel unhappy looking at the dismal picture which depicts that a grant of Rs. 0.20 lakh made during 1974 to a local Body which was not taken into account and no action upon the person/persons at fault could be taken after completing necessary judicial process even after 15 years of its sanction. The Committee therefore, recommends that the Department shall pursue the case vigorously and submit a report about the latest position of the case alongwith the case records .

REPLY OF THE DEPARTMENT

3.5.2 The case that had been pending in the Chief Judicial Magistrate's Court resulted in the conviction of the accused . The Department has pursued the case vigorously .

OBSERVATIONS/ RECOMMENDATIONS

3.5.3 The Public Accounts Committee expressed satisfaction that the Department pursued the case vigorously and hope, in future too, such vigorous action would be taken in all similar cases.

Contd.....8.

CHAPTER-IV

HOUSING SCHEMES (L I G H)

OBSERVATION/RECOMMENDATION IN FIFTY-SECOND REPORT

4.1 The Committee is unhappy to learn that out of 2930 houses under L.I.G. Scheme taken up prior to 1st August, 1974 as many as 333 houses are still remaining incomplete. Now the Committee would like to know the manner in which they disposed off 198 cases and how they could expect to complete the remaining cases at the original estimate made prior to 1974.

REPLY OF THE DEPARTMENT

4.2 Out of 2930 houses under LIG schemes taken up prior to 1st August, 1974, 333 houses are still remaining incomplete. The loanees are not expected to complete the houses now at the original estimate made prior to 1974. The Bakijai proceedings against an amount of Rs. 41.625 lakhs have been started against those defaulters for realization of loan amount along with interest accrued thereon. As regards disposal of 198 cases it may be mentioned here that after realisation of loan amount (both principal and interest) in full the properties mortgaged by them were released as per provision of the dead agreement.

OBSERVATION/RECOMMENDATION.

4.3 The Committee feels that in future the entire amount earmarked for Low Income Group Housing Schemes should be fully utilised through concerted effort of all concerned.

OBSERVATION/RECOMMENDATION IN FIFTY-SECOND REPORT

4.4.1. The Committee expresses serious concern about inordinate delay in disposal of Bakijai proceedings and recommends that the power to institute Bakijai proceedings should be delegated to all concerned Department to facilitate realisation of outstanding Government money promptly.

4.4.2 The Committee further, recommends that a sample survey be made in respect of capital invested in the construction of LIG/MIG/HIG houses, recurrent expenditure, overhead charges made to maintain them and rent realised so that an opinion can be formulated as to the wisdom of the Housing Department action in the role of landlord after the houses have been constructed and the desirability of handing over the flats to the tenants on a scheme similar to 'own your Own Flat' as is done in some other States.

REPLY OF THE DEPARTMENT

4.5 As per provision of the Bengal Public Demands Recovery Act, 1913, certificate officers means a collector, a Sub-Divisional Officers or any officer appointed by a collector with the sanction of the Commissioner to perform the function of a Certificate Officer i.e. Bakijai Officer. Power to institute Bakijai Proceedings can be vested to the Housing Board Officials by an enactment and in that case more manpower would be necessary. The matter has been taken up with the Revenue Department.

OBSERVATION/RECOMMENDATION.

4.6.1. The Committee feels that the Department have made no sincere attempt to implement the recommendation promptly. The fact that the Department have taken up the matter of delegation of Bakijai power with Revenue Department is not supported by any documents. The Department have not replied anything on the recommendation of the Public Accounts Committee at para 4.4.2 above.

4.6.2. The Committee therefore reiterates their earlier recommendation at para 4.4.2, reply on which shall be furnished within three months without fail from the date of presentation of this Report before the House.

SUBSIDISED INDUSTRIAL HOUSING

OBSERVATION/RECOMMENDATION IN FIFTY-SECOND REPORT

4.7. At the time of hearing, the Public Accounts Committee required the Department to submit the Rules followed in Housing Board in the matter of sanction of loan and details of Industrial Housing Scheme in obedience to which some assorted papers were submitted without any notes. Accordingly the Public Accounts Committee recommends that an up-to-date assessment of the Subsidised Industrial Housing Scheme be made available as early as possible along with their Annual Reports for last 10 years.

REPLY OF THE DEPARTMENT

4.8. An up-to-date assessment of the Subsidised Industrial Housing Scheme and collection made thereof for last 10 years from 1982 to 1992 (Dec., 1992) are as follows :-

1. <u>Maligaon</u> :	2800 X 12 X 10	Nil	3,36,000/-
100 Tenaments	= 336000/-		
@ Rs28/- P.M			
2. <u>Kharghuli</u> :	80 X 28 X 12	2,10,000	58,800/-
103 Tenaments	X 10 = 268800/-		
(out of 103 tenaments 80 nos are under occupation and the balance are damaged)			
3. <u>Tinsukia</u> :	100 X 28 X 12	1,03,000	2,28,000/-
100 Tenaments	X 10 = 3,36,000/-		

OBSERVATION/RECOMMENDATION

4.9. The Committee observe that the reply of the Department is not to the point as recommended. The Department should carefully read the recommendation. A copy of the Rules followed in the Housing Board in the matter of sanction of loans and details of Industrial Housing Schemes are to be submitted within a period of three months from the date of presentation of this Report before the House.

VILLAGE HOUSING

OBSERVATION/RECOMMENDATION IN FIFTY-SECOND REPORT

4.10 The Committee recommends that the Department would furnish a detail report showing their target during last 10 years and achievement both physical and Financial with location of the houses to the Committee within a period of 3 months from the date of presentation of this Report before the House.

REPLY OF THE DEPARTMENT

4.11 A Report in details showing the target during the last 10 years i.e. from 1980-81 to 1989-90 and achievement both Physical and Financial with location of the Houses constructed under Janata Housing Scheme is enclosed . (Annexure V)

OVSERVATION/RECOMMENDATION

4.12 The Committee has not comment to offer.

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CHAPTER - V

A - Crematorium at Guwahati

OBSERVATION/RECOMMENDATION IN FIFTY-SECOND REPORT

5.1.1. The Department has stated that the crematorium along with other buildings at a cost of Rs.8.26 lakh handed-over to the Guwahati Municipality Corporation during March, 1975. The audit has stated that the crematorium was laying idle and had not been taken over by the Corporation upto February, 1978. The Department have also paid Rs.0.06 lakh for the minimum demand service for electricity.

5.1.2. The transfer business should be completed within one month or otherwise a report may be given to us about the latest position. Also taken-up with the Municipal Corporation in due course. The report may please be given before we finalise the Report. For this matter one month time is given. As no report as sought for has been received a realistic assessment over the matter could not be made. The Committee therefore, recommends that the required report shall be furnished within one month from the date of presentation of this Report before the House.

REPLY OF THE DEPARTMENT

5.2. It is regretted that no report has been submitted to the PAC as required. This is primarily because efforts are continuing to handover the crematorium to the G.M.C. on the ground that the G.M.C. is the authority concerned with the matter and has to provide this facility to the general public.

RECOMMENDATION

5.3 The Committee would like to have copies of all the correspondances made with Guwahati Municipal Corporation in this regard within three months from the date of submission of this Report before the House.

B-EXTRA-EXPENDITURE

OBSERVATION/RECOMMENDATION IN FIFTY-SECOND REPORT

5.4.1. The Public Accounts Committee is not convinced with the reply given by the Department about the rejection of the lowest tender in preference to the 2nd lowest. The lowest tender was purported to be rejected on the ground that it was conditional. But it is seen that in case of the 2nd tenderer, grounds raised by the lowest tenderer came-up delaying the execution by 2 years and Department nonetheless supplied the required quantity of cement & steel and thereby sustained a loss of Rs.0.86 lakh which could have been avoided by accepting the lowest tender.

5.4.2. The Committee recommends that sufficient precaution should be taken in rejecting lowest tender on ground which the Department cannot sustain subsequently and accordingly necessary instruction be issued to all concerned dealing with acceptance of tenders.

REPLY OF THE DEPARTMENT

5.5. Instructions have been issued to all concerned dealing with the expenditure of tender with sufficient caution should be exercised in rejecting the lowest tenders. In fact as of now, in almost all cases it is the lowest tender that is being accepted.

OBSERVATION/RECOMMENDATION.

5.6. The Committee has no comment to offer in view of the reply given.

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C - Loss due to non-delivery of Cement
OBSERVATION/RECOMMENDATION IN FIFTY-SECOND REPORT

5.7.1 The Committee is very much distressed to note that the Government in Town and Country Planning Department has just forwarded the information given to them by their Directorate . They on their part did not consider it necessary to obtain latest position about the fate of the complaint lodged . This being the position , the Committee would like to know the steps taken from Govt. side about their action after July, 1985.

5.7.2 The Public Accounts Committee, further, recommends that the Govt. would cause an administrative inquiry as to the fate of the complaint lodged in May, 1978, and reasons for inaction/delay in its disposal and also action taken or proposed to be taken upon the person/ persons at fault. The report of the administrative enquiry shall be furnished within a period of 3 months from the date of presentation of this Report before the House.

REPLY OF THE DEPARTMENT

5.8 Since these are extremely old cases, efforts are being made to trace the records and furnish a detailed reply to the P.A.C.

OBSERVATION/RECOMMENDATION

5.9 The Committee cannot but feels unhappy looking at the dismal picture of the Departmental initiative in implementing the recommendation of this part. The Committee donot understand as to where the records have gone out of the possession when, an Audit Para found place in the C.A.G's Report which is yet to be disposed off and hope that the same will be found out very shortly and a detailed reply will be received by P.A.C. soon.

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D- Excess issue of materials.

OBSERVATION/RECOMMENDATION IN FIFTY-SECOND REPORT

5.10 The Committee recommends that in the light of the Observation made in the forgoing paras, the Department would cause an enquiry into the matter and a comprehensive report thereof will be furnished within a period of 3 months .

REPLY OF THE DEPARTMENT

5.11 Since these are extremely odd cases, efforts are being made to frace the records and furnish a detailed reply to the P.A.C.

RECOMMENDATION

5.12 The Committee reiterate their recommendation at para 5.9 of this chapter here too.

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E- ERECTION OF A STATUE

OBSERVATION/RECOMMENDATION IN FIFTY-SECOND REPORT

5.13. The Committee observes that as per standing instruction of the State Govt. Departments are to give works to A.G.C.C who in turn takes advances. Such advances given at the fleg end of financial year help the Departments to avoid budgetory lapses A.G.C.C earns interest from those advances. At the same time Government is also losing the benefite of those interests, Such interest, according to rules should be deducted, if the works deleyed and revised estimate prepered.

5.14. The Committee therefore recommends that in future the Department at the time of giving advance to A.G.C.C for works to be carried out by them will also hand-over the site free of all encumbences so as to enable the Copporation to start the work immediately.

REPLY OF THE DEPARTMENT

5.15. Instructions of the Public Accounts Committee have been noted.

RECOMMENDATION.

5.16. The Committee has no comments to offer as the Department has noted the recommendation for their future guidance.

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ANNEXURE - I

SUB-COMMITTEE CONSTITUTED FOR DRAFTING
OF REPORTS OF THE COMMITTEE ON
PUBLIC ACCOUNTS.

- | | |
|------------------------------------|-------------|
| 1. Shri Hitendra Nath Goswami, MLA | - Convener, |
| 2. Shri Upendra Nath Sanatan, MLA | - Member, |
| 3. Shri Debendra Nath Baruah, MLA | - Member, |
| 4. Shri Kosheswar Baruah, MLA | - Member, |
| 5. Shri Kali Ranjan Deb, MLA | - Member, |
| 6. Shri Derhagra Mochahary, MLA | - Member, |
| 7. Shri Liakat Ali Khan, MLA | - Member. |

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ANNEXURE - II

The Year-wise Physical Achievements are furnished below :-

Year	Amount (Rs. in lakhs)	Physical Achievements
1981-82	39.69	<ol style="list-style-type: none"> (1) 5 Nos. of towns viz-Dibrugarh/Silchar/Jorhat/Tezpur and Tinsukia were covered under the programme of I.D.S.M.T. (2) 16 local bodies were provided grants under E.I.U.S. programme. (3) 28 local bodies were provide grants under Urban Development scheme. (4) Preparation of Mastar Plan for North Lakhimpur and Bongaigaon town. (5) Acquired 30 Acre of land under EIUS to construct 5 markets and 7000 slum Dewellers were benefitted in 16 towns.
1982-83	47.14	<ol style="list-style-type: none"> (1) 5 (five) towns Vize-Dibrugarh/Silchar/Jorhat/Tezpur and Tinsukia were covered under the programme of IDSMT. (2) 11 local bodies were provided grants under EIUS programme . (3) 36 local bodies were provided grants under Urban Development Schemes. (4) Provided grants to 2 (two) Development Authorities.
1983-84	70.43	<ol style="list-style-type: none"> (1) 5 (five) No. of town viz-Dibrugarh/Silchar/Jorhat/Tezpur and Tinsukia were covered under I.D.S.M.T. (2) 13 local bodies were provided grants under EIUS programme. (3) 17 local bodies were provided grants under Urban Development . (4) Preparation of Mastar Plan for Bongaigaon and North Lakhimpur were also included.
1984-85	82.42	<ol style="list-style-type: none"> (1) 4 (four) candidates were sponsored for undergoing P.G. Degree course in Town and Country planning . (2) 5 Nos. of towns viz.Dibrugarh/Silchar/Jorhat/Tezpur and Tinsukia were covered under the programme of IDSMT. (3) 14 local bodies were provided grants under EIUS programme. (4) 33 local bodies were provided grants under Urban Development Scheme.

Year	Amount (Rs. in lakhs)	Physical Achievements
1985-86	188.00	<ol style="list-style-type: none"> (1) The District offices at Kokrajhar & Karimganj with 42 posts have been created. (2) 4 (four) candidates were sponsored for undergoing P.G. Degree course in Town and Country planning. (3) 4 (four) towns viz Karimganj, Sibsagar, Bongaigaon and Nagaon were covered under the programme of IDSMT. (4) 16 local bodies were provided grants under EIU S programme. (5) 6 local bodies were provided grants under Urban Development scheme.
1986-87	209.52	<ol style="list-style-type: none"> (1) 4 (four) towns viz Sibsagar, Bongaigaon, Nagaon and Karimganj were covered under IDSMT programme. (2) 17 local bodies were provided grants under EIU S programme. (3) 7 local bodies were provided grants under Urban Development scheme. (4) Preparation of Master plan for Kokrajhar & Karimganj were also included.
1987-88	230.00	<ol style="list-style-type: none"> (1) The posts of Joint Director, Senior Research Officer, Planning Assistant, Draftman and grd. -I Draftman Grade-II U.D.A., S.D.A. and Grade-IV - totalling 11 (eleven) Nos. were created in the H.O. office. (2) Mangaldoi District office with 31 technical and non-technical posts were created. (3) 2 (two) candidates were sponsored for undergoing P.G. Degree Course in Town and Country Planning. (4) 2 (two) Nos. of town viz-Karimganj and Sibsagar were covered under the programme of IDSMT. (5) 15 towns under EIU S programme were covered (6) 4 local bodies were provided grants under Urban Development Scheme .
1988-89	44.30	<ol style="list-style-type: none"> (1) Two District offices at Nalbari and Barpeta were created with 60 technical and non-technical post. (2) 2 (two) candidates were sponsored for P.G. Degree course in Town and Country Planning. (3) 1 (one) No. of town viz-Nagaon was covered under the programme of IDSMT .

Year	Amount (Rs. in lakhs)	Physical Achievements
1989-90	222.97	<ul style="list-style-type: none"> (4) 4 (four) towns were covered under EIUS programme. (5) 8 local bodies were provided grants under Urban Development Scheme. (1) 4 (four) candidates were sponsored for P.G. Degree course in: Town and Country Planning. (2) 3 Nos. town vize-Karimganj, Nagaon, Bongaigaon were covered under the programme of IDSMT. (3) 19 local bodies were covered under the programme of EIUS. (4) 9 local bodies were provided grants under U.D. scheme. (5) Preparation of Mastar Plan for Kokrajhar and Karimganj, Nalbari, Barpeta and Mangoldoi were also included. (6) Programme under G.M.C. (7) World Bank Assistance programme.
1990-91	468.73	<ul style="list-style-type: none"> (1) 13 (thirteen) post of A.R.O. were created. Establishment cost of post under Plan at Head Quarter. (2) 4 (four) candidates were sponsored for P.G. Degree Course in Town & Country Planning. (3) 3 Nos. of Towns viz-Karimganj, Nagaon, Bongaigaon were covered under the programme of IDSMT. (4) 7367 Slum population were benefited in 21 towns. (5) 18 local bodies were covered under EIUS Programme. (6) 10(ten) Development Authorities were assisted by providing grants for establishment expenditure. (7) 4(four) towns-Guwahati, Nagaon, Karimganj Bongaigaon were covered under the programme of World Bank Assistance. (8) 1309 metre of R.C.C. Drain was constructed under Guwahati Municipal Corporation Programme. (9) Preparation of Mastar Plan for Mangoldoi, Karimganj, Kokrajhar, Nalbari, Barpeta.

ANNEXURE-III

GOVERNMENT OF ASSAM
OFFICE OF THE DIRECTOR
TOWN & COUNTRY PLANNING
ASSAM :: DISPUR :: GUWAHATI

.....

NO.TP/EST/1/93/2/122

Dated Dispur, the 11th Jan.'1993.

To Shri Bhagawan Ch. Das,
Supervisory Assistant
Drainage & Sewerage Division
Town and Country Planning,
Dispur, Guwahati-6.

Sub. : DEPARTMENTAL PROCEEDINGS

Ref. : This office letter No.TP/EST/1/93/1/59
dated 2-1-93.

In continuation of this office letter cited above, you are hereby asked to show cause under Rule, 9 of the Assam Services (Discipline & Appeal) Rules, 1964, why any of the penalties prescribed in Rule 7 of the aforesaid Rules, should not be inflicted on you on the following charges based on the statement of allegation attached herewith.

1. While you were Upper Division Assistant in the Tezpur office of Town & Country Planning and entrusted with the charge of the accounts at that office there were irregularities detected by the audit in maintenance of the various registers pertaining to accounts of that office.

2. While Shri Loknath Barua, the Cashier of Tezpur Office used to go on leave you were entrusted with the works of maintaining cash book and accounts in addition to your own duties. During such time irregularities in maintenance of cash book etc. were detected by the audit.

3. You used to receive cash brought from the Treasury (particularly during absence of Shri Loknath Barua on leave). During such time also discrepancies were found between amount shown as drawn and amount actually received for which serious irregularities were pointed out by the audit.

Contd.... 22

4. The audit has also pointed out certain payments as doubtful resulting in considerable confusion and also serious procedural error in discharging the relevant functions.

5. Lastly, in the judgment delivered by the Hon'ble Guwahati High Court mention has been made above irregular and erroneous process of accounting in the office of Town and Country Planning, Tezpur.

6. It was from the above mentioned irregularities and negligence there was loss of several thousands Rupees of Government Fund as could be detected by the audit.

You are therefore charged with committing irregularities and negligence in your duties both as U.D.Asstt. and also U.D.Asstt.-cum-Accountant of the Tezpur office of Town and Country Planning.

You should submit your written statement in defence within 10(ten) days from the date of receipt of this communication provided you do not intend to impent the documents which have relevance with issues under enquiry. In case you intend to inspect those documents you should write to the undersigned for the same within 7(seven) days from the date of receipt of this communication and submit your explanation thereafter within 10(ten) days from the date of completion of the inspection.

Your writtentestatement stating whether you desire to be heard in person should be submitted to the undersigned.

Sd/--

(R.N.BHATTACHARJEE)

Director,
Town & Country Planning,
Assam :: Dispur :: Guwahati.

...

STATEMENT OF ALLEGATIONS

1. While you were Upper Division Assistant in the Tezpur office of Town & Country Planning and entrusted with the charge of the accounts at that office there were irregularities detected by the audit in maintenance of the various registers pertaining to accounts of that office.
2. While Shri Loknath Baruah, the cashier of Tezpur, office used to go on leave you were entrusted with the works of maintaining cash book and accounts in addition to your own duties. During such time irregularities in maintenance of cash book etc. were detected by the audit.
3. You used to receive cash brought from the Treasury (particularly during absence of Shri Loknath Baruah on leave). During such time also discrepancies were found between amount shown as drawn and amount actually received from which serious irregularities were pointed out by the audit.
4. The audit has also pointed out certain payments as doubtful resulting in considerable confusion and also serious procedural error in discharging the relevant functions.
5. Lastly, in the judgment delivered by the Hon'ble Guwahati High Court mention has been made above irregular and erroneous process of accounting in the office of Town and Country Planning, Tezpur.
6. It was from the above mentioned irregularities and negligence there was loss of several thousands of Rupees of Government Fund as could be detected by the audit.

ANNEXURE-IV

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM : NAGALAND: MEGHALAYA : MANIPUR
AND TRIPURA) GOVERNMENT CRIMINAL

Appeal No. 38 of 1977.

From the judgment and order dated 29-7-77 passed by
the Chief Judicial Magistrate, Darrang at Tezpur in
G.R. Case No. 1204 of 1969.

The State of Assam Appellant

----- Versus -----

Bhagaban Das and others . . . , Respondents

P R E S E N T

The Hon'ble the Chief Justice (Acting)

Mr. D. Pathak.

The Hon'ble Mr. Justice K.N. Saikia

For the Appellant

: Mr. S.A. Laskar,
Public, Prosecutor,
Assam.

For the Respondents

: Mr. P.C. Kataki,
Mr. J.M. Choudhury,
Mr. H.N. Sarma,
Mr. J. Singh
Mr. G. Gopal,
Mr. A. Ahmed,
Mr. R.D. Lall, Advs.

Dates of hearing

: 19-5-82, 20-5-82, 31-5-82,
23-8-82 and 24-8-82.

Date of judgment and order : 3-9-82.

JUDGMENT

Saikia, J. :-

This Government criminal appeal is from the judgment of acquittal of the three respondents of the charge under section 409 I.P.C.

One F.I.R. alleging defalcation of Government money to the tune of Rs.10, 123.83p. by the respondents in the office of the Town and Country Planning Organisation, Tezpur Unit, during the period from 1-3-68 to 31-10-68, as detected by the Inspecting Auditor of the Accountant General's office, Assam and Nagaland, Shillong, was lodged by the Town Planner and Ex-officio Director, Town and Country Planning, Shri D.P.Nath (P.W.2) on 6-8-1969. After investigation and charge sheet the Chief Judicial Magistrate of Darrang, Tezpur charged the three respondents under section 408 read with Section 34 I.P.C. in respect of Rs. 5062.53P during the period from 14-6-68 to 4-10-68. At the trial 9 P.Ws, but no D.Ws, were examined. Exts. 6 to 15 being the concerned bills drawn by the office were proved. The learned trial court on consideration of the evidence and the exhibits and the statement of the accused persons under Sec.313 Cr.P.C. denying the charge, acquitted the respondents. Hence this Government appeal.

P. 1. 2, Shri Deb Prasad Nath, the informant, was the Associated Planner of Tezpur, having jurisdiction over that office in addition to his own work, during the period from 1-3-68 to 31-10-68, with his Headquarter at Gauhati. He used to come to Tezpur and look over the works there; and sometimes necessary documents used to be brought to Gauhati. Respondent Bhagaban Das, at the relevant time, was an Upper Division Assistant entrusted with the charge of accounts at Tezpur office. Respondent Loknath Baruah was the Cashier who handled cash, and respondent Mukibur Rahman, a Grade IV employee had the charge of bringing money from the Treasury. P.W. 2 receiving a report from the Auditor, lodged the F.I.R. (Ext.1). Police seized the books and registers of the office. By seizure list (Ext.2), the audit notes and the objection statement of the accounts were seized. Ext. 2 is the cash book. By another seizure list (Ext.3) the Cash Book and the Bill Register were seized. Ext. 4 is the Acquittance Roll.

Ext. 3 is the Bill Register. Ext. 5 is the Audit objection Statement of the Accounts which shows the following amounts drawn "Contingency" and "Pay" heads from the Treasury and not accounted for in the Cash Book :

<u>Sl.No.</u>	<u>T.V.No. and date</u>		<u>Amount drawn</u>
1.	49 dt. 14-6-68	Rs.	160.28
2.	64 dt. 27-6-68	Rs.	127.35
3.	66 dt. 15-7-68	Rs.	259.32
4.	89 dt. 23-7-68	Rs.	284.77
5.	17 dt. 1-8-68	Rs.	2999.35
6.	2 dt. 2-9-68	Rs.	3534.00
7.	64 dt. 21-9-68	Rs.	120.00
8.	65 dt. 21-9-69	Rs.	480.00
9.	33 dt. 31-10-68	Rs.	5600.00
10.	54 dt. 14-8-68	Rs.	202.00

<u>Nature of Drawal</u>	<u>Amount entered in Cash Book</u>	<u>Shortage of Cash</u>
Contingency	Rs. 60.28	100.00
- do -	Rs. 27.35	100.00
- do -	Rs. 59.32	200.00
- do -	Rs. Nil	284.77
Pay	Rs. 2599.00	400.00
- do -	Rs. 2534.00	1000.00
- do -	-	120.00
- do -	-	480.00
Contingency	-	5600.00
- do -	-	202.00
	<u>Total Rs.</u>	<u>8,486.77</u>

Ext. 6 is the bill for Rs.60.28 later raised to Rs.160.28 ; Ext. 7 is the bill for Rs. 27.35 later raised to Rs. 127.35 ; Ext. 8 is the bill for Rs. 59.32 later raised to Rs.259.32 ; Ext. 9 is the bill for Rs.2599.35 later raised to Rs.2999.35 ; Ext. 10 is the bill for Rs.2534/- later raised to Rs.3534/- ; Ext. 11 is the bill for Rs.284.77 ; Ext. 12 is the bill for Rs.120/- ; Ext. 13 is another Bill for Rs.480/- Ext. 14 is bill for Rs.5600/- ; and Ext. 15 is the bill for Rs.202/- . We are concerned in this case primarily with Exts. 6 to 10 where defalcations have been alleged.

The evidence of P.W. 2 is that charges of all works of the office like correspondence, preparation of bills etc. were entrusted on respondent Loknath Baruah. Respondent Bhagaban Das had maintained Bill Register, Transit Register, Contingency Register etc. The Cash Book was generally being maintained under the responsibility of Loknath Baruah. When Loknath Baruah was on leave then respondent Bhagaban Das performed all the duties. The monthly statements were written by Bhagaban Das himself. The monthly expenditure statements used to be sent for each month to Gauhati Office. Expenditure shown in that accounts was found to be at variance with the entries in the Cash Book of the Office. According to him in some cases less amounts were shown to have been received in the Cash Book while more money were withdrawn from the Treasury. This was pointed out by the audit report. Suspicion having aroused they had varified office accounts, namely, Cash Book, Bill Book and others with the accounts maintained by the Treasury and Found many confusions in the accounts. On request the audit party came in 1969 and after completion of the audit they submitted report (Ext. 5) "relating to the confusion of more money" .P.W. 2 deposes on the basis of the audit objection. According to P.W. 2 Loknath went on leave for two months with effect from 20-7-68 and during that period Bhagaban Das performed all his duties. The procedure for preparation and encashment of bill was that at the time of signing the bill it should be entered in the Transit Register. Ext. 6 was at first for Rs. 60.28 paise and at that stage the witnesses signature was obtained ; and after his signature was obtained the figure was raised to Rs. 160.28. The amount was brough from the bank by the respondent Mukibur Rahman whose signature was in the bill. But in the Cash Book only Rs. 60.28p. was shown to have been received and the balance Rs. 100/- had been misappropriated. In Ext. 1, Transit Register, the amount was shown as Rs. 60.28p. Ext. 1 is the bill first prepared for Rs. 27.35 but later increased to Rs. 127.35 which amount was drawn from the bank but in the Cash Book only Rs.27.35 was shown and Rs. 100/- misappropriated. Mukibur Rahman encashed the bill and brought the money. Ext. 8 was prepared for Rs. 59.32 and after obtaining the witnesses signatures it was raised to Rs. 259.32 and after the amount was brought from the bank Rs. 200/- was misappropriated. Ext. 8(1) is the signature of the witness, Ext. 8(2) is the signature of respondent Bhagaban Das, Ext. 8(3) is the signature of Mukibur Rahman. Ext. 1(5) is the

note entered in the Transit Register, Ext.1(5) (ka) is the signature of respondent Bhagaban Das, and Ext. 2(1)(ga) is the note relating to the Cash Book. Ext. 9 is the bill first prepared for Rs. 2599.35 and after taking the signature of the witness on it the amount was enhanced by Rs.400/- and later the figure was penned through in the Acquittance Roll, Transit Register and other books of account and the amount of Rs.400/- thereby misappropriated. Exts. 9(1) and 9(2) are the witness is signatures while Ext.9(3) and Ext.9(4) are signature of respondent Bhagaban Das and Ext.9(5) of Mukibur Rahman. Ext. 4 is the Acquittance Roll and Ext. 4(I) is the note where the marks of penning through are there. Ext. 4(1) was written by respondent Bhagaban Das and Ext.4(2) is his signature. Ext.10 is another pay bill first prepared for Rs.2534/- but after taking the witnesses signature on it, the figure was enhanced to Rs.3,534/- and Rs.1000/- was misappropriated. This bill was prepared by respondent, Bhagaban Das, Ext.10(2) being his signature. Ext.10(1) is the signature of the witness and Ext.10(3) is the signature of Mukibur Rahman. In Ext. 4 the amount is still Rs.2534/-. Ext.4(2) is the related note. In the Transit Register Rs.2534/-was shown and in the Cash Book Rs.2534/-. was entered. The respondent Bhagaban Das wrote the Cash Book. Exts. 11 to 15 with which we are concerned were bills prepared for Rs.284.77, Rs.120.00 , Rs.480.00, Rs.5,600.00 and Rs.202.00, respectively. In Ext. 5 has been mentioned that the money of these bills (Exts. 11 to 15) were withdrawn from the bank but there were no corresponding entries in the Cash Book, Transit Register, Acquittance Roll etc. According to the witness he did not sign all these bills which were prepared by Bhagaban Das and that his signatures thereon were forged. He says that at first the audit party had found confusion in three bills and instructed to verify the accounts with the Treasury accounts and on verifying the Treasury accounts four persons were placed under suspension . Thereafter the audit staff of the Accountant General was requested to take special audit. He denied that he signed the bills, Exts. 11 to 15 and reiterated that his signatures were forged. Bhagaban Das himself want to the witness and took his signatures on these bills. The monthly statement was prepared after obtaining the T.V. numbers from the Treasury Office.

In cross-examination this witness stated that Loknath Barua had the duty of maintaining the Cash Book only and if he had any knowledge about the withdrawal of excess money, there was no way to charge him. About the delay he says that after about one year of suspension this case was lodged at the thana.

From the evidence of P.W. 2 the *mondus operandi* appears to be that a bill is prepared with its genuine figures and signature of P.W. 2 is obtained. Thereafter the amount is raised and bill sent to Treasury and encashed in the bank and the amount brought from the bank. In the cash book the original amount is entered so that there is discrepancy between the figure in the Cash Book and the amount drawn from the bank.

The auditor from the Accountant General's office who audited the accounts, was not examined, P.W. 4, Hem Chandra Chetri, who was Auditor in the office of the Accountant General, Assam, Shillong, only testified the seizure of the Treasury Vouchers from his custody, but even did not know why these were seized. We have noted that P.W. 2 has stated about the auditor's report, namely, that they found many confusions in the accounts, Confusion did not necessarily imply defalcation or misappropriation. Discrepancy due to non reconcilliation of accounts may not always lead to the conclusion of misappropriation. Accounting errors also do not lead to that conclusion. The statement by P.W. 2 that the differences in the Cash Book figure and Treasury Vouchers figure must have been misappropriated, requires verification. For this purpose we may take the bills themselves one by one and follow them up in the books of accounts.

Ext. 6 is a contingency bill for the month of June, 1968, the T.V. number is 227 and the total amount is Rs.160.28 p which is the total of 9 items. In the Transit Register (Ext.1) it is entered as Item No. 25 O.C.C. Bill of Misc. charges for June, 1968, the total amount shown as Rs.60.28 p. the total of the last five items, each being Rs.20/- , comes to Rs.100/-. However, it is seen that item No. 5 is Das Brothers Tezpur 3 bottles Sulekha Ink Rs.20 ; item No. 6 is Bill No. 1846 dated 19-5-68 3 doz of towels - Rs.20/- item No. 7 is Bill No. 1845 one flit Rs.20

item No. 8 is U.B. Store Bill No. 947 dated 28-5-68 for 2 bulbs Rs.20/- ; item No.9 Janata Trading Co. two reams type-writing paper Rs.20/-. These entries were not verified nor were drawers of the bills examined in this case. The articles, mentioned, however, appear to be within the range of office requirements. In the Bill Register it is entered as item No. 25 dated 7-5-68 at page 27 and the amount is shown as Rs.60.28. The amount passed by the Treasury is also shown as Rs.60.28. In the Cash Book, Ext.2(1) (ka) is entry at page 76 on the receipt side only Rs.60.28 p. The Cash Book Entry i.e. Ext.2(I) (ka) and the corresponding Bill Register entry bear the auditor's tick marks against them. These payments being contingencies they do not figure in the Acquittance Roll, Ext.4 None from the bank was examined to prove that amount was actually paid.

Ext. 7 is also O.C.C. bill for the month of June, 1968 for Rs.127.35. It contains eight items. According to P.W. 2 the amount shown was Rs.127.35, while the amount entered in the Cash Book is Rs.27.35 and the amount misappropriated was Rs.100/-. In this bill also we find that the total amount of the first two items is Rs.27.35. Items No. 3 to 8 are all of Rs.20/- each. Item No.3 is bill No.194 dated 14-6-68 of Das Brothers for 4 Doz of ~~z~~ log. Pencil Rs.20/- Item No. 194 dated 14-6-68 for 9 coper Rs.20/-, item No. 5 is bill No.214 dated 19-6-68 for 2 packets of carbon paper and one type ribbon Rs.20/- ; item No. 6 is Janata Trading Co's bill No.245 dated 19-6-68 for 10 Nos. of registeres Rs.10/- item 7 is Janata Trading Co. Bill No.243 dated 19-6-68 for lock and key Rs.10.50 ; item 8 is 2 bootles gum - Rs. 7.50 and 150 Nos. of Envelopes Rs. 2/- . the total of items 7 and 8 being Rs.20/-, In the Transit Register it is entered as entry No. 29 under Ext. 1(I). The amount is entered as entered as Rs.127.35, but the 'digit' 'I' appears to have been subsequently cancelled. In the Bill Register against entry No. 29 at page 27, Ext.3(2) the amount is shown as Rs.27.35. In the Cash Book at page 77 on 27-6-68 the debit is for Rs.27.35p. On the payment side of the same day we find payment of Rs.12.35p. against Bill No.1227 dated 21-6-68 of M/S Janata Trading Co. In this case the amounts were ticked by the auditor, as was done in the Bill Register. But though items No. 3 to 8 gave definite numbers of the bills with dates and addresses of the suppliers none was examined to show that those bills were non-existent

and that no payment was in fact made in respect of any of these bills. None was examined from the bank to testify the amount actually paid by it on this bill.

Ext. 8 is O.C.C. bill for the month of July, 1968 for Rs.259.32 paise. According to P.W.2 the actual amount was for Rs.59.32 and the amount defalcated was Rs.200/-. This bill contains 18 items. Unlike in Exts. 6 and 7 in this bill we do not find such figures as would result in Rs.59.32p. In the Transit Register, Ext.1, Ext.1(5) is the entry. It appears that originally it was Rs. 259.32 but the same was penned through and Rs.59.32 has been written below it. In the Bill Register it is written as Entry No. 26 at page 28. The amount was Rs.59.32 and there is auditor's tick marks against it. In the Cash Book the amount debited on 15-7-68 is Rs.59.32 and there is the auditor's tick mark against it. However on the expenditure side of the Cash Book we find payment against item No. 17 in the bill, namely, bill No. TEC/29/68 dated 4-7-68 to Taras Industrial Corporation for Rs. 17.00. There is also payment of Rs.15/- against Entry No. 18 of the bill. This means at least the last two items have been paid on that very day. Items 1 to 16 have not been verified so as to ascertain whether those bills were actually in existence and whether the suppliers were taken.

Ext.9 is the pay bill for the month of July, 1968 for Rs.2999.35 paise for 13 members of the staff. In the Transit Register it is entered as Entry No. 39 dated 29-7-68 for Rs.2599.35. Obviously there is a difference of Rs.400/-. The Bill (Ext.9) , however, mentions recovery of festival advance of Rs.250/- plus Rs.10/- and Dearness Allowance of Rs.700/- which are included in the total. The relevant figures are substantive pay Rs.2549.35 and D.A. Rs.700/-, the total being Rs.3249.35. Festival recovery of Rs.250/- has been deducted making the total amount Rs.2999.35 p. According to P.W. 2 the shortfall here is Rs.400/- the amount allegedly misappropriated by the respondents.

Ext. 10 is the Pay Bill of 12 members of the staff for the month of August, 1968 for Rs.3534.00. It includes the figures of Substantive Pay, Dearness Allowance, contribution to Provident Fund, Flood Advance and the net amounts payable. The total amount of Substantive Pay is shown as Rs.2919.00, D.A.Rs.640.00 and the total Rs.3559.00. The G.P.F. contribution is shown as Rs.15/- and Flood Advance 10/-. The total of Rs.3559.00 from which Rs.25/- is deducted it figures Rs.3534.00. In the Transit Register it is entry No. 46 dated 20-8-68. The amount is shown as Rs.2534.00. In the Bill Register it is entry No. 46 dated 20-8-68 and the net amount is shown as Rs.2534.00. In the Cash Book it is debited with Rs.2534.00 on scrutiny of the expenditure side of the Cash Book we find that out of 12 members of the staff in case of the first six and the last one the amounts drawn and amounts paid tally. In case of five members, namely, Surendra Nath Medhi the amount shown in his name was Rs. 485.00 whereas the amount paid to him is Rs.285/-. The over writing in the bill is initialled by Bhagaban Das and counter signed by P.W.2 In case of Indrasen Barua the amount drawn is Rs.472.00 whereas the amount paid, according to the Cash Book is Rs.272.00. In case of Probodh Chandra Sarma the amount shown in his name is Rs.472.00 whereas the amount paid to him is Rs.272.00 and the over writing bears initial. In case of Madan Chandra Sarma the amount drawn in his name was Rs.302/- whereas the amount paid, according to the Cash Book, is Rs.202/-. In case of Rajendra Nath Dutta the amount drawn was Rs.496.00 but the actual amount paid, according to the Cash Book, is Rs.196.00. The figures in the accuittance taking with the figures in the Cash Book. On scrutiny of the Bill (Ext.10) it is seen that the enhanced figures are shown in substantive pay and not as advance or other head.

Ext. 11 is the Re-imbursable Expenditure Bill for the month of July, 1968 for Rs.284.77. It contains three bills for Rs.197.56, Rs.67.21 and Rs.20.00, respectively making the total of Rs.284.77. The Bill (Ext.11) is accompanied by the original bills of the firm, M/S.Assam Trading Agency being Bills No.ATA/1042 dated 10-7-68 and No.ATA 1043 dated 10-7-68. The other bill of Rs.20/- is not found. The amount of the Bill (Ext.11) has not been entered in the Cash Book. In the Transit Register it is entered at Sl.No.38 for Rs.284.77.

P.W. 7, Shri Homeswar Kakati, was the Accountant at Tezpur Treasury within the period of 14-6-68 to 4-10-68 and he passed the aforesaid bills. According to the witness. Specimen signatures of each drawing officer were kept in their office and at the time of passing the bills the signatures were verified. Exts. 6 to 15 are the bills which were passed at Tezpur Treasury. After those were passed, those were sent to the State Bank and payments were made from the State Bank and thereafter the bills, came back to the Treasury. After looking over the said bills, the Treasury prepared a list ^{and} sent the same to the office of the Accountant General, Assam, Shillong. In cross-examination this witness says that there were bill abstracts with the bills and every individual department collected those bill abstracts from the Treasury, which bears serial Number of Treasury Voucher. If there was any mark of pending through on the bill, the drawing officer was required to sign there. The amounts were written both in words and figure.

Ext. 12 is the detailed pay bill for August, 1968 for Rs.120/- in the name of Shri Phanidhar Keot, Assistant Fero-printer. This amount was not at all entered in the Cash Book. Ext. 13 is detailed pay bill from 1-4-68 to 31-7-68 in the name of Shri Phanidhar Keot for Rs.480/-. Ext. 14 is a special expenditure bill for the month of October, 1968 for Rs.5,600/- for instruments, appliances, apparatus, machinery, and tools and plants. Ext. 15 is an O.C.C. bill for August, 1968 for Rs.202/- containing 11 Nos. of bills. The bill numbers, dates, parties and articles supplied are all given in the bills. According to Ext. 5 and P.W. 2 these amounts of Ext. 11 to 15 were not at all entered in the Cash Book. However, there is no evidence to show that the plants, machineries, equipments and stationery and other articles shown in some of these of these bills were not at all received by the Town Planner's Office. There is also no evidence to show that their suppliers as shown in the bills are take or fictitious. There is also no evidence to show that Shri Phanidhar Keot was a fictitious person. He was not examined to show that he never received that amount as his pay. The billing suppliers, though their names and addresses were given were not examined. Simply because these amounts were not ...

entered in the Cash Book, it is not legitimate to jump to the conclusion that those amounts were misappropriated. Omission to enter in the proper book of account is not the same thing as failing to account for the amounts.

In *Om Prakash V. State of Haryana*, 1980 CRI, L.J. 311 = AIR 1980 S.C.476 where a clerk in a co-operative department performing duties of accountant was prosecuted on charges of delayed payments, no payments and false payment of T.A. bills and the Assistant Registrar was the paying and disbursing officer, in absence of proof of complaints made by officials of department to Assistant Registrar, whose initials appeared against the payments, it was held that the prosecution case could not be said to have been proved beyond reasonable doubt.

In their statements under section 313 Cr. P.C. the respondent Bhagaban Das stated that he worked in that office as an U.D. Assistant. He simply wrote the bills and did not deal with anything. According to him the allegation was false. Respondent Loknath Baruah stated that he knew nothing about the allegations and that he worked as U.D. Assistant cum-Cashier in that office during the said period. From 22-7-68 to 19-9-68 he was on leave. He maintained each book and accounts. Whatever transaction of money he made he kept them recorded during the period. During the period of his leave respondent Bhagaban Das managed his works. He states that he did not misappropriate the money. Respondent Mukibur Rahman states that he worked as office Peon during the period between 14-6-68 till 4-10-68. After having brought the money from the bank, he says, he deposited the same to Loknath Baruah and at the time when Loknath Barua was on leave to Shri Bhagaban Das. He deposited the bills and know nothing other than that.

In respect of Ext. 10 the members of the staff against higher amounts were drawn in the bill and lesser amounts were paid to them, as shown in the Cash Book and in the Acquittance Roll, were not examined to ascertain whether they actually took any short of excess amounts which could be shown in other books of account.

There is no evidence to show that there was any complaint from the members of the staff. As regards Ext. 11 despite the bills in original (of the firm) having been attached the particular firms billing the amounts were not examined to ascertain whether they were in fact been paid, though not entered in the cash book.

It is noticed that no where there is any reference to the closing balance of the Cash Book and whether that tallied with what was alleged. It is true that the not figures having been entered in the Cash Book the excess having not been entered, the Cash Book would not reveal the excess. But in no case the bank was examined to prove that the amounts as shown in the bills were, in fact paid even though from the system prescribed by P.W. 7 that should be the presumption. There is no evidence to show that there was any complaint from the side of the bank. There is also no evidence to show that there was any complaint of non-payment by any of the firms in whose names the bills were drawn. Admittedly the matter was investigated after the auditor found some confusion in the accounts but the auditor or auditors were not examined. Under the above circumstances it cannot be said that the prosecution discharged the onus of proof. Though there is room for suspicion that the enhanced amounts were actually received and used otherwise than for the purpose shown in the bills, in the absence of reliable evidence as to entrustment and breach of trust the benefit must be given to the respondent. Irregular or erroneous accounting may not always lead to the conclusion of misappropriation.

For the foregoing reasons we do not consider it proper to interfere with the impugned judgment or acquittal. Accordingly we dismiss the appeal.

I agree
Sd/-D.Pathak,
Chief Justice(Acting)

Sd/-K.N.Saikia,
Judge.

Seal

Seal

Amount = 36 = VI

STATEMENT SHOWING LIST OF HOUSES IN VILLAGES OF
ASSAM OF THE DIST. | SUB-DIVISION, JANATA HOUSING SCHEME.

Sl. No.	Name of the sub-Division	Name of village	Nos. houses completed.	Amount Released	Recovery.	Remarks	
1		3	4	5	6	7	8
1	Nalbari	a) Namati	20 Nos.	36,000/-	54,000/-	Nil	
		b) Namati & Sariah-toli.	1	55,600/-	83,700/-	Nil	
		c) Borkhetri	22	39,600/-	59,400/-	Nil	
	****Benekuchi	***					
		d) Chandnai Khuti	25	110,000/-	60,000/-	Nil	
		e) Rehjani Budrakuchi	14	25,200/-	37,000/-	Nil	
		f) Dhantola	21	37,800/-	56,700/-	Nil	
		g) Dokoha aringmur	5	9,000/-	13,500/-	Nil	
		h) Dhantola mari donga	65	1, 17,000/-	17,5500/-	Nil	
		i) Khatakota	14	25,200/-	3788/-	Nil	
		j) Gesha	16	28,800/-	43,200/-	Nil	
		Total	246nos.	4,53,400/-	660600/-		
2.	Sibsagar	1. Betbari palashni	23	36,800/-	57,600/-		
		Total		36,800/-	57,600/-		

Janata Housing Scheme

Sl. No.	Name of the Sub-Division	Name of Village	Nos. of house comple ted.	Loan Amount	Sanctioned subsidy	Recovery
	Golaghat	a) Singphura	10nos.	1600/-	24,000/-	
		b) Geleki Mikir Goan	17	17,200/-	28,800/-	
		c) Namotimesha	5	15,000/-	15,000/-	
		d) Tarfatgona	8	24,4000/-	24,000/-	
		Total		74,200.00	91,800/-	
8	Guwahati	a) Goreswar	25	45,000/-	67,500/-	
		b) Amtola Kabertapara	200	-	-	
		c) Rangmahal	9	16,200/-	24,300/-	
		d) Rajapara	11	22,00/-	33,000/-	

1	2	3	4	5	6	7	8
5	Khorokhori	6	10,800/-		16,200/-		
	Total	251	10,5000/-		1,41,000/-		
	Diphu	a) Ranglikatir	25	40,000/-	60,000/-		
		b) Bahani Adarsha	15	24,000/-	36,000/-		
		c) Diphu Town	10	22,600/-	33,000/-		
		d) Bokolia Ghat	11	11,800/-	29,900/-		
			61	1,05,800/-	45,87,00/-		
	Kokrajhar	a) Halambari	20	36,000/-	54,000/-		
		b) Khorgaon	21	37,800/-	56,700/-		
		Total	-	41	73,800/-	1,10,700/-	

J.H.S.

Sl.No.	Name of the Sub-Division	Name of the Village	Nos of houses	Loan	Subsidy	Recovery	Remarks
	Jorhat	a) Santipur Tipomia	38	60,800/-	91,200/-		
		b) Sarucharai	24	35,400/-	57,600/-		
		c) Barpathar Timpomia	18	28,800/-	43,200/-		
		d) Nagadhuli	23	41,400/-	62,100/-		
		e) Sapekhati	-	-	-		
	Lakhimpur	a) Marisapatnar	26	46,800/-	70,200/-		
		b) Japihozia	9	15,200/-	24,300/-		
		c) Bhimpara Baliyan	6	10,800/-	16,200/-		
			41	22,800/-	1,10,700/-		
	Tezpur	a) Jaganchuburi	31	51,200/-	76,800/-		
		b) Bandarmari	8	-	-		
		Total	40	51,200/-	76,800/-		
	Mangaldoi	a) Bisa Chuburi	9	14,400/-	21,600/-		
		b) Nizanglabecha	10	-	-		
		c) Tetelegare	10	-	-		
			29	14,400/-	21,600/-		
	Silchar	a) Chandighat	120	19,200/-	28,800/-		
		b) Tulargram	20	34,000/-	48,000/-		
		Total	32	53,200/-	76,800/-		
	Karimganj	a) Chaparkandi	24	43,400/-	64,800/-		

b) Mahakal	9	9 54,000/-	54,000/-
c) Sonapur	15	95,000/-	90,000/-
Total	48	1,87,400/-	2,08,800/-

J.H.S

Sl.No	Name of the Sub-Divn.	Name of the Village	Nos, of house completed.	Amount Loan	realised Subsidy	Recovery.	Remarks
1.	Dibrugarh	a) Gharbangi Chuke.	18	28,800/-	43,200/-	Nil	
			18	28,800/-	43,200/-		
2.	Dhubri	a) Kukurmara	20	32,000/-	38,000/-		
		b) Senggurchand	10	-	-		
		Total		32,000/-	48,000/-		
3.	Tinsukia	a) Dholagoan	30	21,600/-	32,400/-		18 house completed.

Statement of list of Housing in Village of the District/Sub-Divn. of Assam Under J.H.S.

Goalpara	a) Mazi Ravi Para	10	18,000/-	27,000/-		
	b) Chenimari	10	30,000/-	30,000/-		
	c) Maladhara	10	30,000/-	12,000/-		Amount release roof level.
	Total	40	10,5,000/-	99,000/-		
Dhemaji	Harichuk					
	Mising					
	Goan	11	19,800/-	29,900/-		
	Kapahua	18	29,800/-	29,700/-		
	Total	29	49,600/-	59,400/-		

ANNEXURE-D

Barpeta :	a) Chaphahamar	25	40,000/-	60,000/-
	b) Dangpara	8	24,000/-	24,000/-
	c) Sarupathar	12	21,600/-	32,400/-
	d) Golagoan	10	30,000/-	30,000/-
	e) Kathalortoli	17	30,000/-	45,900/-
	f) Uppornoi	9	16,200/-	24,300/-
	g) Nahati	12	26,400/-	39,600/-
	h) Golagoan	11	33,000/-	33,600/-
	i) Bonmazapam	6	10,800/-	16,200/-
	j) Juhurakoch	9	-	-
			<hr/>	
			73,260/-	3,05,400/-

under proce

PROP. FUND & TARGETS UNDER J.H. SCHEME.

Year	J.H.S. for General people		J.H.S. for T.S.P		J.H.S. for S.C		Figure in
	Fund	Target	Fund	Target	Fund	Target	
1	2	3	4	5	6	7	8
77-78	4.49	-	3.00	-	-	-	
78-79	3.00	-	3.00		-		
79-80	2.00	-	5.00		4.00		
80-81	3.00	65	6.00	133	5.00	111	Last 10 years target & Fund.
81-82	3.00	66	7.00	155	5.00	110	
82-83	1.00	66	2.00	155	2.00	132	
83-84	2.00	44	6.00	132	8.00	176	
84-85	4.00	40	10.00	180	7.00	140	
85-86	2.00	33	9.00	150	7.00	117	
	2.40	40	10.80	180	8.40	140	
87-88	2.40	40	7.44	124	3.84	64	
88-89	3.00	50	11.40	190	2.10	70	
89-90	3.00	50	11.40	190	3.20	53	

Contd..... 41.

= 41 =
ANNEXURE - V

STATEMENT SHOWING OF J.H.S. (JANATA HOUSING SCHEME)
SHOWING PAYMENT OF LOAN & SUBSIDY UP TO 4-4-89.

JANATA HOUSING SCHEME
ANNEX-D

SL.NO.	NAME OF THE SUB-DIV.	NOS. HOUSE	AMOUNT RELEASE		RECOVERY	REMARKS
			LOAN	SUBSIDY		
1	2	3	4	5	6	7
1.	Goalpara	40	1,08,000	99,000		10 houses not yet started
2.	Dhubri	30	32,000	46,000		1(one) house not completed.
3.	Nalbari	246	4,53,400	663,600		
4.	Dibrugarh	18	28,800	43,200		
5.	Sibsagar,	23	36,800	57,600		
6.	Golaghat,	135	74,200	91,800		
7.	Jorhat,	103	1,69,400	254,100		
8.	Karimganj	48	1,87,400	208,800		
9.	Barpeta	119	2,32,600	305,400		9 houses, not yet completed.
		662	13,24,600	17,67,500		20 Houses.

Comtd.... 42.

ANNEXURE - VJANATA HOUSING SCHEME

STATEMENT SHOWING OF J.H.S. (JANATA HOUSING SCHEME)

ANNEX-DSHOWING PAYMENT OF LOAN & SUBSIDY UP TO 4-4-89.

SL.NO.	NAME OF THE SUB-DIV.	NOS. HOUSE	AMOUNT RELEASE		RECOVERY	REMARKS
			LOAN	SUBSIDY		
1	2	3	4	5	6	7
1.	Goalpara	40	1,08,000	99,000		10 houses not yet started 1(one) house not completed.
2.	Dhubri	30	32,000	46,000		
3.	Nalbari	246	4,53,400	663,600		
4.	Dibrugarh	18	28,800	43,200		
5.	Sibsagar,	23	36,800	57,600		
6.	Golaghat,	135	74,200	91,800		
7.	Jorhat,	103	1,69,400	254,100		
8.	Karimganj	48	1,87,400	208,800		
9.	Barpeta	119	2,32,600	305,400		9 houses not yet completed.
		662	13,24,600	17,67,500		20 Houses.

Comtd.... 42.

= 42 =

J.H.S.

ANNEXURE - D

SL.NO.	NAME OF THE SUB-DIV.	NOS OF HOUSES	AMOUNT LOAN	RELEASED SUBSIDY	RECOVERY	REMARKS
1	2	3	4	5	6	7
10.	Silchar	32	53,200	76,800		20 houses not yet completed.
11.	Mangaldoi	29	14,400	21,600		8 houses not yet completed.
12.	Tezpur	40	51,200	76,800		
13.	North Lakhimpur	41	72,800	1,10,700		7 Nos not yet completed.
14.	Dhemaji	29	49,600	59,400		
15.	Diphu	61	1,85,800	1,58,700		
16.	Karimganj	41	73,800	1,10,700		35 houses not completed 8,00,000 (Eight lakhs disbursed as loan & subsidy against the Antola Kaibartapara.
17.	Guwahati	251	1,05,000	1,41,000		
		524	6,05,800	7,54,700		

Contd... 43/-

1	2	3	4	5	6	7
18. Tinsukia		30	21,600	32,400		
19. Nowgoan		509	10,56,200	13,52,300		18 houses not yet completed.
		539	10,77,800	13,85,100		16 houses not yet completed.
	1 page	662	13,24,600	17,67,500		20 houses not yet completed.
	2 page	524	5,25,800	7,54,700		35 yet not completed.
Total :		1725	29,28,200	39,07,300		71
Not completed (-)		71				
		<u>1654</u>				

	<u>L/Sub</u>	
L	29,28,200	
Sub	39,07,300	
	<hr/>	
	68,35,500	
A.L/S	8,00,000	
	<hr/>	
	76,35,500/-	Amtola Kaibaratapara

Contd...