

URGENT  
BY FAX

Government of Orissa  
Works Department.

No.EAP ( Cell ) 13/11 <sup>\*\*\*</sup> 5868 /W.. Dated. the 31-5-11

From:

D. Satapathy, IAS  
Joint Secretary to Government.

To

The Chief Engineer, World Bank Projects, Orissa, BBSR

Sub: Proceedings of the State Level Empowered Committee ( SLEC) meeting held on 7<sup>th</sup>. May, 2011 in the 2<sup>nd</sup>. Floor Conference Hall of the Secretariat.

Sir,

I am directed to send herewith a copy of the proceedings of the meeting of the State Level Empowered Committee ( SLEC) held on 7<sup>th</sup>. May, 2011 in the 2<sup>nd</sup>. Floor Conference Hall of the Secretariat under the Chairmanship of Chief Secretary, Orissa for your information and necessary action.

All concerned may please be intimated accordingly.

Yours faithfully,

*[Signature]*  
Joint Secretary to Government.

Memo No. 5869 /W., Dated, the 31-5-11  
Copy along with a copy of proceedings forwarded to the Private Secretary to Chief Secretary, Orissa for kind information of Chief Secretary.

*[Signature]*  
Under Secretary to Government.

Memo No. 5870 W., Dated, the 31.5.11  
Copy along with a copy of the proceedings forwarded to Private Secretary to Development commissioner, Orissa for kind information of Development Commissioner.

*[Signature]*  
Under Secretary to Government.

Memo No. 5871 /W., Dated, the 31.5.11  
Copy along with a copy of the proceedings forwarded to Private Secretary to Principal Secretary to Government, Finance Department/ Private Secretary to Principal Secretary to Government, Forest & Environment Department / Private Secretary to Principal Secretary to Government, Law Department / Private Secretary to Commissioner-cum- Secretary to Government, Revenue & Disaster Management Department for information.

*[Signature]*  
Under Secretary to Government.

*F.A/Sr. Secy  
Communicated to  
all concerned.  
ODP  
11/5/11*

*[Handwritten mark]*

**PROCEEDINGS OF THE STATE LEVEL EMPOWERED COMMITTEE (SLEC) MEETING  
HELD ON 7<sup>TH</sup> MAY 2011 IN THE SECOND FLOOR CONFERENCE HALL OF THE SECRETARIAT**

Chief Secretary chaired the meeting. List of members who attended the meeting is annexed. At the outset, EIC-cum-Secretary briefed the Committee on the discussion held in the previous meeting on 26<sup>th</sup>. April 2011 regarding contractual obligation for the GSB substitution in the context of views /observations given by the IRC Expert and Law Department. Since the opinion of IRC Expert was contradictory to the observations communicated by the World Bank, it was decided in the last SLEC meeting to share the opinion of IRC contract expert to World Bank with a request to reconsider their earlier views on the subject. However, World Bank in response to above request, has reiterated their stand on the subject with a note that they have already shared their views in the past on this issue and have been awaiting a comprehensive and clear decision from Government of Orissa in this regard.

Chief Engineer, World Bank apprised the Committee that about 50 Km of road length ( i.e. about 25% work) in all the three packages have been completed so far with crushed stone as substitute materials in the GSB . However, the contractor has been paid so far as per the original contract price without any variation. He informed the Committee that World Bank had earlier given an interim no objection for such substitution during May 2010 limiting to 5km in each package ( i.e. total 15 Km) with a view to continue the work during the peak working season as the required materials as per the technical specifications stipulated in the contract were not available. However, during June 2010, the World Bank had disapproved any variation payment to such substitution to the contractor citing contractual and legal consequences.

In the first SLEC meeting held on 11<sup>th</sup>. February 2011 on this subject, the Committee while accepting the recommendation of the Technical Committee (TC) had suggested to continue the work with such substitution without affecting project progress and without any compromise to the quality of work. The Committee had allowed the contractor to use such substitute material in place of morrum as an interim measure in order to continue the work. However, the Committee had also opined to seek legal opinion on the contractual obligation on "who shall bear the cost" from a legal firm / contractual expert of repute. Accordingly, the opinion of a contract expert nominated by the IRC (Indian Road Congress ) and views of Law department have been obtained. The IRC expert has given contradictory opinion with respect to the observations made by the World Bank. However, the Law department while endorsing the views taken by the World Bank has not accepted the opinion of the IRC expert. The Law Department has categorically observed that as per the conditions of contract,

- a) The Contractors shall identify the quarries, burrow areas and other sources of materials required for the work.

- b) The Contractor under the said clause is required to be satisfied that the required materials are available in adequate quantities complying with the requirement of specification.
- c) It is the sole responsibility of the Contractor to study in detail before tendering the scope of taking the quarry on lease
- d) No claims shall be entertained on account of non-availability of materials and increase in leads

✓ After detail deliberation, the Committee took the following decision on the GSB issue;

1. The contractor shall arrange the materials as per the technical specifications stipulated in the contract at his own cost. He may also be allowed to use any other suitable materials matching with the technical specifications stipulated in the contract.
2. The payment to the GSB item already carried out by the Contractor with the use of crushed stone shall be made as per the original contract price.
3. The progress of the work should be expedited without compromising quality.

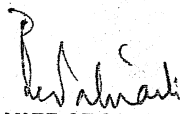
B) The Chief Engineer World Bank Projects further apprised the SLEC on the present status of the project with respect to World Bank's conditions on threat for loan suspension. He informed that most of the loan covenants have now been addressed. However there are some issues such as shifting of Community Property Resources (CPR, mostly unauthorized temple structures) which need to be expedited so as to complete all preconstruction activities for handing over of encumbrance free land to the contractors by 31<sup>st</sup> May 2011, i.e. the dateline fixed by World Bank . He requested intervention of Revenue Department for the same. The Committee suggested that Revenue department will communicate appropriate instructions to the concerned Collectors to address the issue of unauthorized temple structures as per the ruling of Supreme Court.

Chief Engineer also took the notice of SLEC on the Bank's condition of engaging independent third party for review of quality assurance system and quality of works including construction zone safety by an academic / research institute acceptable to Bank from a nearby state. He apprised the Committee that Bank has recently clarified that the task is a pre-condition for the interim supervision arrangement and thus to be procured and financed by Govt of Orissa's own procedures. ~~The Bank has also observed that NIT, Rourkela can be assigned for third party quality monitoring, provided the said institute is independent of any financial assistance from Govt. of Orissa.~~ The Committee agreed to such proposal of Bank and advised the Chief Engineer to go ahead with engaging NIT

Rourkela for the third party supervision with the payment schedule of NIT and as per the Terms of Reference (TOR) of World Bank.

In the previous SLEC meeting on 26<sup>th</sup>. April 2011, the proposal of Chief Engineer World Bank Projects for engaging one retired law officer and one retired Executive Engineer for the Project was discussed. It was informed by the Chief Engineer that expenditure in respect of above two retired officials shall be borne from the Project's operating costs. The Committee had suggested to seek clearance from Finance Department on the above issue.

The meeting ended with a vote of thanks to the Chair.

  
**CHIEF SECRETARY**

**List of Members who attended SLEC meeting on 7<sup>th</sup>. May 2011**

1. Sri Bijay Kumar Patanaik, IAS, Chief Secretary
  2. Sri R. N. Senapati, IAS, Development Commissioner
  3. Sri J. K. Mohapatra, IAS, Principal Secretary to Govt. Finance Department
  4. Sri D.Dash, Principal Secretary to Govt. Law Department
  5. Er. S. K. Ray, EIC-cum-Secretary to the Govt, Works Department
  6. Er. B. K Behera, Chief Engineer, (DPI&Roads)
  7. Er. N. K. Pradhan, Chief Engineer, World Bank Project
  8. Sri B. N. Dash , Joint Secretary to Govt. Revenue Department
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