

STANDING COMMITTEE ON LABOUR

(2018-19)

(SIXTEENTH LOK SABHA)

MINISTRY OF LABOUR AND EMPLOYMENT

[Action taken by the Government on the Observations/ Recommendations of the Committee contained in their Forty-Second Report (Sixteenth Lok Sabha) on 'Regulatory Framework of the EPFO on the Excluded Category vis-a-vis Implementation of Various PF Acts' pertaining to the Ministry of Labour and Employment]

FIFTY-FIFTH REPORT



LOK SABHA SECRETARIAT

NEW DELHI

February, 2019/ Magha, 1940 (Saka)

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Presented to Lok Sabha on 12.02.2019

Laid in Rajya Sabha on 12.02.2019



LOK SABHA SECRETARIAT

NEW DELHI

February, 2019/ Magha, 1940 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON LABOUR

(2018-19)

DR. KIRIT SOMAIYA - CHAIRPERSON

MEMBERS

Lok Sabha

2. Shri Udayanraje Pratapsingh Bhonsle
3. Shri Rajesh Kumar Diwakar
4. Shri Ashok Kumar Dohrey
5. Shri Satish Chandra Dubey
6. Shri Devajibhai Govindbhai Fatepara
7. Shri Satish Kumar Gautam
8. Dr. Boora Narsaiah Goud
9. Shri Rama Chandra Hansdah
10. Shri C. N. Jayadevan
11. Shri Bahadur Singh Koli
12. Dr. Arun Kumar
13. Shri Kaushalendra Kumar
14. Shri Hari Manjhi
15. Shri R. Parthipan
16. Shri Dayakar Pasunoori
17. Shri Hariom Singh Rathore
18. Shri Naba Kumar Sarania (Hira)
19. Shri Kodikunnil Suresh
20. Shri Mulayam Singh Yadav
21. Vacant

Rajya Sabha

22. Dr. Banda Prakash
23. Shri Ram Narain Dudi
24. Shri N. Gokulakrishnan
25. Shri Nazir Ahmed Laway
26. Shri P.L. Punia
27. Shri Rajaram
28. Shri Amar Shankar Sable
29. Ms. Dola Sen
30. Shri Madanlal Saini
31. Shri Akhilesh Prasad Singh

SECRETARIAT

1. Ms. Rhimjhim Prasad	-	Joint Secretary
2. Shri P.C. Choulda	-	Director
3. Shri C. Vanlaluata	-	Additional Director
4. Shri Devudu Babu Badireddi	-	Executive Assistant

INTRODUCTION

I, the Chairperson, Standing Committee on Labour (2018-19) having been authorized by the Committee do present on their behalf this Fifty-fifth Report on Action taken by the Government on the Observations/ Recommendations of the Committee contained in their Forty-second Report (Sixteenth Lok Sabha) on 'Regulatory Framework of the EPFO on the Excluded Category vis-a-vis Implementation of Various PF Acts' pertaining to the Ministry of Labour and Employment.

2. The Forty-Second Report was presented to Lok Sabha and laid in Rajya Sabha on 9th August, 2018. The Ministry of Labour and Employment furnished their replies indicating Action Taken on the Observations/ Recommendations contained in the Thirty-Fourth Report on 4th February, 2019. The Committee considered and adopted the Draft Report at their sitting held on 11th February, 2019.
3. An analysis of the action taken by the Government on the Observations/Recommendations contained in the Forty-Second Report of the Standing Committee on Labour (Sixteenth Lok Sabha) is given at Appendix-II.
4. For ease of reference, Observations/ Recommendations of the Committee have been printed in thick type in the body of the Report.

New Delhi;
11th February, 2019
22nd Magha, 1940 (Saka)

DR. KIRIT SOMAIYA
CHAIRPERSON,
STANDING COMMITTEE ON LABOUR

REPORT

CHAPTER-I

This Report deals with action taken by the Government on the Observations/Recommendations of the Committee contained in their Forty-Second Report (Sixteenth Lok Sabha) on 'Regulatory Framework of the EPFO on the Excluded Category vis-a-vis Implementation of Various PF Acts' pertaining to the Ministry of Labour and Employment.

2 The Forty-Second Report was presented to Lok Sabha and also laid in Rajya Sabha on 9th August, 2018. It contained 5 Observations/Recommendations. Replies of the Government in respect of all these Recommendations have been received and are categorized as under:-

(i)	Observations/Recommendations which have been accepted by the Government – Rec. Para Nos. 2.6	Total:01 Percentage: 20%
(ii)	Observations/Recommendations which the Committee do not desire to pursue in view of the Government's reply – Nil	Total:00 Percentage:00
(iii)	Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration – Rec. Para No. 2.13	Total:01 Percentage: 20%
(iv)	Observations/Recommendations in respect of which replies of the Government are interim in nature- Rec. Para No. 3.8, 4.16 and 5.2	Total:03 Percentage: 60%

3. The Committee desire that Action Taken Notes in respect of Observations/Recommendations contained in Chapter I and final action taken reply in respect of the Recommendation contained in Chapter V of

this Report, for which interim reply has been given by the Government, may be furnished to them at the earliest.

I. Various PF Acts and their Regulatory Ministries/Organisations in the Country

(Recommendation Para No. 2.13)

4. In their original recommendation, the Committee had observed as under:

"The Committee express satisfaction that following the serious concern expressed by them, the Ministry of Labour & Employment made concerted efforts for bringing PF Act, 1925 under its Allocation of Business Rules (AoBR), by requesting the Ministry of Finance, (Department of Financial Services) to either bring the trusts under the PF Act, 1925 under the regulation of PFRDA in accordance with section 12 of PFRDA Act, 2013 which applies to New Pension System (NPS) or to assign the task to manage these funds to EPFO. However, the Department of Financial Services stated that jurisdiction of PFRDA may not cover PF Act, 1925 and gave its consent to the Ministry to go ahead and start regulating the PF trusts under PF Act, 1925. Thereafter, the Ministry of Labour & Employment requested the Cabinet Secretariat to allocate PF Act, 1925 to Ministry of Labour & Employment, under AoBR, which has since been done. This would enable them to create or structure to bring trusts formed under the much needed regulatory framework. The Committee have also been informed that there is a consensus between various Government departments that EPFO be made the sole authority to regulate all the PF trusts under PF Act, 1925 including Excluded, Exempted and other organisations. The Committee hope that a decision would soon be arrived at on the matter. The Committee, exhort the Government to either draft new Act on the lines of EPF&MP Act, 1952 or amend the EPF&MP Act, 1952 by inserting the relevant provisions of PF Act, 1925 and also to frame the guidelines to deal with the large PF amount lying unclaimed in operative PF accounts."

5. In their Action Taken Note furnished to the Committee, the Ministry of Labour and Employment have stated as follows:

"The scope of EPF& MP Act, 1952 and PF Act, 1925 is entirely different. EPF is meant for industrial worker drawing wages as notified from time to time by the Government which at present is Rs. 15,000 pm. Therefore, this Act mainly covers low wage earning industrial worker in formal sector whereas PF Act, 1925 covers mostly Government and semi-Government employees drawing wages much higher than applicable to EPF Act, 1952. It can be said that employees covered under both the Acts are entirely different to each other. Further, the pension scheme governing the two classes of employees is also entirely different. The pension scheme under EPF& MP Act, 1952 is defined benefit scheme whereas the

employees under PF Act, 1925 mostly enjoy the pension scheme equivalent to Government employees' pension."

6. While expressing satisfaction that following the serious concern expressed by them, the Ministry of Labour & Employment made concrete efforts for bringing PF Act, 1925 under its Allocation of Business Rules (AoBR) like obtaining the consent of the Ministry of Finance to have the Ministry of Labour & Employment to start regulating the PF trusts under PF Act, 1925 and also requested the Cabinet Secretariat to allocate the PF Act, 1925 to the Ministry of Labour & Employment, the Committee had exhorted that the Government to either draft new Act on the lines of EPF&MP Act, 1952 or amend the EPF&MP Act, 1952 by inserting the relevant provisions of PF Act, 1925 and to frame the guidelines to deal with the large PF amount lying unclaimed in operative PF accounts. The Ministry in their Action Taken Reply have stated that the scope of EPF&MP Act, 1952 and PF Act, 1925 is entirely different like EPF is meant for low wage industrial workers who are drawing wages of Rs. 15,000/- per month, whereas PF Act, 1925 covers mostly government and semi-government workers. the Committee once again exhort the Ministry to either draft new Act on the lines EPF&MP Act, 1952 or amend the EPF&MP Act, 1952 by inserting the relevant provisions of PF Act, 1925 and also to frame the guidelines to deal with the large PF amount lying unclaimed in operative PF accounts and apprise them accordingly.

CHAPTER-II

OBSERVATIONS/RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

(Recommendation Para No. 2.6)

The Committee at every stage of examination of the subject was constantly concerned to note that all Provident Fund trusts governed under the Provident Fund Act, 1925, are not regulated by any regulatory authority, such as Pension Fund Regulatory and Development Authority (PFRDA), EPFO etc., and thus feel that the present situation may lead to curtailment of social security benefits to workers who are members of these trusts. Even the Ministry of Finance have clarified that the jurisdiction of PFRDA under PFRDA Act, 2013 may not cover PF trusts under the PF Act, 1925 as the PFRDA Act applies to NPS (National Pension System) and unregulated pension schemes, which are not regulated by an Act. Hence, they have concurred with the view of the Committee that there is a need to regulate the unregulated PF trusts as good governance can optimise pension outcomes for subscribers of a PF trust. The Ministry of Finance have also supported the idea that the Ministry of Labour & Employment may start regulating the PF trusts under the PF Act, 1925. In this connection, the Committee further note that Provident Fund Act, 1925 does not appear in the List of Business allocated either to the Ministry of Finance or to Ministry of Labour & Employment under Allocation of Business Rule (AoBR). Thus, until recently, there was no Ministry at the Central level to monitor or regulate the organisations/ establishments under Provident Fund Act, 1925. However, after a detailed interaction of the Committee with various stakeholders on the matter, they were informed that the subject 'Administration of PF Act, 1925' has been allocated to Ministry of Labour & Employment under the AoBR. The Committee, therefore, desire the Government to conduct an expeditious study of all such Establishments/ Organisations PF trusts. They further, observe that the Government upon active examination of the subject by the Committee positively considered and revised the AoBR and allocated the business of administration of the PF Act, 1925 to the Ministry of Labour & Employment as it also has the necessary expertise and specialisation in matters concerning Provident Funds.

Reply of the Government

The Provident Fund (PF) Act, 1925 was allocated to the Ministry of Labour and Employment by the Cabinet Secretariat under the Government of India (Allocation of Business) Rules, 1961 vide notification having number S.O. 3141(E) dated 26.6.2018.

A committee has been constituted by the Ministry of Labour & Employment on 30.10.2018 under the Chairmanship of Additional Secretary, Labour & Employment for amendments to be carried out in the Provident Funds (PF) Act, 1925 with Additional Secretary and Financial Adviser, Ministry of Labour and Employment, Central Provident Fund Commissioner, EPFO, Joint Secretary(in-charge of EPFO), Ministry of Labour and Employment and Additional Central Provident Fund Commissioner(HQ), Compliance in EPFO as members. The committee held its meetings on 09.11.2018 and 22.11.2018. In the meeting held on 22.11.2018, it was decided to collect the addresses; e-mails of all the institutions listed in the Appendix to the PF Act, 1925 for the purpose of correspondence with them. The addresses have been collected in most of the cases through internet and letters to institutions were sent by Ministry of Labour & Employment on 29.11.2018 to provide information about the Provident Funds as per the Template/Proforma (Annexure -I). To enable these institutions to seek any clarification a Nodal Officer (RPFC-I Compliance) has been nominated in EPFO Head Office.

(Ministry of Labour & Employment OM No. H-11013/05/2017-SS-II dated 04.02.2019)

CHAPTER-III

OBSERVATIONS/ RECOMMENDATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLY

NIL

CHAPTER-IV

OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

(Recommendation Para No. 2.13)

The Committee express satisfaction that following the serious concern expressed by them, the Ministry of Labour & Employment made concerted efforts for bringing PF Act, 1925 under its Allocation of Business Rules (AoBR), by requesting the Ministry of Finance, (Department of Financial Services) to either bring the trusts under the PF Act, 1925 under the regulation of PFRDA in accordance with section 12 of PFRDA Act, 2013 which applies to New Pension System (NPS) or to assign the task to manage these funds to EPFO. However, the Department of Financial Services stated that jurisdiction of PFRDA may not cover PF Act, 1925 and gave its consent to the Ministry to go ahead and start regulating the PF trusts under PF Act, 1925. Thereafter, the Ministry of Labour & Employment requested the Cabinet Secretariat to allocate PF Act, 1925 to Ministry of Labour & Employment, under AoBR, which has since been done. This would enable them to create or structure to bring trusts formed under the much needed regulatory framework. The Committee have also been informed that there is a consensus between various Government departments that EPFO be made the sole authority to regulate all the PF trusts under PF Act, 1925 including Excluded, Exempted and other organisations. The Committee hope that a decision would soon be arrived at on the matter. The Committee, exhort the Government to either draft new Act on the lines of EPF&MP Act, 1952 or amend the EPF&MP Act, 1952 by inserting the relevant provisions of PF Act, 1925 and also to frame the guidelines to deal with the large PF amount lying unclaimed in operative PF accounts.

Reply of the Government

The scope of EPF& MP Act, 1952 and PF Act, 1925 is entirely different. EPF is meant for industrial worker drawing wages as notified from time to time by the Government which at present is Rs. 15,000 pm. Therefore, this Act mainly covers low wage earning industrial worker in formal sector whereas PF Act, 1925 covers mostly Government and semi-Government employees drawing wages much higher than applicable to EPF Act, 1952. It can be said that employees covered under both the Acts are entirely different to each other.

Further, the pension scheme governing the two classes of employees is also entirely different. The pension scheme under EPF& MP Act, 1952 is defined benefit scheme whereas the employees under PF Act, 1925 mostly enjoy the pension scheme equivalent to Government employees' pension.

(Ministry of Labour & Employment OM No. H-11013/05/2017-SS-II dated 04.02.2019)

CHAPTER-V

OBSERVATION/RECOMMENDATION IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT ARE INTERIM IN NATURE

(Recommendation Para No. 3.8)

The Committee during their in depth examination of the issue of Provident Funds, have noticed that at present there are various categories or types of Provident Funds (PFs) under various ministries. This has also dispelled the myth that EPFO is the sole PF organisation/ Regulator in the Country for regulating the PF trusts, as there are atleast 3 different types of Provident Funds in the country, i.e PF under PF Act 1925, excluded institutions under Employees' Provident Fund and Miscellaneous Provisions (EPF&MP) Act 1952; exempted organisations/establishments under EPF&MP Act 1952 and PF under EPF&MP Act 1952. Hence, under Excluded category of Institutions/ Organisations/ establishments, Banks/Coal Mines/ Academic Institutions/ Multi-State Cooperative societies/some PSUs etc, are covered which are excluded from the purview of EPFO as per of Section 16 of EPF&MP Act, 1952 and maintain their own trusts. Presently there is no specific body/ authority at the Central level to regulate these PF Trusts. The Committee are of the opinion that there is an urgent need of a regulator for the purpose of bringing workers under PF benefits, protecting the interest of the already contributing members, ensure the investments are done judiciously, which would yield maximum return with security, make use of unclaimed amounts lying with these trusts and prevent fraud, as had happened way back in case of Seamen's Provident Fund Organisation, where fraudulent investment of crores of rupees from the PF was made and redress the grievances of the contributors. The Committee are of the view that due to lack of a body at the Central level to regulate the PF trusts, these Organisations/ Establishments/ Institutions under PF Act 1925, may venture towards financial indiscipline. The Committee appreciate that after it started the examination of the subject the Government has amended Allocation of Business Rules and placed administration of the Act under the Ministry of Labour & Employment and therefore, recommend that the Ministry of Labour & Employment should now proactively explore the possibilities of amending the obsolete PF Act, 1925, merge all the PF trusts of all the Establishments/ Organisations under it into a single body/ trust and the same may be regulated by the Ministry of Labour & Employment, as is being done for Exempted Category under EPF&MP Act, 1952, for efficient working of all these trusts and to avert any future financial frauds.

Reply of the Government

The setting up of a regulatory body involves the complicated legal process as well as the approval from the Ministry of Law and Justice, Ministry of Finance, etc. and the Cabinet. Therefore, the regulatory body of EPFO or setting up a new body is being examined in detail and will take some more time. To arrive at any conclusion and decide an appropriate process the information from establishments/organizations under PF Act, 1925 was called in a Performa but only 29 establishments have, therefore, provided the information till 14th January, 2019 and the remaining institutions have been reminded on 24.01.2019. The data of those 29 establishments reveal that 14 establishments are controlled by Central Government and 04 by State Government. The rate of contribution is also varying a lot as 7 establishments are contributing @ minimum 6% just like government employees contributing in GPF and some are contributing 8%, 10%, 12%. 13 establishments are having PF Trust to look after provident funds.

(Ministry of Labour & Employment OM No. H-11013/05/2017-SS-II dated 04.02.2019)

(Recommendation Para No. 4.16)

During the course of the examination of the subject, the Committee had observed that there was no formal regulatory/ monitoring system at the Central level for Provident Funds Trusts of excluded establishments/ organisations. They further observed that some of these for instance, Banks/ Private trusts etc. have made their own separate rules arbitrarily to administer/ manage their PF trusts independently. Further, some of these Organisations/ Establishments do not have any regulatory system which could lead to financial indiscipline. The Committee feel that there is an urgent need to regulate these unregulated provident funds trusts and completely agree with the view that good governance can optimise pension outcomes for subscribers of PF trusts while bad governance can hurt those subscribers. The Committee have also been informed that organisations/ establishments regulated under EPF&MP Act, 1952 cannot, in their rules, specify any attachment of PF contribution lying in individual PF accounts, as section 10 of EPF&MP Act, 1952 provides for protection against attachments. However, due to lack of a specific regulatory body, some organisations/ establishments/ institutions like Banks/ Private trusts, in the name of disciplinary action, are found to be deducting penalty amount from the PF contribution of their employees which is arbitrary and illegal. Even RBI, EPFO and ESIC are covered under PF Act,

1925. As these institutions don't have any specific regulatory authority, the Committee feel that there is an urgent need to establish norms to act as guidelines for the excluded establishments/ organisations under PF Act, 1925 in/formulating their own rules, in the interest of uniformity and welfare of employees. They, therefore, recommend that the Ministry of Labour & Employment should formulate stringent guidelines for the same. The Committee also recommend setting up of a regulatory body by the Ministry and desire them to take stringent action against such organisations/ establishments/ institutions which circumvent such norms.

Reply of the Government

The Ministry of Labour and Employment has sought data from the establishments/institutions covered under the PF Act, 1925 in November, 2018 by specially devising a template for the purpose. The template also includes submission of the detailed bye laws/rules framed by the establishments/institutions for the PF Scheme operational in their organisations. On receipt of the information from them, the Ministry will examine the issue in consultation with EPFO and devise model norms to act as guidelines for the establishments/ institutions covered under PF Act, 1925 in formulating their own rules, in the interest of uniformity and welfare of the employees.

Once the model norms are devised, it has to be adopted by the establishments/institutions covered under the PF Act, 1925 and the stringent action would be taken against the violators.

(Ministry of Labour & Employment OM No. H-11013/05/2017-SS-II dated 04.02.2019)

(Recommendation Para No. 5.2)

The Committee note that in India around 144 institutions are excluded from provision of EPF&MP Act, 1952 as all these are under the purview of PF Act, 1925. These institutions have their own PF trust, which they regulate themselves independently. The Committee also observe that certain business institutions/ organisations/ establishments are not registered under any category of PF which if not regulated properly, could have a severe impact on the welfare of their employees. The Committee therefore desire that the Ministry of Labour & Employment must now collect requisite data with regard to the total number of trusts of establishments/ organisations under PF Act,

1925, the number of subscribers, total contribution from the subscribers etc,. Only then any unclaimed amount lying in these trusts can be identified/ utilised for the benefit of its subscribers.

Reply of the Government

Consequent upon the allocation of the work relating to the “Administration of the Provident Funds Act, 1925 (19 of 1925)” vide S.O. 3141(E) dated 26.06.2018, the Ministry has devised a template seeking information from the institutions covered/notified under the PF Act, 1925 which inter-alia include complete address of the institution, the Ministry/Department of the Centre or the State Governments under whose jurisdiction the institution functions, corpus of the fund, number of subscribers, the type of investment guidelines followed, steps taken to safeguard funds, details of control mechanism over the trusts/society, etc. The information was sought vide letter dated 29.11.2018 followed by reminder on 24.01.2019.

(Ministry of Labour & Employment OM No. H-11013/05/2017-SS-II dated 04.02.2019)

New Delhi;
11th February, 2019
22nd Magha, 1940 (Saka)

DR. KIRIT SOMAIYA
CHAIRPERSON,
STANDING COMMITTEE ON LABOUR

APPENDIX-I**STANDING COMMITTEE ON LABOUR****(2018-19)****Minutes of the Thirteenth Sitting of the Committee**

The Committee sat on Monday, the 11th February, 2019 from 1030 hrs. to 1100 hrs. in Room No. 95-A, Chairperson's Chamber, Parliament House, New Delhi.

PRESENT**Dr. Kirit Somaiya – CHAIRPERSON****MEMBERS****LOK SABHA**

2. Shri Devajibhai Govindbhai Fatepara
3. Shri Kaushalendra Kumar, MP
4. Shri Hariom Singh Rathore, MP
5. Shri Naba Kumar Sarania, MP
6. Dr. Arun Kumar, MP
7. Shri C.N. Jayadevan, MP

RAJYA SABHA

8. Shri Ram Narain Dudi, MP
9. Shri N. Gokulakrishnan, MP
10. Shri Madanlal Saini, MP
11. Dr. Banda Prakash, MP

SECRETARIAT

1.	Ms. Rimjhim Prasad	-	Joint Secretary
2.	Shri P.C. Choudhary	-	Director
3.	Shri C. Vanlalruata	-	Additional Director
4.	Shri Kulvinder Singh	-	Under Secretary

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee, convened for consideration and adoption of the following draft Reports:

(i)	XX	XX	XX	XX
(ii)	XX	XX	XX	XX
(iii)	Draft Report on the Action taken by the Government on the Observations/ Recommendations of the Committee contained in their Forty-Second Report (Sixteenth Lok Sabha) on 'Regulatory Framework of the EPFO on the Excluded Category vis-a-vis Implementation of various PF Acts;			
(iv)	XX	XX	XX	XX
(v)	XX	XX	XX	XX

3. The Committee took up the Draft Reports one by one for consideration/ adoption and adopted the same without any addition/ modification.

4. The Committee then authorized the Chairperson to finalise the Reports in the light of consequential changes that might arise out of factual verification of the draft Report on 'Guidelines, Monitoring, Rating and Regulatory System, Status of Investment in Bonds and such Instruments - (Example of Infrastructure Leasing & Financial Services (IL&FS) by PF Funds, Pension Funds' and present the same to both the Houses.

The Committee then adjourned.

XX Does not pertain to this Report.

APPENDIX-II

(Vide Para No. 3 of the Introduction)

ANALYSIS OF ACTION TAKEN BY THE GOVERNMENT ON RECOMMENDATIONS CONTAINED IN THE FORTY-SECOND REPORT OF THE STANDING COMMITTEE ON LABOUR (SIXTEENTH LOK SABHA)

	Total	Percentage
I. Total number of Recommendations	05	
II. Observations/Recommendations which have been accepted by Government (Recommendation Para. No. 2.6)	01	20%
III. Observations/Recommendations which the Committee do not desire to pursue in view of Government's replies - Nil	00	00%
IV. Observations/Recommendations in respect of which Government's replies have not been accepted by the Committee and which requires reiteration – Recommendation Para No.2.13	01	20%
V. Observations/Recommendations in respect of which replies of Government are of interim in nature- Recommendation Para Nos. 3.8, 4.16 and 5.2	03	60%
	-----	100%
