

Title:

**Assessing Project Implementation Hindrances: The Case Study of
Tannery Industrial Estate Project**

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Certificate

This is to certify that Shabbir Ahmed, Deputy Secretary, Post and Telecom Division, bearing Roll number 126 of 126th Advanced Course on Administration and Development (ACAD) has prepared this seminar paper title on Assessing Project Implementation Hindrances: The case Study of "Tannery Industrial Project". He has done this seminar under my direct supervision for the partial fulfilment of the course. He has followed all my instructions during his work.

I wish him every success.

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ABSTRACT

Relocation of tanneries from Hazaribag to save the dwellers and the river from extreme pollution was a huge ask and a project named tannery Industrial Estate, Dhaka was taken back in 2003 to establish a tannery estate at Hemayetpur, Savar far from the Dhaka city. However, even after 16 years the project is yet to be completed; question of pollution of environment and interest of the primary stake holder that is the tanneries are yet to be resolved. During the implantation for the sake of fulfilment of the objective of the project, many steps were taken to complete the project.

For the government the project became an issue of deep concern as it is causing environmental pollution at the same time affecting the export of leather. However, unless and until the reasons for non-completion are known, the solution will not come automatically. The main issue of this study is to identify the main obstacles impeding the project and finding a way-out to overcome these problems and implement the project within speculated time. It requires to collect information regarding the project, procurement, contracting, contract management and analysing them qualitatively to single-out the reason(s) of obstacles which were yet not unfolded.

Thus, the study may dig out reasons and recommend solution for the interest of the country as issues like pollution of environment and export of leather. These issues are very much incorporated with the completion of the project and also, to recommend for future projects so that such type of obstacle(s) do not occur to impede the implementation of project.

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CHAPTER 1

Introduction

Tannery Industry has a long past; it started back in the 1940s at Narayanganj later on shifted to Hazaribag, Dhaka beside the river Buriganga in 1951 through a gazette notification and after that, the number of tannery units started increasing. The tanners main production was wet blue leather which was processed from raw hide which includes cutting raw hide to a shape, cleaning, chemical dozing to remove hairs, a series of cleaning. Then in the process, chromium is added which causes hide into leather involves a process which permanently alters the protein structure of skin, making it more durable and less susceptible to decomposition, and also possibly coloring it and this process is known tanning. This Wet Blue Hide is an export commodity. However, the industry got a new dimension after Wet Blue Hide was banned for export, new Industry of production of crust and finished leather evolved back in the 1990s. In 2010-11 total export was around 500 m.USD and 3% of export of Bangladesh (Paul et al. 2013).

However, no development comes free; tannery industries caused a heavy toll on the environment, river Buriganga, and the dwellers who lived in Hazaribag and on the sides of the Buriganga. Within 66 acres of area in Hazaribag more than 200 tanneries 20,000 people (Mohant et al. 2012) living in an extremely dense and unhygienic conditions. Hazaribagh area has a high incidence of some health problems. In this area the peoples are frequently suffering from abdominal skin ulcer, scabies, discomfort/gastritis, peptic ulcer, lung diseases, respiratory diseases, dermatitis, nasal ulcer/loss of smelling capacity, red-eye/other eye illness, running nose, erosion and discoloration of teeth, asthma, puffins of face and oedemic, diarrheal disease, high fever, conjunctivitis, urinary tract infection, jaundice, hypertension etc. Skin problem was widespread and frequent for workers in the tanneries and also for dwellers in Hazaraibag.

From these tanneries untreated effluent containing various types of chemicals including Chromium were released to the surroundings which ultimately went to the river Burigangna and the low-lying lands of Hazaribagh area became inundated by that effluent. The solid wastes (tin pieces of leather, excess fat, flesh and hair) used to be piled up at roadsides in front of the tanneries. Thus, the noxious leather tanning industries along the river bank of Buriganga at Hazaribagh have been turned out to be the principal threat to the environmental sustainability and the people living in the surroundings of Hazaribagh and Buriganga became vulnerable due to this degraded living environment.

In such a decades-long continuous severe threat to human life and environment High Court came into the scenario and Bangladesh Environmental Lawyer's Association (BELA) in 2003 filed a writ petition in the Supreme Court. In observance of ruling of the apex court, Government took steps to relocate the tanneries of Hazaribag to Hemayetpur, Savar to establish a Tannery Industry Town under the project "Tannery Industries Estate Dhaka" (in short TIED). Project in a nutshell: Physical capacity of the project was 200 acres of land by the river Dhaleshawri: the total area have space for Common Effluent Treatment Plant (CETP), Drain culvert, boundary wall, fire service, police fari, main gate approach road, sign board, street light, solid waste management etc. and rest of the space was divided into 205 plots for 155 nos. of tannery unit who were to be relocated from Hazaribag.

However, the owners of the tanneries of Hazaribagh represented by their associations namely Bangladesh Tanneries Association (BTA), Finished Leather, Leather Goods and Footwear Exporters Association (BFLLEA) were very reluctant to shift their decades-old possession to a new place remote from the Dhaka city (Shakil et al. 2016). However as per the order of the Hon'ble High Court, they were made to shift to the new place in the first quarter of 2017. A memorandum of Understanding was signed with the project implementing department Bangladesh and Cottage Industries Corporation (BSCIC) and the tanner's associations namely BTA and BFLLEA. Initially the Project value was only about 176 crore BDT (in 2003) which eventually became 1078.71.71 crore BDT, deadline 30 June 2019 at the third revision of the project in 2017; but the project is yet to be finished, though the project taken in 2003 was scheduled to be finished by 2005.

For more than one-and-a-half-decade time, the Government was under a constant brush fires from the media, National Commission for the Protection of the river, and Department of Environment (DoE), different organisations on the environment and the Hon'ble High Court in the process of the writ filed by BELA. This three-year tenure project took extensions after extensions and after spending sixteen years the project is yet unfinished. An ordinary citizen of this country might raise his eye-brow or frown or may give a cursory look into the facts of the project implementation.

CHAPTER 2

Literature Review

Regarding environmental pollution caused by tanneries and relocation from the heart of Dhaka city that is from Hazaribagh to another place along with environment friendly tanning process were a prime concern as pieces of research had been done in these regards as evident from local and international journals/articles/research paper/publications.

From these tanneries more than 20000 cubic meters of untreated effluent that were released had been dumped into the surrounding environment and the final address of these wastes were the Buriganga river and the low-lying lands of Hazaribagh area became a constant pond of vicious looking black pond with stringent odour where a new-comer may be at the brink of vomiting and other severe discomfort. Bhowmik, 2012 in their article showed categorically how tannery industries causing environmental pollution, economic impact of tannery industry in Bangladesh and the measures taken for relocation from Hazaribagh to Savar, role of Hon'ble Supreme Court and the fate of the project taken. The article concluded that from scientific point of view relocation to Savar was not a good option rather population at Hazaribagh might have been reduced along with steps to cost-worthy technical step to stop pollution also termed this relocation plan as political decision.

Azom et al. 2012 in their research detailed quantitatively about the chemicals used and polluting agents which caused environmental pollution. As per their study, the main chemicals used include sodium sulphite and basic chromium sulphate including non-ionic wetting agents, bactericides, soda ash, CaO, ammonium sulphide, ammonium chloride and enzymes. Others are sodium bisulphate, sodium chlorite, NaCl, H₂SO₄, formic acid, sodium formate, sodium bicarbonate, vegetable tannins, suntans, resins, polyurethane, dyes, fat emulsions, pigments, binders, waxes, lacquers and formaldehyde. Various types of processes and finishing solvents and auxiliaries are used, as well. It has been reported that only about 20% of a large number of chemicals used in the tanning process is absorbed by leather, the rest is released as waste. Hazaribagh which is the largest tannery region in Bangladesh consists of more than 200 tanneries generate 7.7 million litres of liquid waste and 88 million tons of solid waste every day. The direct discharge of these wastes has contaminated the ground and surface water with dangerously high concentrations of chromium, as well as cadmium, arsenic, and lead. The contamination of river also allows these pollutants to accumulate in common fish and shellfish species, which are used

as local food sources. In their study they concluded that tanning activities involve serious environmental hazards; so, adequate preventive measures should be taken in tannery industrial.

Due to the presence of high level of Chromium which is used in the tanning process, liver, kidney, gastrointestinal and immune systems are subject to adverse effect also may subject to cancer. As Chromium is easily soluble in water, so the groundwater in the tanneries suffers a high concentration of Chromium. So, drinking or using this water for daily use is not safe and without removal of Chromium, it is not safe to use underground water in that tannery area. Islam et al. 2019 in their study, concluded that Hazaribagh Tannery area needs proper treatment to the heavy metals especially hexavalent chromium (VI) as it is most harmful to human health.

Through many media report, talk-show, local and international journals/articles/research paper/publications showed their concern and specialist knowledge on pollution of the environment and hazard to human life caused by tannery industries, the commercial aspects of the tannery industries, the facts and procedure to relocate the tanneries from Hazaribagh. However, no guideline or specialist recommendations were evident to solve the problems instead confined to how pollution was done, put a debate on whether relocation to Savar was scientifically compatible. To resolve the existing problem in implementing the TIED project yet incomplete even after sixteen years of conceiving of the project. Therefore, this research attempted to address the knowledge gap regarding the implementation failure and to find a way to resolve the problem for completion of the said project and projects may come in future.

CHAPTER 3

3.1 Problem Statement

As this was and is a priority project of the Government, so support from the Government workforce from the implementing department Bangladesh and Cottage Industries Corporation (BSCIC) under the Ministry of Industries(MoI) of Government of Bangladesh were supposed to be good enough. From procuring to contract management there is well-codified rule the Public Procurement Rules,2008 (in short PPR-20080 under the Public Procurement Act,2006 (in short PPA,2006). But, still this two-year tenure project took extensions after extensions and after spending sixteen years the project is yet to be finished. As a result, pollution of environment and hazard to human life is still a big concern for tannery industries also the economics related to this business. As importers especially EU countries stopped importing from leathers from Bangladesh due to pollution issues as CETP is not complete and it's causing environment pollution.

The study investigated the existing loop-holes or hindrance or bottle-necks for non-completion of the project even after taking such a long time which paved the way to find out the apple of discord also recommendations to overcome.

3.2 Research Question(s)

- What were the main obstacles to the implementation of the TIED Project? Which started back in 2003 and yet to be finished?
- How government or project implementation body can successfully overcome these problems and implement the project within speculated time?

3.3 Objective(s)

- To identify the reasons hindering the implementation of the TIED Project.
- To assess the magnitude of the effect of the reasons which affected the implementation
- To suggest an abatement plan in compliance with the existing rules.

3.4 Rationale of the Study

As this project was a very tough issue for the Government since 2003 in the arena of media and Hon'ble High Court, the association of tanneries. National Commission for the Protection of the River and Department of Environment (DoE). The Government was repeatedly being a subject of attack from the stake holders, media. On many occasions Hon'ble High Court warned the Govt to complete the project as environment and Dhaleshawery river were under direct threat of pollution for failing to complete the project or taking too much time for the completion of the project.

Though it is the duty of a Project Director to complete a project even after the joint effort of BSCIC and Ministry, disputes could not be solved yet. **Due to the opportunity to know about the project in detail and media reports for non-completion of the project caused a**

knowledgebase about the project. Those things triggered a feeling that there must be a definite reason or reasons why the project is so ill-managed. Finding the reason(s) may yield a solution for completion of the project or in conceiving such project which will come to aid for the people of this land.

3.5 Methodology and Conceptual framework

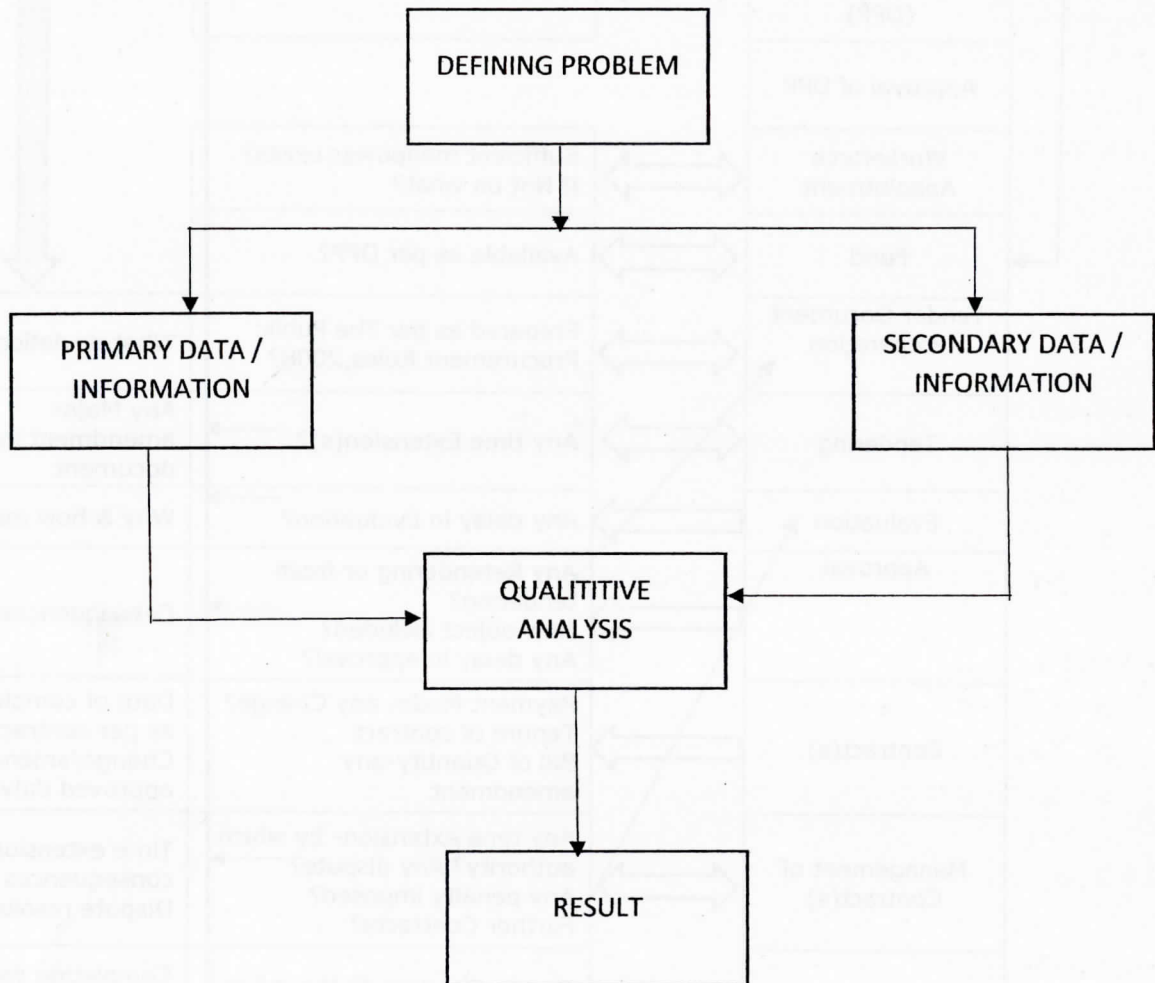


Diagram-1

Flowchart for data collection, data analysis and findings

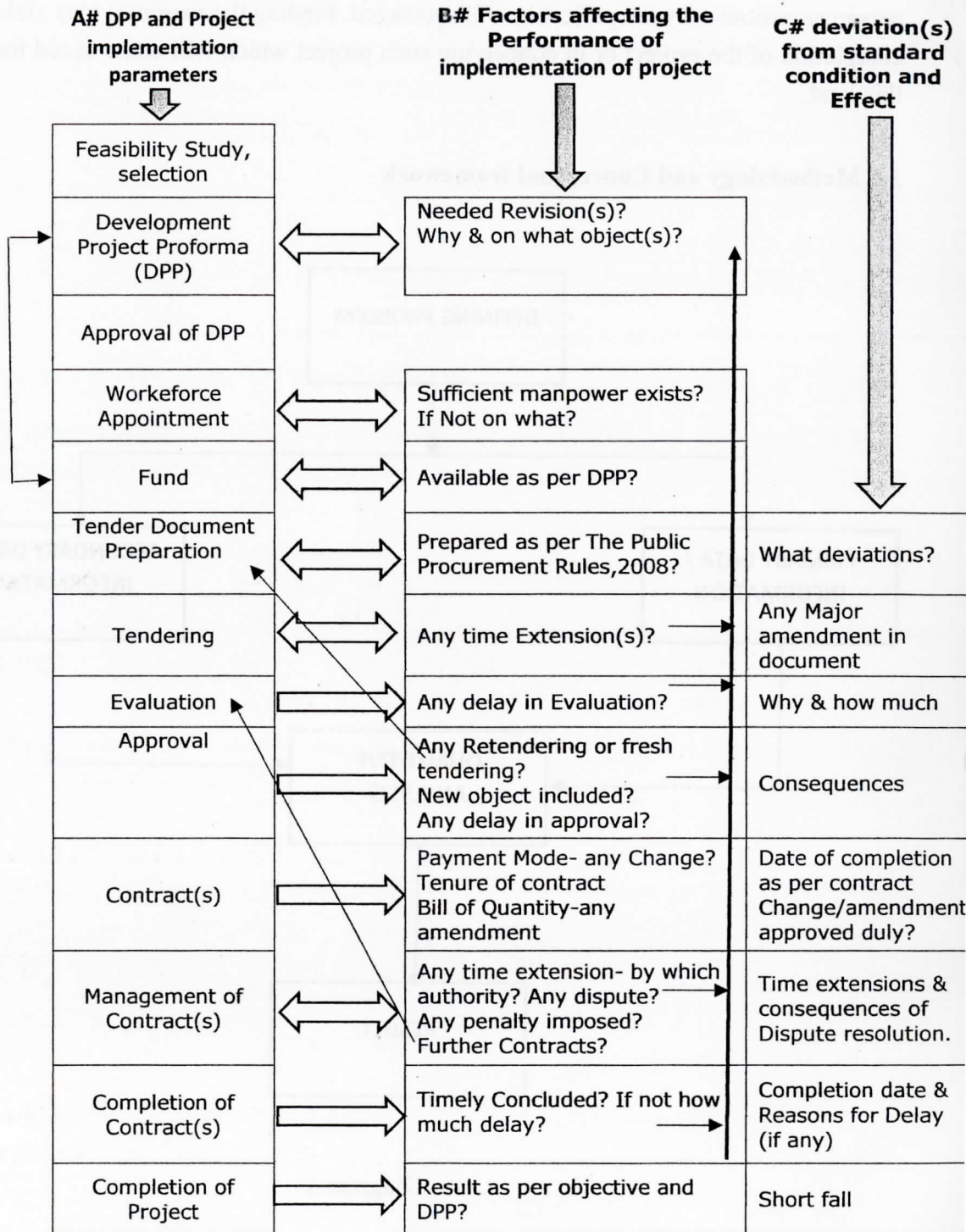


Diagram-2

3.5.1 Conceptual framework

For the conceptual framework as depicted in the diagram-2, there are parameters for DPP and project implementation on which information were collected. These informations were matched with the standard condition to check effect of the Performance of implementation of project; deviation(s) causing delay in implementation were scrutinized. These tools will pave the way to find-out the loop-hole which are the reason(s) for non-performance and at which point(s) those occurred.

3.5.2 Methodology

This research was of the inductive type of data analysis; qualitative data were collected from primary and secondary sources for analysis pictorially presented in diagram-1.

3.5.2(a) Primary data/Information: Primary data were taken from the concerned officials of the project, i.e. Project director, engineers, accounts officer and consultants of the project also some official documents. Mode of the interview was speak-easy type as of some discussion type; questions were both structured & unstructured, sometimes answers created new question and also cleared off many pre-set questions. Every answer was cross-checked with documentary evidence. In this method there is no hairline demarcation between primary and secondary data as the research is on an office performance related, so the verbal answer there must be supported by documentary proof or give a clue to an authentic document or any relevant law.

Interview for data collection paved the way for finding the Key informant in reality which provided specific answers to questions for the purpose of this research in quick time and with less disturbance to the working environment of that office; also interview taken at off-hours which were found more comfortable for both the sides. As government officers are normally not expressive when the issue comes so which may seem to be some criticism of any act of superior; so, they were convinced that source of information should not be disclosed. So, findings framed in a descriptive fashion without quoting or denoting the source. Moreover, this project is a very significant one in the national perspective as the tannery industry, export of leather and environment are collaterally related.

3.5.2(b) Secondary data /Information: Different progress reports, reports of consultant/ different stake holders, minutes of different meetings, DPP, PPR-2008, administrative orders, CETP contract, communications with the contractor of CETP.

3.5.2(c) Qualitative Analysis: Observation and analysis were done through phases of the total calendar length of the project by the study of the primary and secondary data/information thoroughly and testing consistency and compliances of PPR-2008, DPP or other relevant laws and emphasising the ultimate goal of this study.

Chapter 4

Project description and findings:

4.1 Project Background and Objective:

Tannery Industry started in the 1940s at Narayanganj later on shifted to Hazaribag, Dhaka beside the river Buriganga within a couple of scores of acres of area in Hazaribag more than 20 tanneries were in operation. Hazaribag area has a high incidence of several health problems. From these tanneries thousands cubic meters of untreated effluent along with other solid waste were released in the surrounding environment and the final address of these wastes were the Buriganga river and the low-lying lands of Hazaribag area. People of Hazaribag were living in an extremely dense and unhygienic conditions. There was constant pressure from locals of Hazaribag (who were not tanners) and other environmentalist to remove tanneries from Dhaka city though tanners were in no mood to shift from there decades-old possession. Bangladesh Environmental Lawyer's Association (BELA) in 2003 filed a writ petition in the Supreme Court which caused the Government to take steps with an objective to relocate the tanneries of Hazaribag to Hemayetpur Savar. Hence, to establish a Tannery Industry Town under the project "Tannery Industries Estate Dhaka" (in short TIED) to a remote place in an environmental friendly & business condition which will attract foreign investment, create more scope of export, job opportunity, condition for modernization of tannery industry, enhance export (estimated 1500-1600 crore BDT per annum) which will yield positive impact on GDP.

4.2 Project Details of DPP approved in 2003:

The Project value was **175.75** crore of BDT (81.75 crore from foreign source), Executing agency was Bangladesh and Cottage Industries Corporation (BSCIC) under the Ministry of Industries of Government of Bangladesh.

Project tenure: January 2003 to December 2005.

The project site was selected Hemayetpur, Savar beside the Dhaleshawri river, 200 acres of land for the project which is to be acquisitioned to accommodate 185 tanneries of Hazaribag (producing 1.80 square meters of leather) at plots of unique size where number of plots allotted vary as per existing capacity of tanneries. Main items of the project were a Common Effluent Treatment Plant (CETP) and a Dumping Yard for treatment, discharge and stock of the waste from tanneries in a modern way^{*1}. Other items for the industrial estate were: utilities (electricity

gas, post & telephone and water), roads, culvert, drain, police fari, fire service station, bank, insurance other offices for the industrial estate. From environmental point of view main items were CETP (budget was 77.0 crore BDT) and Dumping Yard (4.75 crore BDT).

Workforce was 9(nine) nos. Where project director (grade-3) is to be appointed in deputation and other 8(eight) posts are to be recruited for the project where there is one accounts officer, two engineers (civil and electrical), one cashier and other office assistant posts ^{*2}. For Consultancy and supervision (foreign consultant) there was the provision of 3.65 crore BDT. Terms of Reference were-(a) finalization of Lay-out plan of the estate and advising in the building of infrastructure, (b) design, drawing, bill of quantity, estimate, tender document, aiding in technical evaluation of tenders for CETP (c) supervision of construction works of infrastructure and CETP (d) after trial operation make arrangement for transfer of CETP from contractor to BSCIC.

4.3 DPP Revisions:

1st revision: In 2007, DPP was revised from **175.75 to 545.36 crore BDT** (fully GoB finance) where budget for CETP & Dumping Yard extended from **81.75** (77.0 +4.75 crore BDT) to **396.70** crore BDT also some new additions like CD/VAT, water supply (deep tube well), generator, power sub-station etc. For manpower provisions for workforce were also extended through deputation DGM(civil), AGM, DM(electrical/mechanical), AE(civil) and Extension officer/AE(mechanical) from direct recruit.

Project tenure extended up to June,2010.

2nd revision: In 2013, DPP was revised from 545.36 to **1078.71 crore BDT** (fully GoB finance) where budget for CETP & Dumping Yard extended from **396.70 to 638.79 crore BDT**. The whole area was divided under four modules of CETP and Sewage Treatment Plant (STP) was newly added to the system as it enhances CETP performance by bacteria growth along with some design changes. Also, other new items added to make the estate and the full project functionary and Solid Waste Management (4.0 crore BDT). Budget for consultancy increased from 4.15 to 7.0 crore BDT.

Project tenure extended up to June,2016 also another time extension up to June,2017.

3rd revision: In 2017, no change in the total value; some adjustment amongst items, budget for consultancy increased from 7.0 to 15.50 crore BDT, keeping the total project cost intact.

Project tenure extended up to June,2019.

4th revision: under process, only time will be **extended up to June,2020.**

4.4 Tendering stages:

(i) Appointing Consulting Firm for the Project:

On dated 20.07.2004 notice was given for Expression of Interest(EoI) and after due procedure under the Public Procurement Regulation,2003 (in short PPR-2003), a contract was signed on dated 30.10.2005 with M/S Dalmia and Co. Ltd. for survey, planning, design, estimate preparation of tender document, supervision for development of tannery Estate with integrated CETP and contract value was 3.65 crore BDT, contract tenure was up to 29.10.2008.

(ii) Tendering for CETP:

M/S Dalmia & Co. Ltd. submitted tender document on 14.05.2006; but prior to that an international competitive tender (ICT) was invited on dated 10.03.2006 and it was cancelled. Another ICT was invited on dated 28.06.2006 and it was cancelled for no submission and a re-tender was invited on 03.09.2006; but due to a single submission and overrate it was also cancelled. After 2nd re-tender was invited on 12.02.2007 (after correction on tender document), after tendering process notification of award (NoA) was issued against WB-DCL-JV on dated 11.11.2007 but later on dated 21.11.2007 NoA was postponed. 1st revision was done in 2007 and budget for CETP and Dumping Yard was enhanced from 81.75 to 396.70 crore BDT Project tenure extended up to June,2010. WB-DCL-JV filed a writ against the postponement and after nearly 02 year, Hon'ble High Court dismissed the writ on dated 22.07.2009. Contract with M/S Dalmia and Co. Ltd. was not continued due to poor performance; but also, not officially concluded.

(iii) Tendering for CETP (in new method):

In January 28,2008 the Public Procurement Rules,2008 (in short, PPR-2008) had come into effect. As per decision of Project Steering Committee (PSC) at its 12th meeting on dated 29.07.2009 immediately after the Hon'ble High Court verdict, Two Stage Tendering Method (TSTM) was selected and a 13 member technical committee was formed to prepare the tender document; the prepared document was also sent to Central Procurement Technical Unit(CPTU), IMED, Ministry of Planning for examining the document. Tender was invited on 23.11.2009; after due process of tendering sent for evaluation; in the 1st phase of evaluation, evaluation committee took **01-year months'** time (from 25.02.2010~26.06.2011) and in the 2nd phase of evaluation, evaluation committee took **2 and a half months'** time (from 04.07.2011~28.09.2011). After approval from

Cabinet Committee on Govt. Purchase (CCGP) finally contract was signed with JLEPCL-DCL-JV (joint venture of a Chinese and Bangladeshi contractor where the Chinese counterpart JLEPCL is the lead partner) on dated 11.03.2012, contract value around 64.357 million USD, tenure 02 years. (JLEPCL stands for Jiangsu Lingzhi Environmental Protection Co. Ltd., Jiangsu, China and DCL stands for Development Construction Ltd., Bangladesh.)

4.5 Contract implementation stages of CETP:

(i) Start of Contract Implementation:

Contractor provided lay-out plan and drawing-design within 04 months of contract signing, but approval given on 06.03.2011 that is couple of days prior to contract end date that is 10.03.2014; that is, nearly 20 months taken for approval of lay-out plan and drawing-design. Bureau of Research, Testing and Consultation of Bangladesh University of Engineering and Technology, Dhaka (in short, BRTC, BUET) was appointed as consultant on dated 16.03.2014 (nearly one week after the expiry date of the Contract) for check, evaluate & approve contractor's work plan, supervision, bill certification, assist to resolve problems regarding implementation as per CETP contract and dispute resolution and handing over of the project from contractor to BSCIC etc.; from that day implementation of civil works of the CETP contract actually started and contract completion time was extended obviously. In the meantime, **2nd revision** of the project was approved in 2013, DPP was revised from 545.36 to **1078.71 crore BDT** where budget for CETP & Dumping Yard extended from **396.70 to 638.79 crore BDT**. Project tenure extended up to June, 2016 also another time extension up to **June, 2017**.

(ii) Shipment of goods under the Contract:

Goods of 1st shipment were brought to the project site on July 2015. After that question arose regarding the quality of the goods supplied by the contractor, a team of Project, BSCIC and Consultant officials visited Contractor's facility and reported that goods imported and importable under the contract were of low quality; so they suggested two options; one to cancel the contract and appoint new contractor or import rest goods from other vendor by changing beneficiary of the L/C. A decision was taken in a meeting under the Ministry of Industries on 13th August, 2015 to import and implement the project via the local representative of JLEPCL and other JV partner

(iii) Complications regarding receiving 2nd shipment of 1st L/C, importation of rest of the goods and consequences:

Steps were taken to release the goods under **2nd shipment of 1st L/C** after meetings, decisions. But in the meantime port authority was about to **auction** the goods to cover the port demurrage; anyway finally those were released from the port after nearly 18 months and a heavy toll of port demurrage of nearly 4.0 crore BDT (burdened on the contractor JLEPCL); goods were released under a condition that no payment would be given to the contractor until found useful. In the meantime, 3rd revision was approved and Project tenure extended up to June,2019. New PD (a deputy secretary) in March/2017 took charge of the project. To import the rest of the goods, including items for dewatering unit (very vital part for sludge separation from effluent) under the capacity of the contract, contractor was requested in March/2017. But the pro forma invoice (it is required to confirm opening of L/C) submitted by the contractor for opening of 5th L/C which included many non-BoQ items. The contractor was requested to provide pro forma invoice as per BoQ of the contract.

This dispute ran nearly for 09 months. On dated January 08,2018 PD suddenly issued letter to the contractor to show cause why the contract shall not be terminated due to their failure to complete the project even after 7th extension and why 10% of contract value will be imposed as penalty and deduction of additional cost consultancy fee of BRTC, BUET from the contractor's bill. Contractor replied in January 28,2018 but no activity on it rather contract was continued and extended up to April 30,2018 with 10% of contract price only and also stated that their prayer for withdrawal of penalty imposed to facilitate the completion of pending work was sent to the Ministry also requested the contractor to submit a revised pro forma for 5th L/C. A step was taken on 12.02.2018 for not to implement the penalty rather from the final bill for the sake of the implementation of the contract; it was a request to the Ministry from BSCIC. But the status of opening the 5th L/C remained the same. Contractor remained adamant to their pro forma invoice which included some non-BoQ items also they stated their claims of payment pending for long time.

(iv) Consequences of non-completion of the project:

. This project was very much a volatile issue for media, BELA, Tanneries and others concerned regarding the pollution of environment and tannery business specially for export. Because due to reported pollution of environment from CETP, EU stopped import from tanneries under this CETP. The main item of proof of environment pollution from this CETP is passing of untreated tannery effluent from the Dumping Yard also from surface drain to the river Dhaleshawari. Photos and videos of these items were published/shown in the media also submitted to the Hon'ble High Court where a Writ was running for years. Hon'ble High Court warned the government couple of times for failure to complete the project and ordered to resolve the issues of disputes with the contractor and issue of 5th L/C, also tanneries were ordered to install sedimentation tank, mechanism to separate chrome line and other effluent complete placing of bar screen of different sizes (25mm, 12mm, 6mm), desalination. Important issues of turbulence of media, BELA, DoE were sludge along with untreated effluent was discharged to the dumping yard which eventually going to the Dhaleshawari river and another one was overflow of man-holes from effluent pipes causing them to pass to surface drain eventually to the Dhaleshawari river. Contractor was warned that polluting environment by their act of not installing the Dewatering unit was violative of the contract clause no GCC 30.1(c). To resolve the existing situation a **local innovative arrangement** was done by pumping back of liquid part from the dumping yard to the treatment process, and **rebuilding the dam** between the dumping yard and Dhaleshawari river **put a stop** of untreated effluent passing to the river. Tanneries were also issued letter to implement the High Court order as absence of bar-screen and sedimentation tank causing severe clotting in the man-holes causing over-flow to surface drain. At this stage the contractor claimed payment for 18 containers. But dilemma was that as a chunk of the same goods listed in the BoQ were imported via the new vendor. But JLEPCL was active in their demand as they are the contractor. Though the contractor was doing the routine works of CETP process, pumping back the liquid part from the dumping yard to the treatment process but yet not revised their pro forma invoice (which included non-BoQ items) and opening of 5th L/C became fall into the basket of dispute and also their claim of 18 containers becoming stronger and stronger and also they were not repairing the Chrome recovery unit. In spite of all such criticism on CETP especially on media, the test results as done by BRTC, BUET was very encouraging CETP's performance to treat the effluent (specially COD, BOD, Chromium) was found to be very good and in quantity it was more than

90% with a less success in Chrome treatment. All those facts were placed before the Hon'ble High Court and the Hon'ble High Court appraised the effort of the government to cope with the crisis. Hon'ble High Court (on hearing dated 1 August, 2018) also indicated long delays caused by the unresolved problems and discord with the contractor, stagnant condition of the project implementation, contractor is not returning to the project and directed BSCIC for a smooth takeover of the project along with some relevant directives.

Very recently 5th L/C was opened and shipments are to be cleared off from the port. But complications remained the same regarding the completion of Dewatering unit and there are some addition in the complications like (a) JLEPCL now demanding price escalation due to very lengthy implementation time (b) demanding to define the starting of test run period (as per document it is 06 month from completion; but reality is CETP is running for 02 years), (c) problem in receipt of payment by JLEPCL due to inertness of the JV partner DCL due to cheque book issue and JLEPCL reiterated their claim for payment of 18 containers which is yet to be resolved. June, 2019 is over and the project is yet to be completed even after final and 3rd revision, another time extension for the project is in the process.

(v) Very simplified view of CETP process:

Tanneries produce two types of effluent – (a) general effluent (containing different type of chemicals but no chromium) (b) Chrome effluent (obviously contains Chrome); these two types of effluent are produced from two different drums for processing. CETP receives these effluents through two set of conveyance system. Chrome effluent are passed through a Common Chrome Recovery Unit (CCRU) unit, after recovery effluent is passed to the main process for general effluent. General effluents are passed through a set of process (i) vortex grit chamber (to sediment the undissolved solids) then to (ii) equalization tank and oxidation ditches (main purposes are to aeration, chemical dosing and mixing for certain time for growth of bacteria (bacteria eats the chemical contents of effluent and then die causing a suspension type solid named SLUDGE). This sludge is taken to another process of sludge disinfection and dewatering is done as more than 80% of sludge is liquid, separated sludge is to be solidified and dropped to Dumping yard and liquid part is to be sent back to oxidation process. Treated effluent from oxidation ditch is sent to a disinfection tank and then discharged to the river. Main concern of treatment is reverting back of Chemical Oxygen Demand (COD), Biological Oxygen Demand (BOD) and Chrome level within a specified limit as specified by the ECR standard issued by DoE.

(vi) Problem scenario regarding reasons of pollution:

From Tannery side: Tanneries are supposed to release effluent to conveyance system through a set of bar screens and sedimentation tank, proper de-saltation, and de-liming discharge to be passed through general effluent line. But it was done to chrome line thus affecting chrome separation; but in reality due to absence of bar screens and sedimentation tank clotting was a common phenomenon and overflow occurred, for not adopting de-saltation effluent gets too much saline which also causes problem in chromium treatment. There is excessive use of water, chemicals and Chromium. Dropping chrome containing solid was like shaving dust, buffing dust to dumping yard or on the open surface causing chromium to get sipped through the ground to underground water level.

From CETP side: as CCRU is not working, chrome treatment is there but no chromium recovery, as a result chrome containing solids are stored on the open surface causing chromium to get sipped through the ground to underground water level. Another major setback is absence of Dewatering Unit which caused sludge along with liquid content is passed to the Dumping Yard (20% of total discharge) and the looks very vicious and anyone having a glimpse of it will say that it's horrible. With respect to cost of CETP, the cost for Dewatering Units pending parts is really very tiny but it's like cork of a bottle, without it the bottle is useless for carrying liquid or at least troublesome.

Chapter 5

Implications and Recommendations:

After analyzing the data gathered from primary and secondary source, the following observations were found:

A)

1) MoU between BSCIC and BTA and BFLLEA signed on 03 oct 2003 (a part of DPP), denoted that 21600 cubic meters of effluent produced from the tanneries per day containing harmful Chromium, Sulphur, Ammonia, and other things (also in project concept paper). But there should be a consideration that in a new broad business and environment friendly place amount of effluent may be at least 200% more as production will rise and expansions of tanneries is expected; but no such denotation was there.

In the MoU at clause-5, it is stated that tanneries may result in 61000 ton of solid waste yearly. These wastes will be stored in a well-designed Dumping Yard and time to time these wastes are to be used as land-fill and this dumping yard is to be managed by BTA and BFLLEA; but there is no demarcation of types of management of solid wastes. Because solid wastes are mainly of two categories: **(a) Pre-tanning:** (i) trimming (ear, tail, hair etc. from hide), (ii) fleshing (fat and meaty part attached to hide), **(b) Tanning:** (i) chrome shaving & chrome splits and (ii) buffing dust & dyed trimmings; last two parts are from chemical process containing chromium and these cannot be stored over green surface or dumped in soil but have to be specially treated so that chromium do not get into the surface/underground water. Item (a-ii) is simply fat and protein nearly 50% of total solid waste, very slithery. So how these solid wastes are to be managed and who will do what part and which way and mode of transportation have to be clearly denoted as environment and lot of open space are subject to pollution as it is one of the main reasons for relocation of tanneries from Hazaribagh. At the same time there is no clear picture whether city corporation are in a position to use these tannery wastes as land-fill as a big portion of these wastes carry chromium and other chemicals.

2) there is no Deputy Project Director (DPD) / Assistant Project Director (APD) Administrative Officer, Mechanical Engineer, Chemical/Leather Engineer post in the manpower list of the DPP. For proper management of the project, there should be at least one APD and one DPD. There were officers and staffs appointed from the very beginning of the project till to date, are doing all the accounts work, administration works, all sort of reporting works, deals with working paper and minutes of meeting, plot allotment and demurrage for relocated tanneries, all sort of day to day hassles (ordinary or critical), keep relationship with stake holders and locals, keep all sort of records in a systematic way.

B)

Project tenure extensions:

January/2003 – **December/2005**-June/2010-june/2016-June/2017-June/2019-**June/2020**.

So, 5 times than the original **time** estimation.

Project cost extensions:

in crore BDT, from **175.75** to 545.36 to 545.36 finally to **1078.71**

So, 6 times than the original cost estimation.

CETP costing extensions:

in crore BDT, From 81.75 to 396.70 finally to 638.79

So, nearly 8 times than the original cost estimation.

If full concentration is given on the CETP part of the project as it is the heart, lungs and brain of this project, it seems that when the project was conceived, there was no practical idea about CETP and its design, the magnitude of capacity etc. as CETP was a very new item for the country; so, there were lack of knowledge and experience.

C)

16 months taken from notice to contract; obviously there's a delay of nearly 10-12 months where chunk of this extended time was for evaluation (**nearly 07 month** though as per PPF 2003 it should be by 3 weeks).

D)

It is strongly evident that all these retendering or postponement was due to lack of a good tender document for a good contract for CETP. Practically, from June/2006 to July/2009 within these 03 years time there is no practical progress of CETP, though other works under the project was running. So, there was lack of knowledge and experience for preparing a good tender document for CETP.

E)

Evaluation committee took one and a half years' time; may be due to the complexity of the object of the tender or tender document and/or Bill of Quantity was not very clear as the evaluation committee sought many clarifications from tenderer in the process of evaluation. Moreover, project did not use consultant's document rather used the document prepared by the committee formed by the Ministry. Point to be noted that selection of tendering method is the function of Head of the Procuring Entity (HOPE) that is for this case Chairman, BSCIC. There was no consultant for the project or CETP to prepare document under TSTM, to aid in evaluation or to do supervision of work. Quantitatively it can be said the project took more than 06 years (20.07.2004~23.11.2009) just to make a tender document for CETP.

F)

Though the contract was signed the project and executing agency BSCIC was not ready to implement the contract; even a very important actor of project implementation that is Consultant was not appointed.

G)

A big twist regarding acceptance of imported goods and subsequent decision to import from another vendor other than the contractor during the legal tenure of the contract causing a breach of contract. As a consequence of continued delay in contract implementation, maximum and final penalty was imposed on the contractor. As per contractual condition penalty in terms of liquidated damage is to be imposed in phases (not the whole amount of penalty at a time) also there was no warning in the last time extension letter before the imposition of final penalty. So, conflict and dispute were being escalated but there was no procedure of dispute resolution; to settle down conflict there are steps like amicable settlement, adjudication and then arbitration but was not evident in the records of the project.

H)

The Conflict between the contractor and purchase reached to a stalemate condition. eighteen containers could have been received after shipment with the same conditions it had been received after 18 months along with a heavy financial burden of port demurrage. Merits and demerits for initiation of reason of conflict seemingly fall on both sides, Elements of conflict were brewing up after couple of months of signing the contract due to a very long time (nearly 02 years) for approval of design , then on quality of goods imported, appointment of new vendor, burden of huge penalty of port demurrage, non-payment of imported goods, finally penalty under the contract for delay in performance which ultimately caused a show cause notice for contract termination. New PD was a Deputy Secretary that is he was a 5th grade officer though as per DPP, PD will be a 3rd-grade officer and BSCIC will appoint PD.

D)

Government is on a frying pan while the contractor stayed unmoved also Hon'ble High Court commented such about the attitude of the contractor JLEPCL; they were playing their trump card by not completing the Dewatering unit as it caused the Government in a defensive position and at the same time they were on the lookout for the bills especially of 18 containers, other bills for completion of works at different phases, relief from penalty for delay, demand of price escalation etc.; opening of 5th L/C is not the panacea. Another point to be noted that since 2107 all the Project Directors were of 5th grade which does not fulfil the condition of DPP for appointment of PD. As per rule-38.6 of the PPR,2008 the Procuring Entity shall hand over the project or contract management to a capable, Project Director. So, appointing a capable PD is a pre-requisite for project implementation as per PPR,2008.

5.1 Detection of main obstacles to implementation of the TIED Project? Which started back in 2003 and yet to be finished

- (i) Executing agency BSCIC was not ready to implement the contract it took more than 06 years to make a tender document for CETP; lack of knowledge and experience on CETP.
- (ii) Absence of Consultant during tendering stage (which yielded a contract in 2012) as it caused another 02 years of delay just to approve the lay-out ad design submitted by the contractor.
- (iii) Tender Evaluation Committee took one and a half year; which also indicated that there was complexity of the object of tender or tender document and Bill of Quantity.
- (iv) Lack of professionalism in implementing the Contract which may be categorized as depicted below:
 - a) For bona fide reason a step was taken to import goods from another vendor but from legal point of view it caused breach of contract
 - b) A very late decision to receive the original contractors' goods without payment (18 container) along with heavy burden of pecuniary penalty burdened on the contractor
 - c) Imposition of final penalty of 10% of contract price without any prior warning caused the conflict to a stalemate condition.
 - d) No step to settle disputes amicably or through adjudication or arbitration as per the condition of the Contract.

This Lack of professionalism started back in August 2015 caused more delays since the first quarter of 2017 and continued till to date. The contractor did not leave the project also not completing the project. Though they made the CETP functional but playing their cards by leaving

one item incomplete De-watering which caused a vicious looking dumping yard also left CCRU unrepaired and all the stake holders the tanneries, media, DoE, BELA were continuously stating that nothing had been done for CETP though it is not the fact. The contractor is very cunning by not completing the Dewatering unit. Had it been completed the de-watering, there would have been no issue of non-completion of the project. The outlook of the dumping yard caused all the court procedure, media reports, blame of environmental pollution which caused an export barrier to EU market etc. and also the government is also under constant from stake holders and pressure groups.

5.2 Suggestions to overcome these problems and implement the project within speculated time:

One thing for sure, the project still is with the contractor along with the reasons of discord (a) payment of 18 container (b) payment of due bills (c) penalty of 10% of contract price on a ground that the contractor is fully liable for these delays and (d) other collateral issues for such a long period of implantation where the original contract tenure was 24 months along with test run for 6 months. Keeping those discord, discomfort and lack of trust of the contractor on the purchaser will not finally help to complete the rest around 5% of work (dewatering and repair of CCRU). Moreover, the treatment process of CETP is customised and the contractor (JLEPCL) has the patent right.

Another fact is that observance of the Public Procurement Act,2006 (in short PPA,2006) and the Public Procurement Rules,2008 (in short PPR,2008) is mandatory for both the parties. It provides how tender document shall be made (section 5 and 13 of the PPA,2006 and Rule-4.0,29 of the PPR,2008), how evaluation to be made (rule-98 of the PPR,2008), how project director to be appointed, how contract to be implemented with professionalism (rule-38,39,40 of the PPR,2008). Provisions of the tender document are mandatory for the same reason. As per section-4 of the PPA,2006, provisions of this law shall prevail over other laws.

So, solution is there in the law; by adopting the arbitration as per provision of the contract. Arbitration is done through the Arbitration Act,2001 where court of law will give a judgement which is binding on both the party as amicable settlement or adjudication is a far cry and the legal defect cannot be resolved through these processes. So, arbitration as per provision of the contract in observance of the PPA,2006 and PPR,2008 will settle the years-long conflict and pave the way for completion of the project.

Chapter 6

Conclusion

For development and economy of a country project is a must. This TIED project has other issues like environment, export of leather as well. However, the reality was that when the project was conceived, there was lack of knowledge and experience for establishing CETP. So, it is imperative to have proper knowledge, study on the subject matter of the project to be conceived. In the DP there shall be proper workforce. For the procuring part including appointment of project director and contract management observance of the PPA,2006 and PPR,2008 is mandatory. Any conflict during implementation of project, must be mitigated at the early stages. Through human judgement, there may be a lot of apparently smart-looking solutions but only the lawful decision will provide a sustainable solution.

Chapter 7

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