

## **Report of the Auditor General on Head 7 - Judicial Service Commission– Year 2017**

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The Appropriation Account and Reconciliation Statement under Head and Item Number stated in the First Schedule and Third Schedule of the Appropriation Act, No. 24 of 2016 as amended by the Appropriation (Amendment) Act, No.32 of 2017 were presented to Audit by the **Judicial Service Commission**. The financial and physical performance reflected by those accounts and the reconciliation statements were audited in terms of Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

### **1.2 Responsibility of the Chief Accounting Officer and the Accounting Officer for the Financial Management and Accountability**

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The Minister of Finance is charged with the raising of Revenue and the collection of other Government monies as well as with the general oversight of all the financial operations of Government in terms of Financial Regulation 124 of the Democratic Socialist Republic of Sri Lanka. The Chief Accounting Officers have been appointed by the Minister of Finance to discharge the above responsibility in terms of Financial Regulation 124(2). The Head of the Department will be the Accounting Officer in respect of all the financial transactions of his Department in terms of Financial Regulation 125(1)(a) and the Revenue Accounting Officer has been appointed by the Treasury. This responsibility includes designing, implementing and maintaining internal controls relevant to the maintenance, preparation and fair presentation of Accounts and Reconciliation Statements presented within the limitations imposed by Parliament in accordance with the provisions in Articles 148, 149, 150 and 152 of the Constitution of the Democratic Socialist Republic of Sri Lanka, other Statutory Provisions, Government Financial Regulations and Administrative Regulations.

### **1.3 Audit Scope**

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The audit of **Judicial Service Commission** – Head 7 for the year ended 31 December 2017 was carried out in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka in respect of designing of financial and physical performance, Government expenditure, Government revenue, management of human and physical resources, apply of internal control systems, compliance with laws, rules and regulations and maintenance of books, registers, records and reconciliation statements in an updated manner, preparation and presentation of accounts in timely manner, issuance of performance reports to respective parties based on the performance indicators. The Management Audit Report for the year under review was issued to the **Secretary of the Judicial Service Commission** on 20 September 2018. The audit observations, comments and findings on the accounts and the reconciliation statements were based on a review of the plans, accounts, reconciliation statements and performance reports presented to Audit and tests of samples of transactions. The scope and extent of such review and tests were such as to enable as wide an audit coverage as possible within the limitations of staff, other resources and time available to me.

## 1.4 Audit Observation

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The audit observations of the **Judicial Service Commission** for the year ended 31 December 2017 revealed in audit appear in Management Audit Report in detail, mentioned in paragraph 1.3 above. The material and significant audit observations out of the audit observations included in the Management Audit Report appear in paragraph 2.1 to 2.8 of this report. It was observed that the accountability as the Chief Accounting Officer had been satisfactorily executed, to ensure the adequacy of the financial administration subjected to the following summarized audit observations revealed in the execution of the provisions of the Financial Regulation 127 of the Financial Regulations of the Democratic Socialist Republic of Sri Lanka.

Accountability of the Chief Accounting Officer in terms of Financial Regulation 127	Non-compliance with that Provision by the Chief Accounting Officer	Reference to the Paragraph of the report Containing Observations
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Financial Regulations		
127 (1)(a)	Planning the financial work of his department so that the business is transacted with correctness and financial propriety.	1. Action Plan had not been prepared correctly 2.1 2. Deficiencies in the Performance 2.2 3. Making over provisions 2.4 4. Deficiencies in the Internal Audit 2.6 5. Failure to maintain registers and books 2.5
127(1)(b)	A system should be evolved providing adequate controls over expenditure and the collection of revenues.	1. Failure to conduct Audit and Management Committees 2.7 2. Deficiencies in the Human Resource Management. 2.8
127(3)	All cases of doubt or difficulty are referred to him so that he may bring his own administrative experience and judgement to bear on them.	1. Deficiencies in the assets management 2.3

## **2. Material and Significant Audit Observations**

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### **2.1 Planning**

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In terms of Public Finance Circular No.01/2014 dated 17 February 2014, the details on the organizational structure, approved cadre and the actual cadre should be included in the Action Plan. Nevertheless, details on the updated organizational structure, approved cadre and the actual cadre of the Commission for the year under review has not been included in the Action Plan.

### **2.2 Performance**

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In the examination of Action Plan and the Performance Report prepared by the Commission for the year under review, the following matters were observed.

- (a) According to the Action Plan presented to Audit for the year 2017, the general administration within the year, salaries and travelling expenses, human resource management, establishment of software system, establishment of e-mail system to the Sri Lankan court system, maintenance and other services, possible expenditure for purchasing and training programmes only had been covered by the key functions and attention had not been drawn on the main objectives.
- (b) Even though information regarding the matters referred to in following (i) and (ii) Paragraphs relating to the year 2015 had been called for by the Letter of Even No.JPA/B/JSC/2015/154(6) dated 06 September 2016 of the Superintendent of Audit, a notification had been made by the Letter of Even No.AG/28/2016 dated 27 September 2016 of the Attorney General that the above information could not be furnished. Similarly, by the Letter No. JPA/පොදු/2017/03 dated 16 January 2017, a request had been made to furnish the information relevant to the Performance Audit. Accordingly, it had been informed by the Letter No. MOJ/Reports dated 16 February 2017 of the Secretary to the Judicial Service Commission (Acting) that the Judicial Service Commission was not obliged to furnish the information thus requested relating to the High Court, District Courts and Magistrate Courts in terms of the decision given by the Attorney General. Similarly, it had been informed that the furnishing the copies of the circulars issued by the Judicial Service Commission to the Auditor General was not necessary. Due to the above matters, the performance relating to the matters referred to in following (i) and (ii) Paragraphs could not be examined pertaining to the year 2016 as well as the year under review.
  - (i) Examination of performance of the year under review on the appointment, promotion, transfer, dismissal of Judicial Officers and Scheduled Public Officers and execution of disciplinary control over them and transfer of the High Court Judges vested in the Judicial Service Commission by the Constitution of the Democratic Socialist Republic of Sri Lanka.

- (ii) According to the Performance Report 2017, although the brief notes on the performance of the Judicial Service Commission relating to the year under review had been stated, carrying out examination thereon, examination of the steps taken for the prevention of delays occurred in the settlement of cases despite being stated such steps (To recognise the courts that have cases older than 10 years and issue circulars and instructions to those courts to expedite the process of settling cases.), examination of old cases concluded.

### 2.3 Assets Management

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The following deficiencies were observed at the audit test check carried out on the assets of the Commission.

(a) **Idle and Underutilized Assets**

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A motor vehicle and a motorcycle belonging to the Commission had remained underutilized from the year 2017 and 2016 respectively.

(b) **Conduct of Annual Board of Survey**

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Although the Board of Survey for the year 2017 should be conducted and the report thereof should be furnished to the Auditor General before 17 March 2018 in terms of Paragraph 3.1.6 of the Public Finance Circular No.05/2016 dated 31 March 2016, the Commission had not taken action accordingly.

### 2.4 Utilization of Provision Made by the Parliament for the Execution of Activities

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Information relating to the provision made for the Commission during the 05 year period ended as at 31 December 2017, utilization, and the saving along with audit observations thereon, are as follows.

Year	Category of Expenditure	Net Provision	Utilization	Savings	Savings as a percentage of net provision
		Rs. Millions	Rs. Millions	Rs. Millions	
2013	Recurrent	36.67	32.86	3.81	10.39
	Capital	1.28	0.96	0.32	25.00
	<b>Total</b>	<b>37.95</b>	<b>33.82</b>	<b>4.13</b>	<b>10.88</b>
2014	Recurrent	37.51	34.12	3.39	9.04
	Capital	1.46	1.05	0.41	28.08
	<b>Total</b>	<b>38.97</b>	<b>35.17</b>	<b>3.80</b>	<b>9.75</b>
2015	Recurrent	41.69	36.89	4.80	11.51
	Capital	1.08	0.91	0.17	15.74
	<b>Total</b>	<b>42.77</b>	<b>37.80</b>	<b>4.97</b>	<b>11.62</b>

2016	Recurrent	47.70	44.83	2.87	6.02
	Capital	0.70	0.58	0.12	17.14
	<b>Total</b>	<b>48.40</b>	<b>45.41</b>	<b>2.99</b>	<b>6.18</b>
2017	Recurrent	60.50	55.37	5.13	8.47
	Capital	10.44	8.13	2.31	22.13
	<b>Total</b>	<b>70.94</b>	<b>63.50</b>	<b>7.44</b>	<b>10.49</b>

The following observations are made on the year under review.

### **Making overprovisions**

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Since overprovisions had been made for 09 Objects, savings after the utilization of provisions had ranged from 16 per cent to 51 per cent of the net provisions relevant to those Objects.

### **2.5 Non-maintenance of registers and books**

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The Commission had not updated the Register of Fixed Assets on computers, accessories and software as required by Treasury Circular No. IAI/2002/02 dated 28 November 2002.

### **2.6 Internal Audit**

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Although it has been emphasized by Financial Regulations 133 that the Accounting Officers should establish the Internal Audit Units in their departments to perform duties and responsibilities stated in Financial Regulations 128, an Internal Audit Unit had not been established in the Commission. Although the cadre had been approved for such unit, that cadre had not been provided as yet.

### **2.7 Audit and Management Committee**

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In terms of provisions in the Management Audit Circular No. DMA/2009(1)(i) dated 28 January 2016, the Audit and Management Committees should be established at the Secretariat of the Judicial Service Commission. Nevertheless, Audit and Management Committees had not been established in the Commission.

### **2.8 Human Resource Management**

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#### **Attached Cadre, Actual Cadre, and Expenditure on Personnel Emoluments**

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Particulars on the approved, actual, and vacant cadre as at 31 December 2017 were as follows. The Commission had spent a sum of Rs. 43.49 million for the year under review on personnel emoluments.

Category of Employees	Approved Cadre	Actual Cadre	No. of Vacancies
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(i) Senior Level	15	12	03
(ii) Tertiary Level	04	03	01
(iii) Secondary Level	73	37	36
(iv) Primary Level	<u>25</u>	<u>18</u>	<u>07</u>
Total	<u>117</u>	<u>70</u>	<u>47</u>

There were 40 vacancies of Senior Level, Tertiary Level and Secondary Level that directly contribute to the achievement of objectives and carry out functions of the Commission and it had represented 43 per cent of the approved cadre.