

CHAPTER-8

MISCELLANEOUS

8.1 Irregular change in use of land

Section 173-A of the Rajasthan Municipalities Act, 1959 prohibits any person to change the usage of land for which it was originally allotted or sold. However, as per rules framed (March 2000) thereunder by State Government, a ULB could permit any person to change the land use after recovering conversion charges at the specified rates.

The following observations were made:

(i) *Irregular permission for change in use of land in prohibited areas*

As per rules, change in use of land in prohibited areas including Nathdwara (Distt. Rajsamand) could be allowed by District Level Committee, but approval from State Government had to be obtained before implementation of the decision.

Contrary to this, without obtaining prior approval of District level committee (DLC) and State Government, MB, Nathdwara permitted (2000-2002) change in use of 2479 sq. yards land in 19 cases after recovering conversion charges of Rs 7.77 lakh only as against Rs 19.42 lakh, being the reserve price of the land.

(ii) *Non-initiation of action/non-recovery of charges on account of change in land use*

(a) As per survey conducted by MCJ, there were 102 marriage halls and 7000 shops in Jodhpur, being run in residential areas. The conversion charges recoverable approximately works out to Rs 10.20 crore in respect of marriage halls at Rs 10.00 lakh each and Rs 4.90 crore in respect of shops at Rs 7000 each. However, effective action to recover the amount from the owners had not been taken by MCJ (March 2004) resulting in deprivation of municipal funds by Rs 15.10 crore.

(b) In large number of cases, land and buildings constructed in the cities which were allotted or sold for residential purposes or cinema halls were being used unauthorisedly for other purposes e.g. hospitals, diagnostic centres, shops, commercial complexes, etc. However, neither action was initiated nor the demands for conversion charges were raised by the ULBs against these persons/institutions resulting in loss of revenue to Municipal funds. In three Municipal Corporations, MC Ajmer and three MBs, in 500 specific cases of change in land use, conversion charges of Rs 1.32 crore had not been recovered nor any action against the defaulters was taken. (*Annexure- XLVII*).

8.2 Regularisation of possessions in *kutchi basties* and *Abadi* land

The State Government decided (May 1999) to regularise *kutchi basties* unauthorisedly developed on urban land by recovering regularisation fees at specified rates with further instructions (June 1999) to transfer the *basties* situated on reserved land elsewhere. The Government also decided (June 2003) to complete the whole work by 15 August 2003 either by allotment or issue of certificates indicating the reasons for non-regularisation.

The State Government instructed (October 1999 and January 2002) not to regularise the unauthorised possessions of land in *kutchi basties* by employees of Government, Board, Corporations and Autonomous Bodies except those belonging to Class IV.

The following observations were made:

(i) *Non-eviction of unauthorised possessions by Government employees in kutchi basties*

In MCK, 8763 Sq. yards land unauthorisedly possessed by 125 employees (other than class IV) in 12 *kutchi basties* was not vacated as of March 2004 depriving the Corporation from valuable land, apart from encouraging further encroachments. This lapse calls for disciplinary action against these employees under rule 4 (C) of the Rajasthan Civil Services (Conduct) Rules, 1971 and action for eviction of possessions under the Rajasthan Public Premises (Eviction of Unauthorised Occupants) Act, 1964.

(ii) *Improper regularisation of unauthorised possessions of employees*

In disregard of instructions, JMC regularised (February 2004) 129.35 sq yards land costing about Rs 0.98 lakh unauthorisedly occupied by one Clerk of RSRTC, which was not in order.

(iii) *Incorrect regularisation of possessions on un-built area*

As per instructions, only built up area was to be regularised at concessional rates. However, JMC incorrectly regularised the possession on un-built area (open space) valuing Rs 28.49 lakh in 63 cases by recovering Rs 0.69 lakh only, instead of enforcing eviction of unauthorised possession from open space.

(iv) *Irregular regularisation of kutchi basties settled on forest land*

In violation of instructions (May 1999) of State Government, JMC erroneously regularised (1999-2003) possessions in 17 cases in nine *kutchi basties* which were settled on forest land without obtaining requisite approval from GOI under the Forests (Conservation) Act, 1980.

(v) Improper regularisation of unauthorised possessions on Abadi land

The State Government instructed (January 2002) to regularise at concessional rate, the unauthorised possessions/constructions done on *Abadi*³⁹ land prior to 31 December 1991. However MB, Nathdwara regularised (2002-2003) the unauthorised possessions on 8416 sq. yards land in 71 cases without obtaining any prescribed proof in support of the fact that the possession/construction had been done prior to 31 December 1991. This resulted in improper regularisation and short-realisation of regularisation fees to the tune of Rs 15.47 lakh, besides recovery of lease money amounting to Rs 10.04 lakh.

(vi) Non/ short recovery of regularisation fees

Regularisation fees of Rs 34.11 lakh was recovered short from 1650 occupants by 10 MBs during 1999-2003 (*Annexure-XLVIII*) which required to be recovered from them.

8.3 Regularisation of agriculture land used for other purposes

The State Government authorised (1999) JDA, ULBs and UITs to regularise agriculture land used for non- agricultural purposes in their respective jurisdiction by charging regularisation fees at specified rates from the tenants or plot holders. 40 *per cent* of the collected amount and five *per cent* of remaining amount was to be deposited into the Consolidated Fund of the State Government and Urban Renewal Fund respectively. The remaining amount was to be utilised by the concerned agency for development works.

It was observed that:

(i) 13 MBs did not deposit regularisation fees of Rs 46.95 lakh into the Consolidated Fund of the Government and Rs 1.31 lakh into the Urban Renewal Fund even after lapse of one to four years of the recovering of fees from occupants reportedly due to poor financial condition of the MBs (*Annexure-XLIX*).

(ii) Rs 39.72 lakh to be utilised by two MBs for development works was diverted for payment of salary/other items or was lying unutilised in their PD accounts for one to three years (*Annexure - L*).

8.4 Non-realisation of lease money on conversion/regularisation of lands

Rules⁴⁰ provide for collection of lease money at 2.5 *per cent* of reserve price in case of residential land and at five *per cent* in the case of commercial land.

39. Land falling in inhabited area within municipal limit.

40. Rule 7 of Rajasthan Municipalities (Disposal of Urban Land) Rules, 1974.

However, in the cases of regularisation or conversion or sale of land use by 17 MBs during 1999-2003-lease money of Rs 4.39 crore was not realised in 2408 cases (*Annexure - LI*).

8.5 Lack of clear-cut demarcation of jurisdiction/activities among different executing agencies

In the jurisdiction of an ULB, four other departments/agencies⁴¹ were also engaged in execution of development works like roads, drainage, sewerage, toilets etc. and various activities like lighting, plantation, etc. However, there was neither clear-cut division of area /activities nor any committee was set up to coordinate the works/activities amongst them leaving room for overlapping or duplication of efforts and also ignoring the integrated development of the cities in a coordinated manner. The State Government needs to evolve suitable mechanisms in this regard.

8.6 Non-revision of rates of fines and penalties even after lapse of 44 years

Fines and penalties for committing various offences/nuisances punishable under the Act⁴² are still leviable with ceilings of Rs 25, Rs 50 and Rs 200 in each case, as these had not been enhanced for the last 44 years after the Act was enacted in 1959.

Such petty fines/penalties also lead to non-compliance/ violation of the provisions of the Act easily and frequently. Hence, the State Government may consider suitable amendments in the Act to enhance ceilings of fines and penalties.

8.7 Organising lesser number of meetings than required

Meetings of General Body and Executive Committee (EC) of a municipal body were to be held once in a month for which Chairpersons and CEOs /Commissioners/ EOs were made responsible.

It was observed that JMC held (2001-2003) only 10 and 16 meetings of General Body and EC resulting in shortfall of 58 and 33 *per cent* respectively. Similarly, in 11 MBs there was shortfall ranging from 15 to 77 *per cent* for

41. UIT/JDA, PWD, RUIDP and Rajasthan Housing Board.

42. For example: Non- tethering of cattle (Section 229: Rs 25), unauthorised marketing and slaughter of animals (Section 236: Rs 25), using offensive manure, etc (Section 228: Rs 25), other nuisances (Section 232 : Rs 25), obstruction of person employed by the Board (Section 237: Rs 50), non-prevention of dangerous diseases (Section 238 : Rs 200) and construction of building in prohibited area (Section 171 : Rs 200).

meetings to be called for (*Annexure- LII*). Serious irregularities/shortcomings/cases of violation of rules as noticed in audit and pointed out in foregoing chapters/paras could have been avoided or attention drawn to such irregularities in time, if the meetings were held regularly.

8.8 Non-production of records to Audit

CEOs/ Commissioners/EOs were required⁴³ to produce to Audit all the records maintained by municipalities and the requisite information in complete form within a reasonable period.

Records maintained by two Corporations, two MCs and 12 MBs and certain information requisitioned by Audit parties in the course of audit, had not been produced for audit scrutiny (*Annexure LIII*) despite several reminders due to which veracity of expenditure of Rs 67.43 lakh could not be checked in audit.

8.9 Lack of responsiveness to Audit resulting in erosion of responsibility

CEOs / Commissioners/ EOs were required⁴⁴ to take prompt steps to remove any defect or irregularity brought to notice in the course of audit or pointed out in audit reports. The audit objections together with explanations of the Municipal staff thereon were also required to be considered for passing resolutions in a meeting of General Body held not more than a month after receipt of the audit note.

Following observations were made :

(i) At the end of February 2004, 2471 IRs containing 22522 paragraphs for the period up to 1980-81 and 3458 IRs containing 58478 paragraphs for the period from 1981-82 onwards on the accounts of ULBs issued by Director, Local Fund Audit remained outstanding for settlement. Of these, 449 cases involving Rs 1.43 crore related to embezzlement, recovery of which had not been made from the erring/defaulting employees.

(ii) 20 IRs of all the 20 ULBs issued (April 2002 to December 2003) by Principal Accountant General (Civil Audit) containing 305 paragraphs were also pending settlement as of June 2004.

Pendency of IR paragraphs as ascertained in Audit was mainly due to non-compliance of audit memos issued by audit parties at the spot, non-initiation of prompt action by CEOs/Commissioners / EOs on the audit objections, non-

43. Rule 14 (3) of Rajasthan Municipalities Accounts Rules, 1963 and DLB circular letter No. 29951-30139 dated 25 March 2003.

44. Section 307(3) of Rajasthan Municipalities Act, 1959 and Rule 15(1) of Rajasthan Municipalities Accounts Rules, 1963.

submission of IRs along with replies in the General Body meeting and non-sending of compliance to DLFA / PAG for settlement.

8.10 Conclusion

The State government deprived the Urban Local Bodies (ULBs) from grants-in-aid and entertainment tax to the extent of Rs 79.48 crore. Deviations from prescribed accounting procedures and financial indiscipline such as non-reconciliation of differences in cash balances, excess expenditure over budget provisions, non-depositing of statutory deductions and lease amount to Government/relevant department and mis-reporting through utilisation certificates were observed in audit.

There was inadequacy of internal controls and monitoring mechanisms in the ULBs and outstanding advances and various dues on account of cost of land, tax and non-tax receipts have not been recovered for long periods. Obligatory house tax was not collected at all in 65 ULBs. Assessors were misusing their discretion to the disadvantage of government revenues by under-assessment of tax. There was shortfall in revenue collection targets and leakage of revenue.

Implementation of schemes was inefficient due to deviations from the prescribed guidelines, non-utilisations and diversions of funds. Irregular, excess and avoidable expenditure of Rs 1.38 crore in the executions of works were noticed and some works had been left incomplete after spending Rs 1.71 crore. Municipal assets were either lying unutilised or were not being used for the intended purpose. Encroachments on the land worth Rs 59.45 crore had not been removed indicating laxity on the part of concerned officials.

Management and handling of municipal solid wastes, bio-medical wastes and slaughter houses was ineffective and critical facilities such as carcass utilisation centre and sewerage treatment plant were not established, causing serious health hazards to the public and environmental pollution. In some ULBs equipment and other facilities were not available for fire fighting services as per the recommended parameters.

Other municipal services like birth control of dogs of undesirable breeds, impounding of stray cattle and pigs were not at all implemented. Irregularities in regularisation of '*kutchi basties*' were also noticed.

Provisions for imposition of penalties have not been revised even after 44 years of its enactment. There was lack of clear-cut demarcation of jurisdiction/ activities among different executing agencies/ departments. There was poor response and delay in taking action on audit observations.

8.11 Recommendations

In view of the above audit findings, the following recommendations are made for consideration of the State Government :

1. Internal controls and monitoring mechanisms should be strengthened to ensure
 - Full and timely flow of funds;
 - Accountability of expenditure;
 - Monthly reconciliation of personal deposit / bank accounts;
 - Timely refund of unutilised funds to Government;
 - Timely deposit of statutory deductions from salaries; and
 - Prompt recovery / adjustment / write-off of outstanding advances, overpayments etc.

2. Overall financial management needs to be strengthened in the ULBs for augmenting their financial resources by ;
 - Improving collection of revenues ;
 - Improving assessment procedures to avoid non/ short assessment;
 - Preventing leakage of revenue ; and
 - Speedy recovery of dues from contractors / assessees.

The state government could introduce an incentive scheme for better resource mobilisation and efficient functioning in ULBs.

3. Implementation and monitoring mechanisms in schemes need to be strengthened by;
 - Implementation as per scheme guidelines;
 - Adequate controls need to be put in place to prevent irregular / excess payments and diversion of funds;
 - Adherence to the provisions of Public Works Financial and Accounts Rules; and
 - Completion of incomplete works / projects.

The State Government could consider formation of committees to oversee the maintenance and utilisation of assets.

4. Adequate controls need to be positioned to prevent encroachment of Government / municipal properties. Deployment of Vigilance staff as per section 98 of the Municipal Act would strengthen the controls in this area.
5. To reduce environmental pollution and health hazards, ULBs should establish common treatment facilities, carcass utilisation plants and sewerage treatment plants. Management and transportation of solid wastes needs to be improved by providing adequate number of category-wise storage bins / containers.

A collaborative and interaction arrangement may be established between the Department of Urban Development and the Rajasthan Pollution Control Board to get expert advice on management of solid wastes and effluents.

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