

CHAPTER 9. AUDIT FINDINGS IN SELECTED CASES

In the absence of complete and reliable consolidated records/statistics on L&DO's leases, Audit was forced to rely on examination of individual cases, both through scrutiny of records as well as field audit in selected cases.

9.1 Hotels

L&DO had allotted land to 21 hotels. However, on Audit's request for information relating to outstanding ground rent and other dues, L&DO provided partial details in respect of only eleven hotels. Out of these, an amount of Rs. 516.19 crores on account of dues recoverable was outstanding from eight hotels. Details of eleven hotels are summarized below:



Bharat Hotel¹⁴

- Location : Barakhamba Avenue
- Area of plot : 6.485 acres
- Original Ground Rent: Rs. 973 *per annum* fixed in 1977
- Ground rent not yet revised
- Outstanding Dues : Rs. 304 crore
- Last demand notice issued in April 2006



Samrat Hotel

- Location: Chanakya Puri
- Area of plot : 3.81 acres
- Ground Rent: Not known
- Allotted in 1981 but lease deed not executed till date
- Outstanding dues : Rs. 97.94 crore
- Last demand notice issued : Not available

¹⁴Earlier known as Hotel Inter-Continental; this has since been renamed as Hotel Lalit.



Le- Meridien Hotel

- Location : Connaught Place
- Area of plot : 4.290 acre
- Ground rent : Rs. 24.91 lakh *per annum*
- Outstanding dues : Rs. 60.90 crore as of September 2005
- Last demand notice issued in September 2005



Taj Man Singh Hotel

- Location : Man Singh Road
- Area : 3.78 acres
- Ground Rent/Additional Ground Rent : Rs. 2.74 lakh *per annum*
- Outstanding dues : Rs. 29.57 crore
- Last demand notice issued in January 2006



Claridges Hotel

- Location : Aurangzeb Road
- Land use: Residential, but permitted to run hotel on certain conditions on payment of Additional Ground Rent.
- Area : Not known
- Ground Rent : Rs. 2.13 lakh *per annum*
- Outstanding dues : Rs. 12.88 crore
- Last demand notice issued in December 2007



Ashoka Hotel

- Location : Chanakya Puri
- Area : 21.155 acres
- Ground Rent : Not known
- Outstanding dues: Rs. 5.96 crore
- Additionally, a payment of Rs. 18.57 crore was due on account of sub-letting of premises for a showroom.
- Last demand notice issued in May 2007



Taj Palace Hotel

- Location : Dhaula Kuan
- Area : 6 acres
- Ground Rent (levied at the rate of 5 per cent as per lease terms) : Rs. 26.14 lakh *per annum*; actually paid at the rate of Rs. 13.07 lakh *per annum*
- Outstanding dues : Rs. 3.07 crore
- Last demand notice issued in May 1998



Janpath Hotel

- Location : Connaught Place
- Area : 4.41 acre
- Ground Rent : Not Provided
- Outstanding dues : Rs. 1.95 crore
- Last demand letter issued to lessee in August 2003



Rajdoot Hotel

- Location : Jungpura
- Case pending with vigilance section of L&DO
- Present status not known



Vikram Hotel

- Location : Lajpat Nagar
- Allotment under Appendix XI¹⁵ category of Rehabilitation leases
- Area : 1920 Square yards
- Ground rent/Additional Ground Rent Rs. 48,060 *per annum*
- Outstanding Ground Rent: Not known



East India Hotel (Maidens), Shamnath Marg

- Allotment cancelled but present status not known.

In reply, the Ministry stated that the sites of Bharat Hotel, Le Meridien Hotel and Taj Man Singh Hotel had originally been allotted to NDMC, which sub-leased these without the permission of L&DO. Formal lease deeds had also not been executed. However, in spite of the matter being discussed by Secretary (UD) & Chairperson NDMC, the matter was yet to be resolved. In so far as Claridges Hotel was concerned, the Ministry stated that the lessee had initially accepted the terms for withdrawal of re-entry, upon which the lease was restored. However, when the demand relating to Revised Ground Rent was issued by L&DO, the lessee had filed a legal suit, which had gone in his favour, and L&DO's appeal in the Hon'ble Delhi High Court was still pending.

9.2 Hospitals

9.2.1 General

L&DO has, till date, allotted land to five hospitals namely Vidya Sagar Institute for Mental Health and Neurological Sciences (VIMHANS), Primus Ortho and Spine Hospital (POSH)¹⁶, St. Stephen's Hospital, Moolchand Hospital and Sir Ganga Ram Hospital on concessional basis. An additional strip of land was given to R.B.Seth Jessa Ram Hospital, to which the land was initially allotted by DDA. While all the allotments were made on concessional rates, the condition of free beds in Out Patient Department (OPD) and In patient Department (IPD) for patients from Economically Weaker Section (EWS) was applicable only to VIMHANS and POSH.

While the terms and conditions of the individual leases for VIMHANS and POSH specified that at least 70 *per cent* of the beds must be available free of charge to patients belonging to EWS, the Hon'ble Delhi High Court had given an interim order specifying that 25 *per cent* of the OPD beds, and 10 *per cent* of the IPD beds should be reserved for EWS patients; this order was confirmed by the Supreme Court till final disposal of the cases related thereto. Audit scrutiny was conducted with reference to this interim order. L&DO was not aware of the total outstanding dues in respect of any of these five hospitals.

Audit conducted detailed scrutiny of records relating to three hospitals – VIMHANS, St. Stephen's Hospital, and Primus Ortho and Spine Hospital (POSH); detailed audit findings in respect of these hospitals are summarized below:

9.2.2 VIMHANS

In May 1984, a plot of land measuring 3.5 acres was allotted on concessional rates to Vidya Sagar Kaushalya Devi Memorial Trust at the rate of Rs 10,000 *per acre* as a premium and ground rent fixed at 5 *per cent* thereon. The lease of the hospital specified that at least 70 *per cent* of the beds must be available free of charge to patients belonging to EWS category.



VIMHANS Hospital

¹⁶ erstwhile Veeranwali International Hospital

Audit scrutiny revealed that:

- The target of 25 *per cent* for OPD and 10 *per cent* for IPD was not met.
- The hospital was accepting EWS patients on the basis of undertaking by patients without insisting on BPL cards.
- Field visit by the Audit team revealed that free beds were earmarked for EWS patients, but were largely vacant. One reason for this was lack of referrals of EWS patients from the nodal Government hospitals. Scrutiny of a few such undertakings revealed that certain patients were residing at locations like Hill Apartments and Avantika in Rohini, which indicated the possibility of these concessions being misutilized by high income groups.
- Despite the plot of land measuring 3.5 acres having been allotted in 1984, the lease for the plot had still not been executed.

In reply, the Ministry stated that since it was the concern of Inspection Committee constituted by Directorate of Health Services/Government of National Capital Territory of Delhi (GNCTD) to look into observations raised by Audit, these would be forwarded to the Principal Secretary of Health. It also assured that a fresh inspection would be carried out to confirm misuse/unauthorized constructions.

9.2.3 St. Stephen's Hospital

Three plots of land measuring 1.37 acres, 2331 square yards and 1.299 acres were allotted on perpetual lease basis in June 1970, February 1972 and November 1976 respectively at the rate of Rs 5000 *per acre* as premium plus 5 *per cent* as annual ground rent at the rate of Rs. 342.50 *per annum*.

Audit scrutiny revealed that:

- Four inspections were conducted in 38 years since the allotment in June 1970.
- The misuses and breaches detected in the first inspection were not removed/ regularized; in fact these increased and still existed during the last inspection in January 2008.
- Since 1979, the ground rent had been paid only during 2003-05.



St. Stephen's Hospital

The Ministry stated that the hospital had not yet submitted sanctioned building plans, in the absence of which no action could be taken against the authorities. Further scrutiny of records revealed that the L&DO had been requesting the lessee since April 1986 for providing sanctioned building plans. However, no follow up or strict action had been taken against the lessee in this regard.

9.2.4 Primus Ortho and Spine Hospital (POSH)

About two acres of land was allotted to the Delhi Hospital Society at Chanakya Puri in 1973 at the rate of Rs. 1 lakh per acre plus 2.5 *per cent* annual ground rent thereon.

Audit scrutiny revealed that the Hospital was not complying with the terms and conditions for treatment of EWS patients.

In reply, the Ministry stated that the Hospital had been renovated in December 2007, and instructions to maintain the targets of free treatment had been issued.



Primus Ortho and Spine Hospital

9.3 Schools

9.3.1 General

L&DO had made allotments to 129 schools. Of these, 34 were aided schools, 35 were private recognized schools with condition of freeship and 60 were private recognized schools without freeship condition.

Audit conducted detailed scrutiny of records relating to eight schools, of which joint field visits were conducted in three schools – DPS International-Pushp Vihar, Kendriya Vidyalaya-Andrews Ganj, and Bal Bharti Public School- Ganga Ram Hospital Marg; detailed audit findings in respect of these three schools are summarized below:

9.3.2 DPS International

Allotment of the plot measuring 4.447 acres was made in April 2001 on payment of Rs. 88 lakh *per acre* as premium, and 2.5 *per cent* thereon as ground rent (amounting to Rs. 3.91 crore and Rs. 9.78 lakh respectively). No inspection of the school had been conducted till 2008.

Audit scrutiny revealed that:

- Though the allotment was made on the condition that the school should admit students belonging to EWS to the extent of 25 per cent, there were only four instances of people from EWS seeking admissions for their wards in this school. However, none of these students studied for a substantial length of time.
- While the allotment was made for a Senior Secondary School, the school was launched to meet the demands for international education of Indian Citizens and foreign diplomats, expatriates and NRIs. The compatibility of EWS students for such a school was doubtful *ab initio*.

In reply, the Ministry stated that inspections could not be carried out due to shortage of manpower, while the other issues would be taken up with the Directorate of Education, GNCTD.

9.3.3 Kendriya Vidyalaya

Allotment of 4.304 acres of land was made to the Kendriya Vidyalaya Sangathan in September 1968 in Andrews Ganj at the rate of Rs. 5000 *per acre* as premium plus 5 *per cent* annual ground rent thereon.

Audit scrutiny revealed that:

- As stated by the Principal of the school, the sub-division of the plot was done by the school in 2004, and a portion of the plot was given to a private party. The last inspection of the plot by L&DO was conducted in 1998; evidently, L&DO was not aware of the sub-division of the plot.
- The private party constructed a building, providing facilities for swimming, gymnasium, taekwondo and judo. Audit noticed excavations at this site, reportedly for construction of a deep ice hockey rink, which was not segregated through a wall from the school building to ensure the safety of the students. However, as per the discussions with the Principal of the school, the private party had decided to construct the facilities on Build Operate Transfer (BOT) basis; but the disputes between the private party and contractor resulted in the matter becoming sub judice.

The Ministry stated that a fresh inspection would be conducted.



A view of excavations which endangered school property and lives of the students



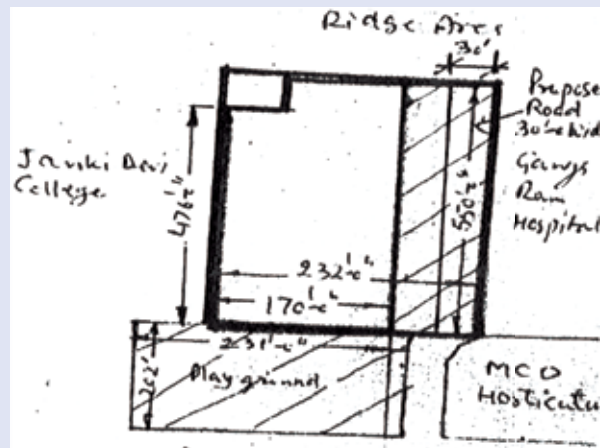
Facilities constructed by the private party

9.3.4 Bal Bharti Public School

Allotment of 1.87 acres of land on Ganga Ram Hospital Marg was made to Child Education Society in December 1963 at a premium of Rs. 2000 *per acre* plus 5 *per cent* annual ground rent thereon.

Audit scrutiny revealed that:

- Though ground rent was outstanding since 1976, L&DO did not either initiate any action to recover the dues, or take any punitive action for resuming the property.
- The joint visit revealed that there were large scale breaches and encroachment on Government land e.g. temporary unauthorized constructions in the backyard of the school; drive way and parking facilities, gymnasium, and lawn tennis and badminton courts on encroached land; and fourth storey construction in violation of lease terms. Encroachment on a proposed 30 feet road had also been detected through L&DO's inspection in September-October 2005, yet, no action had been taken.



Sketch of encroachment in L&DO's inspection report



Gymnasium, Lawn Tennis and Badminton court on encroached land.

The Ministry stated that the demand letter for ground rent recoverable would be issued. Further, the exercise for revision of ground rent would also be started after fresh inspection.

In the absence of treatment of the requisite number of patients from Economically Weaker Sections in the case of hospitals, and admission of students from such strata in respect of schools, the implicit subsidy provided by the Government through allotment of land at highly concessional rates vis-à-vis market rates to such schools and hospitals appears unjustified.

9.4 Petrol Pumps

The main issue with reference to petrol pumps was the revision of ground rent, which was to be done generally every five years as per the terms of the lease, and encroachments on public land. The ground rent which was fixed in 1979 was revised in October 1986. However, the oil companies

did not pay the revised rates on the plea that the matter was being looked into by the Ministry of Petroleum and Natural Gas (PNG). Since no consensus was arrived at, it was decided in September, 1998 to recover the ground rent on the rates revised in September 1986. In September 1998, a group was set up to examine the issues relating to further revision of ground rent. Further, records revealed encroachment in 35 out of 68 petrol pumps, for which breach notices were issued to the oil companies.

Out of 68 cases, information on outstanding dues was provided in respect of only 19 petrol pumps. The total outstanding dues against these 19 pumps amounted to Rs. 14.97 crore.

Audit conducted detailed scrutiny of records relating to eight petrol pumps, of which joint field visits were conducted in four petrol pumps – Hemkunt Service Station, Rajnath Super Service Station, Jeewan Service Station, and Bansiwal Service Station; detailed audit findings in respect of these four petrol pumps are summarized below:



Hemkunt Service Station on link road connecting Lodhi Road with Lajpat Nagar

A site measuring 12000 square feet was allotted to HPCL in June 1962 at the rate of Rs. 10,500 *per annum* from where a filling cum service station was being run.

A car service station was unauthorisedly being run from the pump premises,

Facilities for renewal of insurance were also being offered.



Rajnath Super Service Station, Moti Bagh

A site measuring 12439 square feet was allotted to BPCL in May 1956 at a monthly rental of Rs. 350.

“In and Out” shopping outlet was noticed.



Jeevan Service Station, Q-Point, Shahjahan Road

A site measuring 1240 square feet was allotted to BPCL (Burmah Shell) in April 1937 at the rate of Rs. 14 and 10 Annas *per annum* as per lease.

Unauthorised constructions were noticed. These were being used for storage, office space and toilets.

An “In & Out” outlet had also been constructed on the plot.



Bansiwal Service Station, San Martin Marg, Chanakya Puri

A site measuring 1080 square feet was allotted to HPCL in March 1999 at the rate of Rs. 1,60,600 *per annum*.

A fast food shop by the name of “Sub Way” was operating in the premises.

A portion of the premises had been let out to ICICI bank.

Encroachment on public land on the front side had taken place, alongwith unauthorised construction. Premises were also being used for denting and painting.

In response, the Ministry stated the following:

- Ground Rent/Licence Fee at the revised rate was being paid by Indian Oil Corporation (IOC). L&DO had issued notice to Bharat Petroleum Corporation Limited (BPCL) and Hindustan Petroleum Corporation Limited (HPCL) for payment of Ground Rent at revised rates. Action for re-entry of the properties was being initiated in the cases where the dues had not been paid despite notices.
- The incidence of encroachment beyond the lease area formed only a small fraction of the total allotted area. However, there was large scale encroachment in one of the Petrol Pumps inspected by the Audit Party; damages were being levied on the company.
- Though the inspections were being carried out as per availability of technical staff but in cases of encroachments, action relating to inspection was taken immediately as and when required.

- Oil Marketing Companies were representing against some misuse charges where a part of the premises was used for food outlets etc. A policy for allowing 'allied retails business' in the Petrol Pump premises was under consideration. However this could not be a reason for withholding payment of charges by the companies. Action had already been initiated for recovery of charges. In 19 cases of IOC, cases were filed in Estate Officer's Court and IOC had now agreed to pay the charges.

9.5 Presses

L&DO had allotted land to nine presses at Bahadur Shah Zafar Marg and Mathura Road. A summary of cases where the outstanding dues exceeded Rs. 1 crore, is as follows:

Table-9 : Present status of cases

Name	Outstanding dues (Rs in crore)	Remarks
M/s Express Newspapers Pvt. Ltd.	400.00	Matter pending in the High Court. (Dues outstanding since July 1986 as per notice dated 1.8.86).
Daily Pratap	12.72	Dues outstanding since July 1984 (as per demand notice dated March 2007)
M/s Gulab Singh and Sons Pvt. Ltd.	12.00	Dues outstanding since July 1973 (as per demand notice dated August 2005)
M/s Associated Journals Ltd. (National Herald)	2.89	Matter is pending in ESO Court. (Dues outstanding worked out and conveyed to the lessee in August 2002)

In response, the Ministry stated that action was being taken for recovery of damages and misuse charges.

New Delhi
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