CHAPTER II : MINISTRY OF DEFENCE

2.1 Loss of revenue on renewal of lease of Government land

Irregular renewal of lease for a period of 30 years in December 2006 for a rent and premium at old rates prevalent since 1996 resulted in loss of revenue.

Vacant or unused land owned by the Defence is leased out to public or private users on rent and premium for a fixed term subject to renewal at enhanced rent as per terms and conditions that may be incorporated in the lease agreement. As per the standard terms of a lease, any addition or alteration to the existing structure in the leased premises requires prior consent of the lessor. The lessee is, however, entitled to sub-lease the premises and, in such cases, the details thereof are to be communicated to the Defence Estates Officer concerned within a month. The rent recoverable for commercial use of the leased land should be four times the rent recoverable in respect of residential premises.

Smt Usha Sathe, the lessee of Defence land, who had executed a lease agreement with DEO in respect of Sy. No. 30/4, admeasuring 0.725 acre, at an annual rent of ₹ 1/-, for a period of 10 years[8], applied for permission to construct five dwelling units on the said land. To facilitate the construction of new dwelling units, the Ministry of Defence, in May 1996, allowed execution of fresh lease for a period of 30 years on payment of an annual rent of ₹ 1,22,054 and a premium of ₹ 12,20,540, as also concomitant surrender of the existing lease. The DEO conveyed the orders of the Ministry (July 1996) to the lessee, based on which the latter paid (August 1996) premium of ₹ 12,20,540.

Our scrutiny of records revealed that between the period June 1992 and January 1998 a parallel correspondence had been going on between the General Officer Commanding-in-Chief, Southern Command and the Army HQ for revocation of the lease on the plea that the land was required by the Army. Notwithstanding their reluctance to permit further leasing of the land, HQ Southern Command, taking the plea that the Army HQ had not responded to the proposal for revocation of the lease and the Ministry had granted approval (May 1996) for construction of new dwelling units, approved, in January 2006, construction of five bungalow blocks on the said land.

[8] Leased land was part of a plot of land that had been originally leased to a private user for residential purpose over a period of 30 years. The lease was transferred in July 1963 in the name of three different persons. Based on the request of the three co-owners, one of whom was Smt. Usha Sathe, to issue separate leaseholds, the Director General Defence Estates (April 1993) divided the land measuring 2.90 acres equally into four parts measuring 0.725 acre and each part was given new survey No. as 30/1, 30/2, 30/3 and 30/4. Of the divided pieces of land, one piece each was to be leased individually to the three owners. The fourth piece was collectively/jointly leased to all the three.

As the Local Army Authorities were keen to resume the land, execution of the fresh lease deed, as sanctioned in May 1996, was delayed. Consequently the revised annual rent of ₹ 1,22,054 was not recovered from the lessee. After the HQ Southern Command approved the construction in January 2006, the DEO signed the lease deed in March 2006 with the lessee, through her power of attorney, for a period of 30 years effective from 01 December 2003 at an annual rent and premium as fixed in 1996, instead of re-assessing the rent and premium as applicable from December 2003, i.e., the date of expiry of the earlier lease. The action of the DEO to lease the land to the lessee in 2006 effective from December 2003 to June 2012 at the rates determined in 1996 led to under-recovery of premium and rent of ₹ 15.40 lakh.

In the meantime, the original lessee, Mrs Usha Sathe, in March 2003 transferred her rights under the lease to M/s Vishwamitra & Rathi, a registered partnership firm, through her constituted attorney, for a consideration of ₹ 2.50 lakh. Thus, soon after execution of the lease agreement (March 2006), the attorney of the lessee, i.e., M/s Vishwamitra & Rathi transferred (September 2006) the lease to a builder for a consideration of ₹ 1.65 crore. This would indicate that the economic value of the land in question was even higher than the current premium and rent that the DEO could have recovered in the case and underlines the fact that current method of assessing value of Defence land is out of sync with the market conditions.

HQ Southern Command stated (November 2010) that as Army HQ did not respond to repeated requests for revocation of lease and the Ministry had, in the meantime, approved the construction of bungalows on the said land for which premium was deposited, the stay on their construction imposed by them was vacated. The manner in which the HQ Southern Command reversed their decision when the lessee was clearly intending to commercially exploit the leased land raises doubt about the sincerity of efforts made by the local military authorities to get possession of the land. While HQrs SC accorded NOC considering the non-response of Army HQrs for their proposal for acquiring the bungalow, Army HQrs in May 2006 had closed the case of acquiring the bungalow as HQrs SC had accorded NOC in January 2006.

Thus, failure of various Defence authorities to process the case for acquisition of leased land and protect Government interest resulted in prime defence land, located in the heart of the city and carrying high economic value, being transferred to a private builder at a low premium and annual rent. This resulted in a revenue loss of ₹ 15.40 lakh towards rent and premium. It also illustrated lack of transparency and weakness of internal controls in Ministry of Defence in safeguarding a highly scarce resource.

We are also of the opinion that the Lease Agreement Terms and Conditions, whereby a sub-lease of a Defence land can be transferred by the lessee to a third person, without express permission of the owner of the land, i.e. Ministry of Defence merely by informing the Defence authorities, as was done in the instant case, calls for a review of the existing procedure on the subject.

The matter was referred to the Ministry in February 2012; their reply was awaited as of July 2012.

2.2 Illegal sale of Defence land

Hired land admeasuring 5166 Sq. m. in the possession of Central Ordnance Depot (COD) at Kandivli Mumbai, which was in the possession of the Army since 1942 was relinquished to a private company for residential purposes based on an irregular NOC issued by the DEO Mumbai. Though certain fraudulent activities regarding the land had come to their notice, COD Mumbai did not get the land demarcated in its favour from the State Government authorities. This facilitated the usurpation of the land from the Army.

In the C&AG's Performance Audit Report on 'Defence Estates Management' (Report No. 35 of 2010-11) it had been pointed out that there were large scale discrepancies in land records of the Defence Estates Officers (DEO) and that large part of acquired land was awaiting mutation for years together (Para 2.3 & 2.5). The Defence authorities had mismanaged leases of defence land (Para 4.1) and lines of responsibilities and accountability on many aspects of Defence Estates Management had been allowed to blur.

During audit of the DEO Mumbai (April 2011), we came across yet another case relating to issue of "no objection for sale of land" conveyed by the Defence Estates authorities to a private company in respect of land that had been in the possession of Ministry of Defence since decades as elaborated below:

State Government land measuring 13.28 acre was under the occupation of Central Ordnance Depot (COD), Mumbai. Some portion of the land lay within the boundary wall of COD while the remaining portion, including Military Nullah which was under active occupation of the Army and being used for patrolling purposes, lay outside it. Rent for the hired land was being paid by DEO, Mumbai up to December 1981. Thereafter, no such payment was made for want of bills from the State Government. (Map shown at Annexure-V)

The Collector Bombay Suburban (Collector), while intimating the COD (June 1994) that a Private Limited Company (Company) had applied for Government land for residential purpose, sought their views with regard to any objection to the grant of land to the Company. The COD conveyed (August 1994) strong objection against construction of any multistoried building in the vicinity of sensitive defence installations and apprised the DEO about this case in detail. However, on being approached by a representative of the company, the DEO intimated the Collector (23 August 1994) that there was no objection to the allotment of the land to the Company provided that no multistoried construction should be allowed in the vicinity of the COD and issued an NOC. Although DEO informed the COD simultaneously, COD failed to react and did not take any action to reaffirm their tenancy of the land or for getting the boundary land clearly demarcated in its favour.

In June 2007, almost after thirteen years, a representative of a private builder who was given the rights to develop the land by the State Government, approached the COD with copies of two letters issued by the Collector (22

October 2001 and 26 July 2004) addressed to one 'Major Biswas, Armed Forces of India' and 'Major, Armed Forces of India' respectively, wherein the Collector had sought a 'No Objection Certificate (NOC)' for grant of government land to the Company indicating that if no reply was received within 15-20 days it would be presumed that the Department did not require the land and action would be initiated to allot the land to the applicant Company. The COD (30 June 2007) refuted the authenticity of the letters on the ground that the addresses of these two letters were fictitious and informed the Collector that correspondence made on fictitious addresses was of no consequence. COD also informed the DEO of this development. With unusual speed, within the same month, the Collector issued an order (26 June 2007) for sale of land admeasuring 5166.50 Sq.m. to the Company at market price of ₹ 5.94 crore and the land was handed over to the Company on 9 July 2007. The DEO requested the Collector (July 2007) to cancel/withdraw the order of sale of the land on the ground that it was not correct to order for sale of land to anybody without getting the same de-hired from the Ministry of Defence (MoD). Refuting the claim of the DEO, the Collector intimated that on request from the Company to the then Revenue Minister the status of the land was verified and after it had been confirmed that the land belonged to the State Government the same was allotted to the Company. In September 2007, the company intimated the DEO that their claim had been accepted by the Collector and that they would start the development work.

As the COD obstructed the development work by placing sentries, the Company lodged a complaint with the Raksha Utpadhan Rajya Mantri (RURM), whereby the Minister's Personal Secretary wrote to the Army Chief's Secretariat (15 November 2007) to put up the note to the Chief of Army Staff for 'appropriate' action. The next day the then Chief of Army Staff forwarded the file to the Quarter Master General's Branch (QMG) for processing the case. The QMG intimated (10 December 2007) the Personal Secretary of RURM that the actions of the local military authorities (LMA) appeared to be a result of misunderstanding and communication gap between them and the Defence Estates Authorities. It further stated that the LMA had been instructed to remove all obstructions forthwith and to let the legal owner go ahead with its planned development. Based on the directions from Mumbai Sub Area, the COD removed the guards and boards, paving way for the construction. The Collector informed the DEO Mumbai (November 2007) to carry out a survey of the land under possession of the COD. The COD's request for funds for the survey (₹ 10.02 lakh) was pending (April 2011).

Thus the land comprising 5166 Sq.m. which was in custody of the Army since decades and under active use of the Army for patrolling purposes and of the value of ₹ 5.94 crore was relinquished without any serious effort to contest or withdraw the NOC issued by DEO way back in August 1994 even while issue of NOC by the Collector in June 2007 had been contested by the COD. Army HQ instead of investigating and defending its case allowed the Company to go ahead with development work in the vicinity of military establishment thus compromising with defence security. COD also failed to pursue the matter with the State Government to resolve the issue during the long period between 1994 and 2007. Further delay in getting the land demarcated and transferred in

their name in the record of land rights with the Collector's office, would result in a few similar cases of disputable land transfers leaving the defence authorities with the risk of losing some more land around COD Mumbai, which has been in their possession all these years. On our pointing out the case the HQ Southern Command informed (November 2011) that the case had been forwarded to the CBI for investigation.

The investigation needs to establish how NOC was issued by DEO to a private party when COD had already objected for any multistoried to be constructed in the vicinity of defence land/installations.

The case was referred to the Ministry in March 2012; their reply was awaited as of July 2012.

2.3 Loss due to non-levy of licence fee on vehicles entering Cantonment Board Ahmednagar

The proposal of the Cantonment Board Ahmednagar to obtain Government sanction for levy of Licence Fee on vehicles entering the cantonment was not processed by the Principal Director Defence Estates Southern Command, resulting in revenue loss of about ₹ 4.72 crore.

The Cantonment Act 2006 that came into effect from December 2006 empowered a cantonment board to charge licence fee (LF) on the vehicles entering the cantonment. The Cantonment Board Ahmednagar (Board) had been collecting vehicle entry tax (VET) on vehicles entering and passing through the limits of the cantonment under the provisions of the Cantonment Act 1924. VET and LF cannot be levied simultaneously. Taking note of the advantages of LF over the existing VET, the Board passed a resolution in February 2007 for levy of LF by abolishing VET. Since it required prior sanction of Government of India, the Board forwarded a proposal, in March 2007, to the Principal Director Defence Estates, Pune (PDDE) to process the case for levying LF under Section 67 (e) of the Cantonments Act 2006 by repealing levy of VET from the year 2007-08.

In the meantime, the Board had invited tenders for collection of both LF and VET for the year 2007-08 and received highest bid of ₹ 4.16 crore for LF and ₹ 3.03 crore for VET. Since no response was received from the PDDE, the bid of ₹ 4.16 crore received for LF could not be accepted and the contract for collection of VET was concluded as usual. The Board again took up the case with PDDE in February 2009 and October 2009. However, no response was received and the Board continued to collect VET at the rates fixed in 2001.

The PDDE, in response to an audit enquiry, stated (June 2011) that the case for levy of LF was not processed as levy of LF is linked to provision of services rendered and since the Board was not rendering any service to the vehicles entering the cantonment, LF could not have been levied. The contention of PDDE is untenable since Section 67 (e) of the Cantonment Act

2006 allows levy of LF on entry of vehicles and the Kirkee Cantonment Board had started charging LF on buses, trucks and light commercial vehicles.

Thus, the decision of PDDE to withhold the proposal of the Board resulted in revenue loss of about ₹ 4.72 crore to the Board during 2007-11. During the said period, the Ministry of Defence had paid ₹ 9.93 crore towards grant-in-aid to the Board, which could have been suitably reduced, if the Board had been able to generate larger resources on its own by collecting LF as it was authorized to do under the Cantonment Act 2006.

The case was referred to the Ministry in March 2012; their reply was awaited as of July 2012.

2.4 Excess payment on account of exchange rate variation (ERV)

Adoption of incorrect base rate for computing exchange rate variation, in violation of the procurement procedure, resulted in extra payment of ₹ 1.47 crore to a Defence Public Sector Undertaking in procurement of an equipment having import content for the Army.

The Defence Procurement Procedure 2006 (DPP) provides for inclusion of a clause in any purchase contract with Defence Public Sector Undertaking (PSU) for adjustment of exchange rate variation (ERV) if it involves import content. In such cases, the Base Exchange rate of the State Bank of India, Parliament Street, New Delhi on the date of opening of the commercial bids will be adopted for each of the major currencies.

We observed that a departure from the above procedure in a contract concluded by the Ministry of Defence in July 2008 with a Defence PSU – the supplier – for procurement of equipment 'X' for the Army, at a total cost of ₹ 48.50 crore (including foreign currency component of USD 315,490 and Euro 55,55,025), resulted in extra payment of ₹ 1.47 crore to the supplier, as explained hereafter.

In the contract, the Ministry adopted the Base Exchange rate as ₹ 39.86 per USD and ₹ 56.02 per Euro, as claimed by the supplier during negotiations, instead of the rates as applicable at the time of negotiations (November 2007), which were ₹ 40.03 for USD and ₹ 59.14 for Euro. On being pointed out by us that the adoption of the base rates as dictated by the supplier had caused extra payment of ₹ 1.47 crore to the supplier, the Ministry admitted (April 2012) the error and stated that a case was being initiated for recovery of the excess amount.

While efforts to make recovery of the excess payment is welcome, we suggest that all CFAs in the Ministry may be sensitised to the need for adhering to the provisions in the applicable procurement procedure (DPP) framed and stipulated by the Ministry themselves.

2.5 Loss of indigenously designed/manufactured ammunition

Indigenously designed and manufactured ammunition of value of ₹ 408.06 crore (1,02,014 rounds within shelf) were declared unserviceable without an internal investigation. The unresolved problems in the indigenous ammunition led to import of ammunition costing ₹ 278.88 crore to meet the demands of the Army.

The Indian Army sources various types of ammunition either through import or from indigenous production facilities like Ordnance Factories. While the ammunition produced by Ordnance Factories undergoes in-process quality testing, the finished product is finally tested and cleared by the Director General of Quality Assurance (DGQA), an arm of the Ministry of Defence, Department of Defence Production, on behalf of the Army before such equipment is accepted and despatched for use or storage during its prescribed shelf life. The manufacturer also prescribes various norms for proper handling and storage of critical ammunition to eliminate all possibilities of such ammunition becoming unserviceable owing to rigorous climatic conditions like extreme temperatures, humidity etc. Since all ammunition accepted by the Army after appropriate quality assurance tests is expected to be failure-proof, any defect noticed during periodic test firing or otherwise during storage, is required to be thoroughly investigated, responsibility fixed and loss statements prepared for writing off the value of defective ammunition.

The Army in 1997 accepted an improved version of existing tank-fired ammunition already being produced by the Ordnance Factory Board(OFB) on the basis of design developed by ARDE and HEMRL, both functioning under Defence Research and Development Organisation (DRDO). Since then and up to 2005, 3.5 lakh rounds of this ammunition approximately valuing ₹ 1400 crore produced by OFB were accepted by the Army, after appropriate quality assurance tests by the DGQA.

Our scrutiny (April 2010) revealed that on the basis of inspection of the ammunition holding depots in 2009-10 by the Southern Command, the Integrated Headquarters of Ministry of Defence (Army) (IHQ of MoD Army) had declared 1,35,608 rounds of ammunition as unserviceable, of which a large number (1,02,014 rounds) valuing ₹ 408.06 crore had not completed the prescribed shelf life of 10 years. The defects noticed, viz. flimsy propellant material, cracks in combustible cartridge case, sticking of cartridge case in packing container, etc., were considered to be critical, rendering the ammunition unsafe for firing.

While the Army attributed the defects to insufficient quality control during manufacture, the OFB attributed these to design deficiencies. DRDO, which had designed the ammunition, however, argued that if the ammunition had suffered from design defects then the entire quality of ammunition manufactured and supplied during 1997-2005 ought to have manifested defects similar to those noticed by the Southern Command during 2009-10.

The possibility of returning the ammunition to the Ordnance Factories for suitable repairs and rectification had been explored by a Task Force comprising representatives of the OFB, the Master General of Ordnance (MGO), DGQA and DRDO that was constituted earlier in January 2010 for investigating the defects pointed out in a lot of 54,455 rounds of the ammunition. The Task Force, however, recommended that the ammunition was beyond repairs. The recommendation was based on its assessment that (a) the repair methodology was hazardous and unsafe (b) a complete process carrying out repairs would be time consuming and costly, and (c) the quality and reliability of the repaired ammunition could not be guaranteed. A month later (February 2010) the IHQ of MoD Army decided to declare the entire ammunition (1,35,608 rounds, inclusive of the 54,455 rounds) of the above category held in store as unserviceable and directed it to be disposed off.

Contrary to the prescribed procedure, no serious investigation was concluded to ascertain the reasons for defects in the ammunition and to fix responsibility for such failure during the last two years. Even though similar defects noticed in the same ammunition in the previous years had resulted in segregation of ammunition valuing ₹ 607.43 crore (inclusive of a hybrid version of the ammunition valuing ₹ 352 crore), there was lack of proper investigation of the defects, as highlighted in three different Reports of the Comptroller and Auditor General of India in 2003, 2005 and 2010-11[9] (Incidentally, the Ministry of Defence, in April 2011, informed the Public Accounts Committee in its Action Taken Note on Para No. 2.3 of the Audit Report No. 12 of 2010-11 that the entire ammunition held in segregated condition had since been repaired).

Considering the following factors the decision of the Army to declare the entire ammunition (1,35,608 rounds) the large part (1,02,014 rounds valuing ₹ 408.06 crore) of which was still within its shelf life raises doubt about the degree of thoroughness and objectivity with which defects attributed to the ammunition have been investigated:

(a) Army had accepted the ammunition as far back as 1997, after undertaking all the prescribed quality assurance procedures and continued to hold it till 2005, without facing any need to declare it unserviceable after routine test firing;

(b) A large quantity of similar ammunition found defective at one stage and valuing ₹ 607.43 crore and held under segregated condition for a long time was ultimately accepted by the Army after being repaired by the ordnance factory concerned; and

(c) There was no clear agreement amongst the DRDO, OFB and Army about the nature and source of defects noticed in the ammunition.

[9] Under paragraph 160 of the Financial Regulations, Part-I, the losses have to be written off with the approval of the competent financial authority. After declaring the ammunition unserviceable (February 2010) no write off proposal had been moved by the MGO to the Ministry of Defence (May 2012).

The failure of the Ministry to resolve the difference of perception about the nature and source of defects that rendered the entire ammunition unserviceable in an authentic and decisive manner is not only curious but also underscores lack of synergy amongst various segments of Defence establishment, viz. Army, OFB and DRDO in the critical area of ensuring availability of high quality ammunition.

On this being pointed out by us, the Ministry, belatedly in June 2012 directed the Chairman OFB to constitute a Committee comprising representatives of the OFB, MGO, DRDO and DGQA to further investigate the matter and fix responsibility. In the meantime, as a result of a large quantity of ammunition being declared unserviceable, the Ministry had to import 16,000 rounds of ammunition at a cost of ₹ 278.88 crore (US$ 61,360,000) under a contract with M/s Rosoboronexport Russia to overcome critical shortages of ammunition highlighted by Director General Mechanised Forces.

The matter was referred to the Ministry in April 2012; their reply was awaited as of July 2012.

2.6 Overpayment to Cantonment Board Danapur

The Controller of Defence Accounts (CDA) Patna did not call for and verify statements of actual expenditure on conservancy charges, leading to an overpayment of ₹ 65.79 lakh to the Cantonment Board Danapur.

A case of overpayment to Cantonment Board (CB) Ambala due to failure of the Principal Controller of Defence Accounts (PCDA) Chandigarh to verify the actual expenditure incurred on conservancy charges was reported in paragraph 2.9 of the Report No CA No. 17 of 2008-09 of the Comptroller and Auditor General of India. The Ministry, in its Action Taken Note, stated that instructions had been issued in September 2009 to all the PCsDA/CsDA to consult statements of actual expenditure before making payment of conservancy charges to CBs and to adjust outstanding amount of the previous year before making first payment for the current year. However, the revised format of agreement enabling monthly adjustment based on actual expenditure of the previous month was awaiting approval of the Ministry (July 2012).

Contrary to the above instructions of the Controller General of Defence Accounts (CGDA), an overpayment of ₹ 65.79 lakh was made to the Cantonment Board Danapur during the period 2008-11 by the CDA Patna. Conservancy agreements concluded by the Station Commander Danapur with CB Danapur, with the concurrence of the CDA Patna, for the years 2008-09, 2009-10 and 2010-11 envisaged payment of conservancy charges of ₹ 1.02 crore, ₹ 1.29 crore and ₹ 1.79 crore, respectively during the years to the Board. The conservancy agreements continued to contain a clause for payment of the contracted amount in 12 equal monthly installments with provision obliging CDA to make adjustment in the claim for the month of February.

Our scrutiny indicated that the actual expenditure of the CB on conservancy services, as per the audited statements during the years 2008-09 to 2010-11

had been less than the amount paid each year. Bills for conservancy services based on actual expenditure had not been submitted for payment by the CB as required. The bills for the month of February were neither preferred by the CB, nor called for by the CDA. Even while drawing up the new Agreements, the Station Commander did not review the actual expenditure incurred in the earlier year. Thus failure on the part of the CDA authorities to call for the statements of actual expenditure on conservancy charges led to overpayment of ₹ 65.79 lakh to the CB Danapur as given in the table.

Year	Amount as per agreement (₹)	Total payment made (₹)	Actual expenditure (₹)	Over-payment (₹)
2008-09	10236105	9321601	8325826	995775
2009-10	12900852	8370927	8128399	242528
2010-11	17898599	16407050	11066250	5340800
			Total	6579103

The CDA Patna, in November 2011, replied that the matter had been taken up with the CB Danapur for regularization of the overpaid amount.

We recommend that the system of internal control by the CDA be improved/ strengthened and the overpaid amount be adjusted against payments due. The agreements with the CBs need to be drawn up based on previous year's actual expenditure.

The matter was referred to Ministry in February 2012; their reply was awaited as of July 2012.

2.7 Unauthorised construction of hotels on Old Grant sites/leased Defence land

Unauthorised construction and running of 36 hotels on Old Grant sites/leased land at Pachmarhi was not prevented by the Defence Estates/ Cantonment Board authorities even though such conversion/ commercial exploitation dated back to periods ranging from 1993-94. Similarly at Barrackpore Cantonment, two Old Grant sites were unauthorisedly used as restaurants, shops, etc, and no action was taken by the Cantonment Board/ Local Military authorities to resume the land though there was shortage of land for military use.

As per the land policy laid down by the Ministry of Defence in 1995, to ensure appropriate return by way of premium and rent, Old Grant (OG) sites which are in the nature of licences could be converted into leaseholds with Government sanction, unless these were desired to be resumed. No activity like change of purpose, any sub-divisions by way of construction or otherwise, construction of additional storey/storeys, addition to existing plinth area or floor area, demolition of existing construction or putting up of a new construction on a vacant site in OG sites could be sanctioned unless the proposals to that effect were submitted to Government and approved by it.

Irregularities in the management of OG sites and dismal state of management of leases of Defence land were broadly commented upon in Report No 35 of 2010-11 of the Comptroller and Auditor General of India on Defence Estates Management. Our continued audit showed that at Pachmarhi, there was large scale misuse of the OG/ leasehold sites by the Holder of Occupancy Rights (HOR)/ leaseholders by converting 24 OG sites and 12 leasehold sites granted for residential/shop purposes into hotels. Even though such conversions were made without the mandatory prior sanction of the Government and in periods dating back to 1993-94, the Defence Estates Officer/ Cantonment Board had not taken any discernible and proactive action to stop such unauthorised use. Additionally, at Barrackpore Cantonment, we observed, similar instances of misuse. The cases are narrated below:

I Pachmarhi Cantonment

Cantonment Board Pachmarhi had granted land in Sadar Bazar of the Cantonment to different HORs/ leaseholders on Old Grant/lease for residential/shop purposes. However, 24 HORs and 12 leaseholders had converted the Old Grant/ lease sites into hotels during the years 1993-94 to 2008-09, without the sanction of the competent authority i.e. Government of India. This had resulted in unauthorized construction as well as change of use of defence land valuing ₹ 2.30 crore. Cantonment Board Pachmarhi stated in June 2012 that prior to November 2003, 22 HORs had applied for change of purpose and conversion into freehold as hotels, but their applications could not be considered due to ban imposed on such conversions by Hon'ble High Court, Jabalpur in November 2003.

In reply to our audit observation, the Cantonment Board had earlier (November 2011) intimated that:

(i) notices were issued to all defaulting HORs/lessees as and when unauthorized construction was carried out;
(ii) the appeals of HORs/ lessees were pending with Principal Director Defence Estates/ GOC-in-C Central Command Lucknow;
(iii) property tax, water and electric charges were being recovered at commercial rates since the use of sites as hotels;
(iv) the rent and premium were being recovered for residential purpose; and
(v) higher rent and premium for land used for hotel purposes would be recovered only when the sanction for change of purpose was accorded by the competent authority.

The reply of the Cantonment Board is tangential to the vital issue as to how such massive constructions were allowed to mushroom when it was being done in total violation of the terms of the grant/lease. Since the reported ban was imposed only in November 2003, the delay in sorting out the issues that had arisen since 1993-94 was inexplicable. Evidently there was lack of oversight by the Cantonment Board as well as passivity at the local level in pursuing the cases to their finality, thus tacitly allowing the continuing misuse of the OG/ leased sites. As per Government Orders of March 1974, the rent and premium at commercial rates were chargeable at 4 times and 40 times the

residential rent respectively, which worked out to ₹ 22.98 lakh on account of annual rent and ₹ 3.93 crore as premium.

Cantonment Board further stated that the power of sealing the defaulting premises had been given to the Chief Executive Officer but no rule for the same had been framed by the Government of India.

The case reveals that HORs of OG sites/leases by making unauthorized construction for commercial exploitation of the defence land that was actually given for residential/shop purposes had flouted the terms & conditions of the licence/lease agreement. The passivity of the Cantonment Board Office had effectually resulted in contravention of Government policy on the subject which not only failed in cancellation of licences/leases to resume the land but also could not prevent unauthorized constructions by invoking the provisions under the Public Premises (Eviction of Unauthorized Occupants) Act 1971.

II Barrackpore Cantonment

We observed two cases of commercial exploitation of the OG sites at Barrackpore Cantonment that were allowed to be used as restaurant, marriage hall, etc from the year 1965 onwards. In spite of the commercial exploitation of Defence land/properties, the Local Military Authorities (LMA) had not taken effective steps to resume these Old Grant properties although as per Zonal Plan of Barrackpore Cantonment, the land at Barrackpore Cantonment was deficient to the extent of 418 acres for military use. The cases are as under:

(i) Bungalow No. 72, Sadar Bazar Road

The bungalow measuring 1.32 acres of land and valuing ₹ 3.92 crore was an old Grant site. Shri Swapan Kumar Das was the holder of occupancy right (HOR) of the bungalow. The HOR had converted the bungalow into commercial premises for various social/religious functions, especially marriages. The Defence Estates Officer, Kolkata (DEO), in August 2010, requested the LMA to resume the bungalow. Action taken by the LMA was awaited as of July 2012.

(ii) Bungalow No. 89, GT Road

The bungalow occupying 1.32 acres of land valuing ₹ 3.92 crore was with the Barrackpore Club Ltd (HOR) and was being used as Golf Club. The club became defunct in 1965 and the property was unauthorisedly sold to late Shri Sailendra Nath Das. The premises were thereafter occupied by Shri Pinaki Ranjan Das who had constructed various shops and rooms on it and was running hotel/restaurant unauthorisedly. Notice for demolition of the unauthorized construction had been served under PPE Act, 1971 by the DEO in May 2011. No action had been initiated to resume the said property as of July 2012.

The cases were reported to the Ministry in January 2012/ April 2012; their reply was awaited as of July 2012.