

# CHAPTER - III

## Land Revenue

<b>EXECUTIVE SUMMARY</b>	
<b>Tax administration</b>	In 2011-12, collection in respect of land revenue increased by 10.50 <i>per cent</i> over the previous year which was attributed by the Department to higher receipts from cess and surcharge on land revenue.
<b>Low recovery by the department against observations pointed out by Audit</b>	During the period from 2007-08 to 2011-12, Audit had pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc. with revenue implication of ₹ 130.28 crore in 20 paragraphs. Of these, the department/Government had accepted audit observations in 12 paragraphs involving ₹ 122.25 crore and had since recovered ₹ 15.02 crore which is only 12.29 <i>per cent</i> .
<b>Audit coverage by internal Audit Wing</b>	The wing planned to audit 18 District Land and Land Reforms Offices (DL&LRO), 19 Land Acquisition (LA) Collectors, one First Land Acquisition (FLA) Collector, two Rent Controllers and two Controllers of Thika Tenancy out of 18 DL&LROs, 19 LA Collectors, one FLA Collector, two Rent Controllers and two Controller of Thika Tenancy during the year 2011-12. Audit was conducted in respect of 17 DL&LROs, eight LA Collectors, one Rent Controller and one Controller of Thika Tenancy during the period which is 64 <i>per cent</i> of the units planned for audit.
<b>Results of audit conducted in 2011-12</b>	In 2011-12, test check of the records of 10 units relating to receipts from Land Revenue indicated non-realisation/blocking of revenue and other irregularities involving ₹ 127.07 crore in 166 cases. During the year, the department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 35.82 crore in 128 cases, of which 117 cases involving ₹ 35.61 crore were pointed out during the year 2011-12 and the rest in the earlier years. An amount of ₹ 14.33 lakh was realised in 11 cases at the instance of audit.
<b>What has been highlighted in this Chapter</b>	In this Chapter a Performance Audit on “Management of Government Land” with financial effect of ₹ 89.24 crore has been presented.  The following points have been highlighted in

the Performance Audit:

- The department failed to check illegal transfer of vested land and subsequently lost rights over 1,898.20 acres of land due to improper maintenance of Record of Rights.
- Non-initiation of action to realise land rent from defaulting raiyats led to non-realisation of rent, cess and surcharge of ₹ 2.07 crore.
- Department did not realise/short realised the transfer value of ₹ 7.53 crore for 70.23 acres of vested land in possession of Body Corporates.
- Due to delay in settlement of Government land measuring 397.84 acre on long term lease led to non-realisation of *salami* and annual rent.
- The department failed to resume/settle 2,337.11 acres of *Khasmahal* land occupied by the ex-lessees after the expiry of their leases.
- Deficient data management of Government land and absence of provision for periodicity of reconnaissance survey led to failure of the Government to monitor the status of land and its utilisation.
- Non-monitoring of encroachments resulted in non-settlement of 176.41 acres of land.

**Conclusion**

**The Performance Audit revealed that the centralised and computerised database on land, maintained by the department had deficiencies which need immediate attention. The database was compilation of basic data forwarded by the BL&LROs to DLRS and the DL&LROs had no access to that database.**

**A number of activities like vesting, resumption and settlement in respect of Government land held by mills, factories, workshops etc. were not carried out in accordance with the relevant provisions of the Act/Rules.**

**Monitoring mechanism was weak as is**

evidenced by the fact that no reference was recorded in the RORs relating to the land held by the mills/factories regarding that land being vested to the Government under EA Act. Thus, control of the Government over lands allowed to be retained by the factories/mills was lost.

In addition, non-settlement of KM land and encroached land, lack of initiative in collection of pending dues towards *salami* & rent and delay in finalisation of cases of settlement of land caused loss of revenue to the exchequer as well as loss of rights of Government over vested land.

The Government may :

- maintain a reliable, updated and centralised database of the Government land with information on land vested under EA Act, encroachment/unauthorised occupation and *khasmahal* land. The data should be regularly updated based on periodical surveys and access should be provided to the district level and block level offices for monitoring and taking necessary action.
- make provisions in the rules for fixing periodicity of reconnaissance survey and submission of reports on retained land of mill/factory under EA Act so as to check illegal sale/misuse of the Government land.
- direct the DL&LROs to maintain records of the land under encroachment with details of land schedule and persons occupying the land with date of occupation so that timely action could be taken for ejection/settlement.

## CHAPTER III : LAND REVENUE

### 3.1 Tax administration

Land Revenue consists of receipts from land rent, rates and cess, management of Ex-Zamindari Estates, survey and settlement operations etc. Assessment and collection of land revenue are governed by the West Bengal Land Reforms Act, 1955, the West Bengal Land Reforms Rules, 1965, the West Bengal Land Acquisition Manual, 1991, the West Bengal Land and Land Reforms Manual, 1991 and Land Transfer Rules contained in the Bengal Land Acquisition Act, 1917.

### 3.2 Trend of revenue

Actual receipts from land revenue during the years 2007-08 to 2011-12 along with the total tax receipts of the year during the same period is exhibited in the following table and chart:

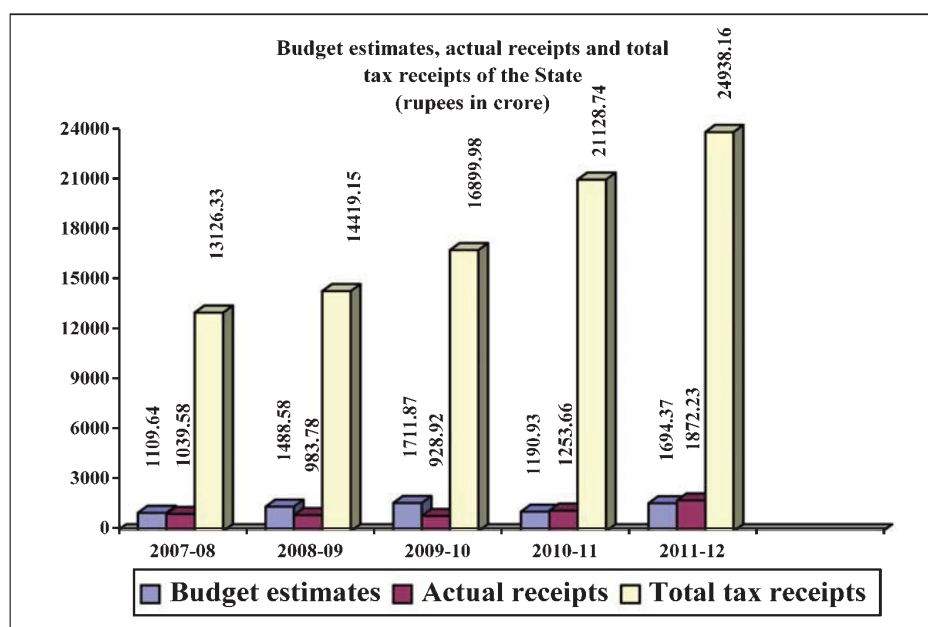
**Table 3.1 - Trend of revenue**

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	1,109.64	1,039.58	(-) 70.06	(-) 6.31	13,126.33	7.92
2008-09	1,488.58	983.78	(-) 504.80	(-) 33.91	14,419.15	6.82
2009-10	1,711.87	928.92	(-) 782.95	(-) 45.74	16,899.98	5.50
2010-11	1,190.93	1,253.66	(+) 62.73	(+) 5.27	21,128.74	5.93
2011-12	1,694.37	1,872.23	(+) 177.86	(+) 10.50	24,938.16	7.51

Source : Finance Accounts and Budget Publications of the Government of West Bengal.

**Chart 3.1 - Trend of revenue**



In 2011-12, collection in respect of land revenue increased by 10.50 per cent over the previous year which was attributed by the Department to higher receipts from cess and surcharge on land revenue. However, the percentage of variation in budget estimates and actual receipts ranged between (-) 45.74 and (+) 10.50 per cent in the years 2008-09, 2009-10 and 2011-12. This shows that the budget estimates failed to project the prospective collection properly.

### 3.3 Cost of collection

The gross collection of land revenue and the expenditure incurred on collection during the years 2009-10 to 2011-12 are given in the following table:

**Table 3.2 – Cost of collection**

(₹ in crore)

Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection
Land Revenue	2009-10	928.92	536.29	57.73
	2010-11	1,253.66	576.57	45.99
	2011-12	1,872.23	565.64	30.21

Source: Finance Accounts.

The percentage of expenditure on collection of land revenue decreased gradually from 2009-10 to 2011-12 which shows a better tax administration by the department.

### 3.4 Revenue impact of audit reports

During the last five years (including the current year's report), we pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc. with revenue implication of ₹ 130.28 crore in 20 paragraphs. Of these, the department/Government had accepted audit observations in 18 paragraphs involving ₹ 122.25 crore and had since recovered ₹ 15.02 crore. The details are shown in the following table:

**Table 3.3 – Revenue impact of audit reports**

(₹ in crore)

Year of audit report	Paragraphs included		Paragraphs accepted by the departments		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2007-08	5	0.70	4 <sup>1</sup>	0.40	NIL	NIL
2008-09	5	37.34	5 <sup>2</sup>	37.03	4	14.22
2009-10	4	1.73	4 <sup>3</sup>	1.10	3 <sup>4</sup>	0.18
2010-11	5	1.27	4 <sup>5</sup>	1.25	4	0.19
2011-12	1	89.24	1 <sup>6</sup>	82.47	1 <sup>7</sup>	0.43
<b>Total</b>	<b>20</b>	<b>130.28</b>	<b>18</b>	<b>122.25</b>	<b>12</b>	<b>15.02</b>

<sup>1</sup> Partly accepted.

<sup>2</sup> Four paragraphs partly accepted.

<sup>3</sup> Partly accepted.

<sup>4</sup> Partly recovered.

<sup>5</sup> One Paragraph partly accepted.

<sup>6</sup> Partly accepted.

<sup>7</sup> Partly recovered.

Thus, against the accepted cases of ₹ 122.25 crore, the department /Government has recovered ₹ 15.02 crore which is only 12.29 per cent.

**Government may revamp the recovery mechanism to ensure that the amount involved in accepted cases is promptly recovered.**

### 3.5 Working of internal audit wing

The internal audit wing of an organisation is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable the organisation to assure itself that the prescribed system is functioning reasonably well.

The internal audit wing of the L&LR Department was re-introduced in the year 2007-08 with the objective of fulfilling accountability, obligations, complying with applicable rules and regulations, executing orderly and effective operations and safeguarding resources against loss. The wing is headed by the Audit Officer cum Ex-officio Deputy Secretary who is assisted by Internal Audit Officers and Assistant Auditors. No Internal Audit Officer was posted in the IAW against sanctioned strength of 16 whereas the existing strength of Assistant Auditor was 12 against the sanctioned strength of 14. Though the manual of the wing has been drafted, it has not yet been published. The wing planned to audit 18 DL&LROs, 19 Land Acquisition (LA) Collectors, one First Land Acquisition (FLA) Collector, two Rent Controllers and two Controllers of Thika Tenancy and audit was conducted in respect of 17 DL&LROs, eight LA Collectors, one Rent Controller and one Controller of Thika Tenancy during the period.

### 3.6 Results of audit

In 2011-12 we test checked the records of 10 units relating to receipts from Land Revenue and found non-realisation/blocking of revenue and other irregularities involving ₹ 127.07 crore in 166 cases which fall under the following categories:

**Table 3.4 – Results of audit**

(₹ in crore)			
Sl. no.	Categories	No. of cases	Amount
1	Management of Government Land (A Performance Audit)	1	89.24
2	Non-realisation of rent at commercial rate	85	6.87
3	Non-levy and non-realisation of rent and salami	24	12.33
4	Non-realisation of rent, cess and surcharge	17	17.77
5	Non-realisation of Land Revenue/Cess from big raiyats	9	0.49
6	Blockage/loss of revenue due to non-leasing of <i>Sairati interest</i>	14	0.25
7	Other cases	16	0.12
<b>Total</b>		<b>166</b>	<b>127.07</b>

During the year, the department accepted non-realisation/blocking of revenue and other deficiencies of ₹ 35.82 crore in 128 cases, of which 117 cases involving ₹ 35.61 crore were pointed out during the year 2011-12 and the rest

in earlier years. An amount of ₹ 14.33 lakh was realised in 11 cases at the instance of audit.

Audit findings of the Performance Audit on '**Management of Government Land**' with financial effect of ₹ 89.24 crore are mentioned in the following paragraphs.



### 3.7 Performance Audit on “Management of Government Land”

Government land means land vested with the State Government, which includes *Khasmahal*<sup>8</sup> (KM) land, estate land, agricultural and non-agricultural land. Land revenue comprises *salami*<sup>9</sup> lease rent, receipts from management of estates, survey and settlement operation etc. All the receipts from Government land are deposited under the head of account “0029”. We conducted a Performance Audit on “**Management of Government Land**” covering the period 2006-07 to 2010-11 which revealed:

#### Highlights

- The department failed to check illegal transfer of vested land and subsequently lost rights over 1,898.20 acres of land due to improper maintenance of Record of Rights.  
(Paragraph 3.7.8.1, 3.7.8.2 and 3.7.8.3)
- Non-initiation of action to realise land rent from defaulting raiyats led to non-realisation of rent, cess and surcharge of ₹ 2.07 crore.  
(Paragraph 3.7.12)
- Department did not realise/short realised the transfer value of ₹ 7.53 crore for 70.23 acres of vested land in possession of Body Corporates.  
(Paragraph 3.7.14)
- Due to delay in settlement of Government land measuring 397.84 acre on long term lease led to non-realisation of *salami* and annual rent.  
(Paragraph 3.7.15)
- The department failed to resume/settle 2,337.11 acres of *Khasmahal* land occupied by the ex-lessees after the expiry of their leases.  
(Paragraph 3.7.16)
- Deficient data management of Government land and absence of provision for periodicity of reconnaissance survey led to failure of the Government to monitor the status of land and its utilisation.  
(Paragraph 3.7.17.1 & 3.7.17.2)
- Non-monitoring of encroachments resulted in non-settlement of 176.41 acres of land.  
(Paragraph 3.7.18)

<sup>8</sup> *Khasmahal* land means Government estates, managed by the Collector in direct communication with the *tenant*.

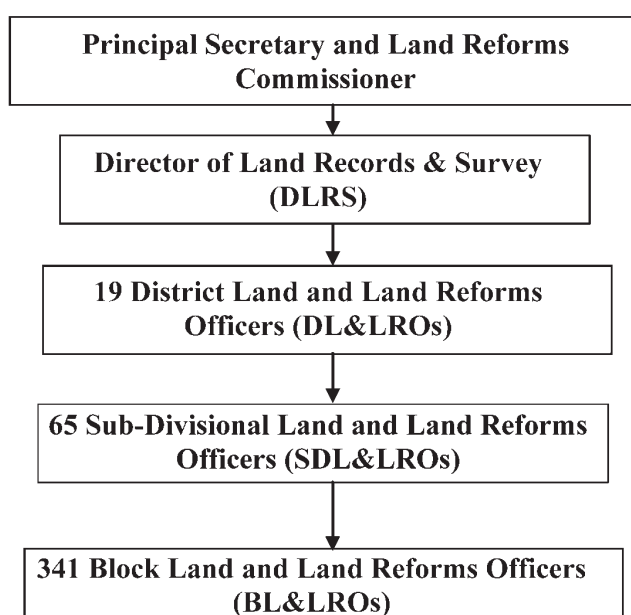
<sup>9</sup> *Salami* means lumpsum amount payable by the lessee in the case of settlement of Government land.

### 3.7.1 Introduction

Government land is managed broadly under the provisions of West Bengal Estate Acquisition Act, 1953 and West Bengal Land Reforms Act, 1955. The Land and Land Reforms Department (L&LR) frames rules for management of Government land, collects revenue (at block/district level) and issues executive instructions to safeguard the land vested to the Government.

### 3.7.2 Organisational set up

The L&LR Department is headed by the Principal Secretary and Land Reforms Commissioner, who is assisted by DLRS, DL&LROs, SDL&LROs and BL&LROs. The organisational structure of the L&LR Department is shown below:



All matters relating to land management/utilisation are forwarded to the Principal Secretary & Land Reforms Commissioner (PS&LRC), L&LR Department by the DL&LROs for approval.

### 3.7.3 Audit objectives

We conducted the Performance Audit to ascertain whether:

- provisions of Acts/Rules and departmental instructions were followed for vesting and resumption of Government land;
- rent, *salami*, transfer value were properly assessed and collected;
- effective monitoring mechanism existed to safeguard Government land.

### 3.7.4 Scope and Methodology

Out of 19 DL&LROs, 10 DL&LROs were selected for the Performance Audit by application of 'risk analysis' and 'Stratification and Simple Random Sampling' method focussing on the districts having larger vested land all along the industrial belt in West Bengal. Details are as under:



1. Birbhum
2. Burdwan
3. Hooghly
4. Jalpaiguri
5. North 24 Parganas
6. Paschim Medinipur
7. Nadia
8. Purba Medinipur
9. Purulia
10. South 24 Parganas

### 3.7.5 Audit criteria

The provisions of the following Acts and Regulations were used as source for the audit criteria:

Bengal Land Acquisition Manual, 1917 (BLAM);

West Bengal Estate Acquisition Act, 1953 (EA Act);

West Bengal Land Reforms Act, 1955 (WBLR Act);

West Bengal Land and Land Reforms Manual, 1991 (WBL&LRM);

Kolkata Land Revenue Act, 2003 (KLR Act); and

Rules made thereunder.

### 3.7.6 Acknowledgement

An Entry Conference was held on 20 October 2011 which was attended by the Additional Secretary and the Deputy Secretary of the L&LR Department wherein the scope and objectives of the Performance Audit were explained to the department. The findings of the Performance Audit forwarded to the Government in June 2012 were discussed with the Principal Secretary, DLRS, Additional Secretary and Deputy Secretary in the Exit Conference held on 16 October 2012. The views of the Department have suitably been incorporated in the relevant paragraphs. We acknowledge the co-operation of the L&LR Department in providing necessary information and records.

### 3.7.7 Trend of revenue

Land Revenue (LR) is collected under the major head “0029”. This major head accounts for receipts from lease rent, *salami*, receipts from management of estates, survey and settlement operations and various types of cesses viz. public works cess, rural employment cess, road cess, education cess on coal mines and tea gardens etc. In this Performance Audit, revenue from various cesses has been excluded from the LR in order to segregate the revenue from management of government land.

Position of receipts under “Land Revenue Excluding the Cess (LREC)” for the period from 2006-07 to 2010-11 is tabulated below:

**Table 3.5-Trend of Revenue**

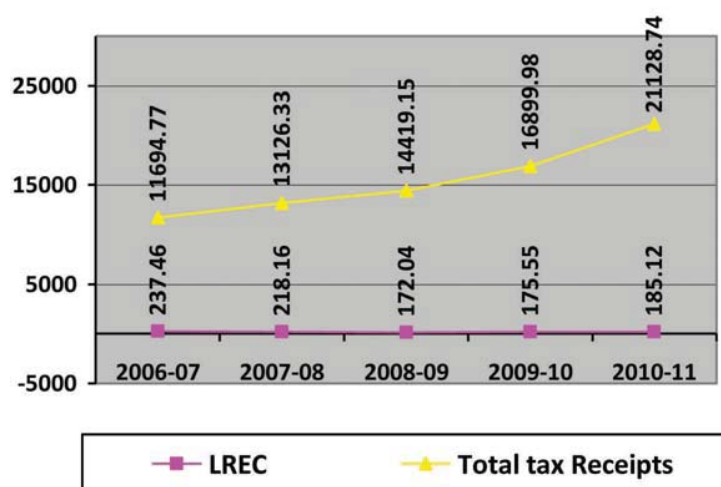
(₹ in crore)						
Year	Budget Estimates	Actual Receipts	Difference between BE and Actual	Percentage of variation	Total Tax revenue collected in the state	Percentage of LREC in respect of total tax revenue
2006-07	161.41	237.46	(+)76.05	(+)47.11	11,694.77	2.03
2007-08	231.20	218.16	(-)13.04	(-)5.64	13,126.33	1.66
2008-09	371.04	172.04	(-)199.00	(-)53.63	14,419.15	1.19
2009-10	426.70	175.55	(-)251.15	(-)58.85	16,899.98	1.03
2010-11	587.20	185.12	(-)402.08	(-)68.47	21,128.74	0.87

Source : Finance Accounts and Budget Publications of the Government of West Bengal.

It is evident from the above table that except in 2007-08, there was a wide variation ranging from (+) 47 *per cent* to (-) 68 *per cent* between BEs and the actual receipts. Such wide variations indicate that system followed for framing estimates or assessing prospective collection was flawed.

The collection of LREC was the lowest in the year 2008-09 with a decrease of 21.14 *per cent* as compared to 2007-08. The comparison between the LREC and the total tax receipts of the state for the period from 2006-07 to 2010-11 is illustrated in the following graph.

**Graph 3.1: Trend of Revenue**



During the period under audit the collection of total tax revenue in the state increased by 80.66 *per cent* and the increase was 31.59 *per cent* in case of LR. The increase in LR was attributable to higher receipts towards various cesses. Audit observed that while the collection of LR increased by 31.59 *per cent*, the collection of LREC uniformly decreased from 2.03 *per cent* to 0.87 *per cent* during the same period.

We observed that while preparing BEs of land revenue, no feedback was taken from the subordinate offices by the department in contravention of the provisions of Budget Manual and West Bengal Financial Rules (WBFR).

In reply the department stated (October 2012) that the Finance (Budget) Department so far prepared the budget of L&LR Department on the basis of assumptions. However, initiative has been taken to develop mechanism for obtaining information from the district level for preparation of BEs and Revised Estimates etc. through liaisoning with the Finance Department.

### **Audit findings**

During the audit it was observed that a large portion of land vested in the Government was occupied unauthorisedly owing to non-renewal of leases, encroachments etc. which could generate revenue towards *salami*, lease rent and transfer value if resumed and settled. Considering the enormity of the potential revenue, if calculated at present market value, only the quantum of land has been included in audit observations on cases of unsettled Government land.

The Performance Audit revealed various deficiencies which are mentioned in the succeeding paragraphs.

### **3.7.8 Violation of provisions of the West Bengal Estate Acquisition Act, 1953 (EA Act)**

As per EA Act, 1953 read with different rules, after the land was formally vested under Section 5, following steps were to be taken by the Government in L&LR Department:

- (i) Record of Rights (RoR) was to be corrected in the name of the mill, factory etc. with specific notings that provisions of Section 6(3) were applicable.
- (ii) Periodical reconnaissance surveys were to be conducted for detection of surplus land for resumption.
- (iii) Resumed lands were to be settled with the prospective lessees on realisation of revenue.

We observed that due to non-adherence to the above provisions during last fifty years, Government lost possession of sizeable area of land and the inaction of the Department facilitated the intermediaries to sell the Government land to the private parties. We found in a number of cases where one or other of the aforesaid provisions had been violated which are depicted in the following paragraphs.

### 3.7.8.1 Failure to correct the Record of Rights (RoR)<sup>10</sup>

We found in two<sup>11</sup> DL and LR offices, that 225.59 acres of land held by seven mills/factories established prior to April 1955, vested to the Government under the EA Act, was allowed to be retained by the intermediaries. The RoR had to be corrected accordingly by inserting an entry regarding vesting of land. Those mills/factories were closed between 1970 and 2002 and the intermediaries sold the land to the private parties, in spite of having no right, title and interest in the land. Due to non-correction of RoR, illegal transfer of these vested land could not be checked. Thus Government lost rights over 225.59 acre of land as mentioned in the following table:

**Table 3.6 – Failure to correct Record of Rights (RoR)**

Sl. No.	Name of the mill/factory	Year of closure	Year of sale/ transfer	Area of land transferred (in acres)
1.	M/s Hind Wire Industries Ltd	1996	Not available	7.32
2.	M/s Dabur Ltd. in South 24 Parganas	Prior to 2002	1975	4.65
3.	M/s Eastern Paper Mills Ltd.	1985	2006	7.59
4.	M/s Hindusthan Storage & distribution Ltd	Not available	1970	110.00
5.	M/s Eagle Plywood	1982	Not available	1.33
6.	M/s New Central Jute mill Co. Ltd	Not available	2008	78.91
7.	M/s Hindustan Cotton Mills	-do-	1976	15.79
<b>Total</b>				<b>225.59</b>

In reply, the department accepted the fact (October 2012), however did not specify any action for correcting the RoRs.

### 3.7.8.2 Failure of the department to protect the vested land

During test check of records of four<sup>12</sup> DL&LROs, we found that 1,507.90 acres of land held by seven mills was sold by the Official Liquidators appointed by the Hon'ble Calcutta High Court after those became sick and went into liquidation. Thus, due to insufficient monitoring/control mechanism, the department failed to protect the land from liquidation by taking timely action to apprise the court about the status of land. This resulted in loss of rights over Government land of 1,507.90 acres as mentioned in the following table:

<sup>10</sup> Records of Rights: It is a statutory document maintained by the prescribed authority u/s 50 of WBLR Act 1955 and is a notice to the public at large as to who are the owners of the land in the records of the authorities. This record is maintained at the level of BL&LRO. Necessary corrections are made in the RoR as and when ownership changes. As per provisions of EA Act, for retention/resumption cases under section 6(3), corresponding corrections and specific noting should be recorded in the RoR.

<sup>11</sup> North 24 Parganas and South 24 Parganas.

<sup>12</sup> Birbhum , Burdwan, Hooghly and North 24 Parganas.

**Table 3.7 – Failure of the department to protect the vested land**

Sl. No.	Particulars of the mill, factory etc.	Year of closure	Year of sale/transfer	Area of land sold/transferred (in acres)
1.	M/s Bengal Paper Mill Ltd	1989	2004	122.03
2.	M/s Rishra Steel Ltd	NA	2000	37.56
3.	M/s Durga Cotton Mills	Liquidation in 1987	2005	28.66
4.	M/s Eastern Explosives & Chemicals Ltd (ECCL)	1995	2006	1,232.71
5.	M/s Hindusthan Pilkington Glass Works	1980	2003	55.69
6.	M/s East End Paper Industries Ltd	1993	Before 2008	22.25
7.	M/s Siliguri Steel Ltd & others	1993	2004	9.00
	<b>Total</b>			<b>1,507.90</b>

Department did not furnish any specific reply on the above issue.

### 3.7.8.3 Irregular transfer of vested land

WBLR Act does not permit sale of Government land excepting under second proviso to Sec. 14Z (1), which permits sale of Government land under written order by way of open auction only for the purpose of revival of the mill, factory etc. under specific terms and conditions.

We found in two<sup>13</sup> DL&LROs that out of 296.02 acres of vested land held by four intermediaries, 164.71 acres was sold/transferred without the permission of the Government. As none of these mills/factories

required revival, the sale/transfer was violative of provisions of the Act. This resulted in loss of rights over the vested land of 164.71 acres.

**Table 3.8 – Irregular transfer of vested land**

Sl. No.	Particulars of the mill, factory etc.	Area of land	
		Held (in acres)	Transferred/Sold/Leased (in acres)
1.	M/s Nicco Corporation Ltd	16.21	7.96
2.	M/s Annapurna Cotton Mill Ltd	34.53	34.53
3.	M/s Angus Co Ltd	197.45	74.39
4.	M/s Gondalpara Jute Mill	47.83	47.83
	<b>Total</b>	<b>296.02</b>	<b>164.71</b>

The Public Accounts Committee (2008-09) in their 25<sup>th</sup> Report recommended that the L&LR Department should intimate all the concerned authorities that, wherever such plots lying vacant, not to allow any registration or mutation thereof without prior approval of the L&LR Department.

<sup>13</sup> Hooghly and North 24 Parganas.

In response to the audit observation, the department stated (October 2012) that the Government would not allow real estate to come up in vested land under EA Act. However methodology to be adopted to check unauthorised transfer of Government land was not explained.

### 3.7.9 Blockage of revenue due to delay in approval of settlement of land proposed for Long Term Settlement

Under Rule 219 of the WBLLRM, settlement of Government land for non-agricultural purpose shall ordinarily be made for a period of 30 years with the prospective lessee.

Under Rule 225 of the WBLLRM, the lease proposal is to be completed within five months from the date of receipt of proposal and the lease agreement is to be executed within the date specified in the sanction order on realisation of *salami* and rent for the first year.

During test check of the case records in seven<sup>14</sup> DL&LROs we found that 14 proposals for long term settlement of 465.49 acres of land were received between July 2004 and December 2010. Till date the department could

neither finalise the cases nor took any action to evict the occupiers. Non-finalisation of these cases resulted in blockage of expected revenue towards *salami* amounting to ₹ 77.71 crore as detailed in **Annexure-II**.

The department accepted audit observations (October 2012) and it was assured that appropriate action would be taken.

### 3.7.10 Short realisation of revenue due to incorrect assessment of market value for calculation of *Salami* and rent

Rule 222 of the WBLLRM prescribes that the market value of the land proposed for settlement should be carefully assessed from the records obtainable from Sub-Registration Offices.

During test check of case records of two<sup>15</sup> DL&LROs we noticed that proposals for long term settlement of 8.92 acres of land were received from two

organisations and forwarded the same to the Government between December 2004 and November 2007. Further scrutiny of the records revealed that the land was settled by the above DL & LROs on realisation of *salami* amounting to ₹ 51.63 lakh which was much lower than ₹ 104.76 lakh as calculated and forwarded by the BL&LROs on the basis of market value obtained from the respective sub-registrar offices. This has resulted in short realisation of revenue of ₹ 53.13 lakh.

The Government did not furnish any reply till November 2012.

<sup>14</sup> Burdwan, Jalpaiguri, North 24 Parganas, Paschim Medinipur, Nadia, Purba Medinipur and Purulia.

<sup>15</sup> Burdwan and Paschim Medinipur.



### 3.7.11 Non-realisation of *Salami*, rent and interest thereon

As per Rule 235 of WBLLRM, the rent shall be payable yearly according to the Bengali year (BS) and shall fall due on the last day of the Bengali year in respect of which it is paid. Rule 303 prescribes for interest at the rate of 6.25 per cent per annum on delayed payment of revenue.

During test check of the case records of three<sup>16</sup> DL&LROs, we found that in four cases *salami* and rent of ₹ 21.70 lakh including interest for

the period from 1997-1998 to 2010-11 on account of lease of 71.68 acres of land were not paid by the lessees as detailed in the following table:

**Table 3.9—Non-realisation of *salami*, rent & interest**

Name of the Lessee	Area of the Land in acre	Period of lease	<i>Salami</i> assessed (in ₹)	Yearly Rent assessed (till 03/11)	Rent fallen due since BS	Rent Due (in ₹)	Interest due (in ₹)	Total Due (in ₹)
Banipur Engg College	24.20	30	0	45,707.00	1410 (2003-04)	3,65,656.00	1,02,840.75	4,68,496.75
WBSOBL	0.11	30	0	33,619.00	1411 (2004-05)	2,35,333.00	58,833.25	2,94,166.25
S Giri	0.0225	99	3,88,094.00	1,225.00	1403 (1997-98)	18,375.00	8,039.06	4,14,508.06
20 Misc. cases	47.35	--	Not applicable	2,99,333.00	1414 to 1416 (2007-08 to 2010-11)	8,98,000.00	95,000.00	9,93,000.00
<b>Total</b>	<b>71.6825</b>		<b>3,88,094.00</b>			<b>15,17,364.00</b>	<b>2,64,713.06</b>	<b>21,70,171.06</b>

Government accepted (October 2012) the audit observation in 20 miscellaneous cases involving ₹ 9.93 lakh and stated that an amount of ₹ 2.68 lakh had been realised. In the remaining cases, Government did not furnish any reply (December 2012).

### 3.7.12 Non-realisation of rent, cess and surcharge on land used for commercial purpose

Section 23 of the WBLR Act provides that *raiyats* using land for commercial purposes are liable to pay land rent at the prescribed rate. A surcharge and different kinds of cess are also realisable on the land rent payable by the *raiyats*. The *bhumi sahayaks* posted in the revenue inspectors' offices under the BL&LROs are responsible for collection of land rent. Under Rule 235 of the WBLLRM rent shall be payable yearly according to the Bengali year and shall fall due on the last day of the Bengali year (30<sup>th</sup> Chaitra) in respect of which it is paid.

During the test check of records in the DL&LROs, Hooghly and North 24 Parganas we found that in 320 cases 156 *raiyats*<sup>17</sup> under 10 BL&LROs used 965.03 acres of land for commercial purposes without paying land rent

<sup>16</sup> South 24 Parganas, North 24 Parganas and Paschim Medinipur.

<sup>17</sup> *Raiyat* means a person or an institution holding land for any purpose.

during the period between 1414 BS<sup>18</sup> (2007-08) and 1416 BS (2009-10). However, the DL&LROs did not initiate any action to realise the land rent from the defaulting *raiyyats*.

This resulted in non-realisation of rent, surcharge etc. of ₹ 2.07 crore.

After we reported the cases, the DL&LRO, Hooghly admitted the audit observations and stated (May 2012) that ₹ 32.93 lakh had been realised from 115 *raiyyats*; but did not furnish any report on realisation of the balance amount of ₹ 1.58 crore. The DL&LRO, North 24 Parganas admitted (June 2010) the audit observations involving ₹ 15.65 lakh; but did not furnish any report on realisation (December 2012).

The Government accepted (October 2012) the audit observation and stated that a report on further realisation would be submitted; their report on realisation is awaited (December 2012).

### 3.7.13 Non-realisation of rent from *Sairati*<sup>19</sup> interest

Rules 272, 275 and 275A of the WBLLRM prescribe that *Sairati* interests should be leased out on yearly basis for a period not exceeding seven years. The collector of the district is required to fix the rent and realise 25 per cent of the rent for the first year at the time of settlement and the balance should be deposited before the beginning of the year. The rent for the successive years is to be deposited by the lessee in full before the beginning of the respective year.

We found in three<sup>20</sup> DL&LROs that 24 water bodies involving 1,003.331 acres were leased out between May 2011 and December 2011 but the rent for

the periods between 2008-09 and 2010-11 was not realised. This resulted in non-realisation of revenue of ₹ 8.98 lakh.

After we reported the cases, two<sup>21</sup> DL&LROs admitted the audit observations in case of nine water bodies involving ₹ 7.00 lakh and stated that action would be taken to realise the dues; but did not submit report on realisation. In the remaining 15 cases the DL&LROs<sup>22</sup> did not furnish any specific reply (December 2012).

The Government while accepting (October 2012) the audit observation stated that ₹ 7.10 lakh was realised and a report on further realisation would be submitted; their report on realisation is awaited (December 2012).

<sup>18</sup> Bangla Sakabda (from 15 April of a year to 14 April of next year).

<sup>19</sup> Derived from the word *Sair*. The duties which the owners of *Hat*, bazaar, markets, ferries, fisheries etc. used to levy on commodities sold or benefits derived from these places were designated as *Sair* collection. Such *Hat*, ferries etc. are known as *Sairati* interests.

<sup>20</sup> Malda, Nadia and Paschim Medinipur.

<sup>21</sup> Nadia and Paschim Medinipur.

<sup>22</sup> Malda and Paschim Medinipur.

### 3.7.14 Land settled with Government body corporates

In the following cases it was observed that the transfer value of the vested land, transferred to the Government organisations was either not realised or realised short.

Under Rule 470 of the WBLLRM the transfer of land to Government undertakings by any department other than L&LR Department should route through L&LR and land should be settled with its approval.

Land Transfer Rules read with Government order No. 681 (64)-LR dated 03.09.1993 and No. 2435 (40)/ SS (s)-LA dated 17.10.2005 prescribe that in case of transfer of land to the Government of India and any other company or body corporate, transfer value comprising market value and capitalised value which is 20 or 25 times of the annual land revenue is realisable from the transferee.

(a) We found in two<sup>23</sup> DL&LROs, 12.64 acres of land was granted to two body corporates between August 1999 and March 2011. In terms of the Land Transfer Rules read with the Government order of September 1993, the land in each case was to be transferred on realisation of transfer value. The transfer value

of ₹ 6.12 crore calculated by the department was not realised as detailed in the following table:

**Table 3.10—Non-realisation of transfer value**

District	Name of the Body Corporate	Area Involved in acre	Market Value (₹)	Capitalised Value (₹)	Transfer value (₹)	Non-realisation of Transfer Value (₹)
Burdwan	ECL	11.94	Not provided in the order		5,78,26,913	5,78,26,913
Jalpaiguri	Min of Telecom, GoI	0.70	28,01,098	5,40,720	33,41,818	33,41,818
<b>Total</b>		<b>12.64</b>				<b>6,11,68,731</b>

When it was reported, the DL&LRO, Burdwan stated (November 2011) in one case involving ₹ 5.78 crore that action would be taken. The DL&LRO, Jalpaiguri in one case involving ₹ 33.41 lakh stated (May 2012) that the BL&LRO had been asked to furnish market value which might fetch higher transfer value.

(b) We found in DL&LRO, South 24 Parganas that Kolkata Port Trust (KoPT), a body corporate under the Government of India had requested for transfer of 50.59 acres of land for setting up of port facilities for Haldia Dock Complex. Instead of transferring the land against transfer value the department settled in August 2010 the land on long term lease on realisation of salami of ₹ 6.40 crore and annual rent of ₹ 2.01 lakh. Had the land been transferred on realisation of transfer value of ₹ 7.81 crore as requested, the Government would have gained an additional revenue of ₹ 1.41 crore.

<sup>23</sup> Burdwan and Jaipauri.

However, the element of annual rent would get set off against the interest on ₹ 1.41 crore.

The department stated in October 2012 that the land of 50.59 acres was transferred to the Commerce & Industries Department. The reply is not tenable since the settlement was done directly by L&LR Department with KoPT.

(c) Refugee Relief & Rehabilitation Department (RR&RD) granted LTS of 7.00 acres of land to the Indian Institute of Foreign Trade (IIFT) during 2009 at a premium of ₹ one for 99 years without the approval of the L&LR Department as provided under Rule 470 of WBLLRM. Due to absence of any review mechanism to watch over actual utilisation of land, the L&LR Department failed to resume the land, not required by RR&RD and settle the same with the IIFT. This resulted in non-realisation of transfer value.

### 3.7.15 Non-realisation of Government revenue due to non-settlement of long term lease

Rule 238 of the WBLLRM provides that Government land, remaining in possession of a person(s) without any lease, may be offered to such person(s) on long term settlement for non-agricultural purpose on realisation of rent and salami at the prescribed rates. Further, Rule 225 prescribes that the procedure of long term settlement is to be completed by the Department within five months from the date of its initiation.

We found in three DL&LROs (Bankura, Coochbehar and Jalpaiguri) that 397.84 acres of land was under unauthorised occupation of two firms and private individuals. The occupiers applied between December 2002 and December

2007 for long term settlement of the land for residential and industrial purposes. However, the Department did not finalise the long term settlement even after lapse of periods ranging from 5 to 10 years. Department calculated the *Salami* and annual rent of ₹ 1.09 crore for 42.97 acres of land in Bankura and Coochbehar districts. Thus, failure of the Department to settle the land with unauthorised occupiers within the prescribed time-limit resulted in non-realisation of revenue of ₹ 1.09 crore and non-settlement of 354.87 acres of land in Jalpaiguri district.

After we reported the cases, the DL&LRO, Bankura in one case stated (May 2012) that the company had submitted a revised proposal for long term settlement of land which was sent to the Department on 16.03.2012 and in another case stated that the company had submitted the prayer for long term lease for acquired land but did not furnish report on further development in both the cases. In the remaining cases, the DL&LRO, Coochbehar did not furnish any reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that further report would be submitted; their report is awaited (December 2012).

### 3.7.16 Failure to settle KM land led to non-realisation of *salami* and rent

In terms of Rule 238 of WBLLRM read with G.O. No. 3719 dated 15.12.2006 and No. 11185 dated 24.12.1997, Government land occupied unauthorisedly shall be settled with the occupiers on long term settlement on realisation of *salami* and rent assessed on current market value.

During scrutiny of records of two<sup>24</sup> DL and LROs, we found that 2,337.11 acres of KM land covering 16 areas/*mouzas*<sup>25</sup> was under the unauthorised occupation of the

ex-lessees for domestic purposes over a period of 35 years as the lease period had expired between 1950 and 1977. The DL&LROs did not initiate any action to resume the land or to settle with the ex-lessees who became unauthorised occupants in terms of the Government order 2006. Non-settlement of the land of 2337.11 acres unauthorisedly occupied by the ex-lessees resulted in non-realisation of *salami* annual rent.

On this being pointed out, the DL&LRO, South 24 Parganas stated (April 2012) that the proposal for settlement of 50.77 acres of KM land had been sent to the department for approval. But case records in connection with such proposals were not provided with.

DL&LRO, Paschim Medinipur furnished no reply.

The department did not furnish any reply (November 2012).

### 3.7.17 Control mechanism to manage/safeguard Government land

Land policy of the Government is manifested through various Acts/Rules and relevant orders of the Government. Rule 23 of WBLLRM provides that BL&LRO is responsible for vesting, taking over possession and distribution of surplus land and therefore he is required to maintain various registers including Register VIII, Register X under provisions of Rule 323. Register VIII contains information about vested/resumed land and the Register X contains information on settlement of Government land on long/short term basis. He is also responsible for maintenance of RoR and to make necessary corrections therein in case of change in ownership of land.

Under Rule 28, the BL&LRO is required to submit Monthly Progress Return (MPR) (of collection of land revenue and status of land) to the SDL&LRO who in turn sends it to the DL&LRO. The DL&LRO compiles the MPR of the district and sends it to the DLRS.

As per the provisions contained in EA Act, reconnaissance survey is required to be conducted to keep a watch on the vested/resumed/retained Government land. Deficiencies in compliance of these provisions noticed during the audit have been noted below:

<sup>24</sup> South 24 Parganas and Paschim Medinipur.

<sup>25</sup> Unit of Area for determining the land revenue.

### 3.7.17.1 Deficient data management

The DLRS maintained a centralised and computerised database of land of the state on the basis of basic data forwarded from the Block Land and Land Reform offices (Block Level) in CD form and it is updated monthly. We noticed that retention and resumption of land comprised in mills/factories was not noted separately in the centralised database.

We also found that the Act/manual did not have any provision for maintenance of any register by the DL&LRO for keeping records of mills/factories and their land which were vested and allowed to be retained and resumption of surplus land as per EA Act. We also analysed the centralised database in the DLRS and noticed that retention and resumption of land comprised in mills/factories were not noted separately. In absence of the notings in the centralised database in DLRS and any register in DL&LROs there existed no control over such land.

In reply, the department stated (October 2012) that retention of land was noted with a reference to the notification made under section 6(3) of EA Act in RoR<sup>42</sup> itself and resumption is noted in Register VIII as per provisions of WBLLRM. Both the RoR and the Register VIII are maintained in the BL&LR Office.

The above view is not based on facts since examination of the data of 27 mills/factories in the centralised database of DLRS revealed (November 2012) that data in respect of only 12 mills/factories could be retrieved. A sample of 276 plots belonging to 12 mills/factories were selected for data checking and it was found that RoRs of 264 plots did not contain information about the plots vested under EA Act. No information was found in respect of remaining 15 numbers of mills/factories as per samples applied. Thus, controls of Government over land allowed to be retained by the mills/factories were not in place.

### 3.7.17.2 Absence of provision for periodicity of reconnaissance survey

As per proviso to Section 6(3) of the EA Act read with the notification No. 459-LR/5M-01/05 GE(M) dated 10 February 2005 of L&LR Department, reconnaissance survey is to be done from time to time for assessing the requirement of land for the purpose of the mill/factory etc.

During scrutiny of records of the L&LR Department we found that though there is provision of reconnaissance survey<sup>26</sup> of the land comprised in mills/factories but there

is no provision in the rules/notification/Government order prescribing the periodicity of the reconnaissance survey. There is also a lack of provision regarding the time limit to complete the resumption procedure where the land declared surplus as a result of reconnaissance survey. Absence of these provisions resulted in failure of the Department to monitor the status of land and to complete the resumption without delay.

<sup>26</sup> Preliminary survey or study.

The department accepted (October 2012) the audit observation.

### 3.7.18 Deficiencies in management of encroached land

The Board of Revenue in August 1988 asked the district magistrates to identify encroachments on Government land for removal of encroachments. Rule 238 of the WBLLRM provides the procedure for settlement of lands under unauthorised occupancy. L&LR in their order issued in December, 2006 specified that for long term settlement of Government land with the unauthorised occupiers, *salami* and rent shall be assessed on current market value of land.

Out of the 10 test checked DL&LROs, it was found that only DL&LRO, Birbhum furnished a statement of 1,455.87 acres of land under encroachment relating to six blocks with the *mouza*-wise break-up of the area under each block. Remaining nine

DL&LROs did not maintain any record/information about the encroached Government land under their jurisdictional area. Non-maintenance of such information indicates lack of monitoring and internal control over Government land.

We found that 176.41 acres of Government land under two<sup>27</sup> DL &LROs was encroached by 36 persons/organisations and the department came to know about the encroachment only in December 2011 and February 2012. No attempt was made by the department to settle the land with the unauthorised occupiers which led to non-realisation of *salami* and annual rent.

On this being pointed out, the DL&LRO South 24 Parganas stated (March 2012) that in one case the BL&LRO had been asked to enquire and ascertain the actual area under occupation.

During Exit Conference (October 2012) the Principal Secretary, L&LR Department stated that the reply would be furnished shortly. However, the Government reply is still awaited (December 2012).

### 3.7.19 Conclusion

The Performance Audit revealed that despite the department has managed to maintain a centralised and computerised database on land there were different weaknesses as discussed before, which need immediate attention by the department. As a result a number of activities like vesting, resumption and settlement of resumed land held by mills, factories, workshops etc. were not carried out in accordance with the provisions of the law and regulations. This had led to overall mismanagement of Government land. Monitoring mechanism was weak as is evidenced by the fact that no reference recorded in the RORs relating to the plots of land held by the mills/factories regarding land being vested to the Government under EA Act. Thus, control of the Government over lands allowed to be retained by the factories/mills was lost.

Poor monitoring of vested land, non-settlement of KM land and encroached land, lack of initiative in collection of pending dues towards *salami* & rent and

<sup>27</sup> Purba Medinipur and South 24 Parganas.

delay in finalisation of cases of settlement of land on Long Term Settlement caused loss of revenue to the exchequer as well as loss of rights of Government over vested land.

### **3.7.20 Recommendations**

To improve the effectiveness of the state machinery for better management of receipts from the Government land, the Government may:

- maintain a reliable, updated and centralised database of the Government land with information on land vested under EA Act, encroachment/unauthorised occupation and *khasmahal* land. The data should be regularly updated based on periodical surveys and access should be provided to the district level and block level offices for monitoring and taking necessary action.
- make provisions in the rules for fixing periodicity of reconnaissance survey and submission of reports on retained land of mill/factory under EA Act so as to check illegal sale/misuse of the Government land.
- direct the DL&LROs to maintain records of the land under encroachment with details of land schedule and persons occupying the land with date of occupation so that timely action could be taken for ejection/settlement.