Chapter 3

3. Compliance Audit

Compliance audit of transactions of the Government departments, their field formations as well as that of the autonomous bodies brought out instances of lapses in management of resources and failures in the observance of the norms of propriety and economy. These have been presented in the succeeding paragraphs.

Housing and Urban Planning Department

3.1 Undue favour to the builders

The Authority extended undue favour to the builders by not levying the purchasable FAR charges in accordance with the State Government's order resulting in loss of ₹ 6.29 crore.

The Ghaziabad Development Authority (Authority) sanctioned the maps for construction of Group Housing Buildings without levying purchasable FAR charges in accordance with State Government's orders which resulted in undue favour to the builders and in loss of ₹ 6.29 crore to the Authority.

Building By-laws 2008, approved by GoUP under Section 57 of Uttar Pradesh Urban Planning and Development Act, 1973, regulates the construction of buildings in Ghaziabad regions, stipulates that Floor Area Ratio (FAR is ratio of proposed constructed area with the actual area of land) of 1.5 will be admissible for construction of Group Housing Building in developed area of Ghaziabad. Vaishali Scheme of Ghaziabad Development Authority (Authority) is located in a developed area.

Government of Uttar Pradesh (GoUP) revised (August 2009) basic FAR from 1.5 to 2.5 for construction of Group Housing Buildings in developed area of Vaishali Scheme of the Authority with the condition that compliance to the instruction of earlier notification of September 2008 should be ensured. The notification of September 2008 provided that FAR of 2.5 for construction of Group Housing Building in developed area will be purchasable FAR. The GoUP vide notification (August 2011) reiterated that sanction of FAR in excess of 1.5 and up to 2.5 in Vaishali scheme shall be admissible on payment of purchasable FAR charges calculated on prescribed formula[1].

We during audit (March 2014) of the Authority noticed that the Authority auctioned (May 2011) a plot measuring 2,657 sqm to Nandini Buildhome Consortium Private Limited (NBCPL) for ₹ 19.55 crore[2] and allotted

[1] Purchasable FAR charge = Purchasable floor area x prevailing land rate x 0.40(factor for group housing)/2.5.

[2] Excluding lease rent and freehold charges

(September 2011) another plot measuring 4,000 sqm to Thapar Builder Private Limited (TBPL) situated under Vaishali scheme for ₹ 13.20 crore[3]. Accordingly two agreements (With NBPCL (October 2011) & TBPL (December 2011) were executed by the Authority. Although, as per GoUP order (September 2008) the FAR between 1.5 and 2.5 was purchasable, the Authority failed to include a suitable clause in the agreements and allowed free FAR of 2.5 to builders/allottees without levy of purchasable FAR charges in violation of GoUP order.

Thus, NBCPL and TBPL were entitled for free FAR of 1.5 of their plot size which works out to 3,986 sqm and 6,000 sqm respectively. However, the Authority sanctioned the maps[4] allowing free FAR of 2.49 (6,610 sqm) and 2.5 (10,000 sqm) respectively. This resulted in non-levy of purchasable FAR charges of ₹ 6.29 crore (₹ 3.09 crore[5] from NBCPL and ₹ 3.20 crore[6] from TBPL) on excess free FAR allowed. This also resulted in undue favour to the builders.

Authority stated (August 2015) that the GoUP approved (August 2009) the basic FAR of 2.5 for the schemes of NCR regions for maximum utilisation of land. Accordingly FAR of 2.5 was allowed in the agreements executed with the allottee.

Reply is not acceptable as para 2(2) of GoUP's order of August 2009 clearly mentioned to follow the conditions mentioned in the GoUP's order of September 2008 which stipulates that the FAR of 2.5 for construction of Group Housing Building in developed area will be purchasable FAR. Thus, the Authority should have included the suitable clause in the Agreement about levy of purchasable FAR charges.

Thus, the Authority extended undue favour to the builders and suffered a loss of ₹ 6.29 crore by non-levying the purchasable FAR charges in compliance of GoUP's order (September 2008).

The matter was reported to the Government (June 2015), the reply is awaited (November 2015).

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[3] Excluding lease rent and freehold charges

[4] Vide Map No. 1079/Zone-2/64/11-12 dated 23.03.2012(NBPCL) and vide Map no.731/694/zone-6/2012-13 dated 11.10.2013 (TBPL).

[5] (FAR allowed 6,610 sqm *minus* Allowable FAR of 3986 sqm = 2,624 sqm* ₹ 73,598*0.40/2.50)

[6] (FAR allowed 10,000 sqm - Allowable FAR of 6,000 sqm = 4,000 sqm* ₹ 50,000*0.40/2.50)

3.2 Loss due to incorrect fixation of land rate

The Authority suffered a loss of ₹ 1.10 crore on auction of commercial plots due to incorrect fixation of land rate.

In contravention to Government of Uttar Pradesh (GoUP) order (November 1999), Meerut Development Authority (Authority) failed to fix the rate of residential land in the fully developed schemes/ schemes transferred to Nagar Nigam, according to the DM's Circle rate which resulted in loss of ₹ 1.10 crore in auction of three commercial plots.

The GoUP order (February 1996) provided that sale of commercial plots should be made through auction and its reserve price should be fixed at twice the rate of the residential land. As per GoUP's model guidelines (November 1999) regarding costing of properties by the Development Authorities, the land rate of fully developed scheme or schemes transferred to Nagar Nigam should be fixed equal to the DM's circle rate.

The Authority fixed (March 2014) the rate of residential land for all of its schemes for 2014-15. Although District Magistrate of Meerut revised the circle rate with effect from 1 August 2014, the Authority failed to revise residential land rate of its fully developed schemes and schemes transferred to Nagar Nigam accordingly.

We, during audit of the Authority, noticed (February 2015) that during August 2014 to December 2014, the Authority sold three commercial plots through auction in Sports Goods Complex, Rakshapuram and Shradhapuri Schemes which were fully developed/transferred to Nagar Nigam[7]. Due to non-revision of land rate according to the DM circle rate, the reserve price of auctioned plots was also fixed at lower side. This has resulted in loss of ₹ 1.10 crore to the Authority as detailed in A**ppendix-3.1.**

Authority, in its reply, stated (July 2015) that Shradhapui scheme is not fully developed scheme hence, land rates of this scheme has not been fixed on the basis of DM circle rate.

Reply is not acceptable as the GoUP guideline (November 1999) is also applicable to the schemes transferred to the Nagar Nigam and as per records made available by the Authority, Shradhapuri scheme has already been transferred to Nagar Nigam (February 2013).

The matter was reported (June 2015) to the Government, reply is awaited (September 2015).

[7] Sports Goods Complex and Rakshapuram scheme are fully developed and Shradhapuri scheme has been transferred (February 2013) to Nagar Nigam.

3.3 Undue benefit to defaulter allottees

Undue benefit of ₹ 3.10 crore extended by Gorakhpur Development Authority to defaulter allottees due to non cancellation of allotments

Gorakhpur Development Authority (Authority) extended undue benefit of ₹ 3.10 crore to defaulter allottees due to non-cancellation of their allotment and non-charging of current cost in contravention to the provisions of Uttar Pradesh Development Authority Finance and Accounts Manual, 2004 (Manual).

Para 3.3.14 and para 3.3.15 of the Manual (issued by the Department of Housing and Urban Planning, Government of Uttar Pradesh and applicable to all Development Authorities w.e.f. 1 April 2004) stipulates that in case of failure to deposit the due[8] amounts by the allottees as per scheme of registration/allotment, allotments shall stand cancelled and in case revival is desired, current cost of land and current cost of construction were to be charged.

We noticed (January 2013) that the Authority had allotted (9 September 2004) 62 shops on the ground floor of a proposed multi-purpose commercial complex in Gorakhpur. As per the terms & conditions of the allotment, 40 *per cent* of estimated cost was to be deposited by 30 September 2004 and balance 60 *per cent* was to be deposited in eight equal quarterly installments. It was also provided in the allotment letter that if allottee failed to deposit the amount within the scheduled period, the Authority reserved the right to cancel the allotment of said property and resale the property. Out of 62 allottees, 49 allottees failed to pay even the due amount of 40 *per cent* for allotment within the stipulated date. However, the Authority did not cancel the allotment of above 49 allottees. The construction work was started in October 2004 and was withheld during December 2005 to October 2008 due to an enquiry being conducted at the instance of the GoUP.

In contravention to the provisions of the Manual, the Board of the Authority (Board) decided (July 2010) to provide possession of shops to defaulter allottees, who had not deposited even the allotment money within due date, by increasing the initial allotment price by 10 *per cent* only. The current cost of land and construction, as worked out by the Authority in February 2009, was ₹ 58,960 per sqm against the revised allotment price of ₹ 21,623 per sqm. 46 allottees, so far, have made full payment of revised cost of shops fixed by the Authority.

The action of the Authority was not proper as the allotments of shops to defaulter allottees should have been cancelled and fresh allotment of shops

[8] It is amount which is to be paid by the allottee as per schedule fixed in the allotment letter.

should have been made on the basis of current cost, as required under the provisions of the Manual and terms and condition of the allotment letters. Thus, the Authority extended undue benefit of ₹ 3.10 crore to 49 defaulter allottees due to non-cancellation of their allotments **(Appendix-3.2).**

In reply, the Authority and Department stated (August 2015) that the Board decided (July 2010) to allot the shops by increasing 10 *per cent* in old cost as construction work was withheld during December 2005 to October 2008. The decision of the Authority was taken as per section 7 of Uttar Pradesh Urban Planning and Development Act, 1973 (Act) which authorises the Board to acquire, hold, manage and dispose off land and other properties.

Reply of the Authority is not acceptable as the construction work was stopped in December 2005 i.e. after 14 months of the due date of deposit of the allotment money. The reasons for non-cancellation of allotment during these 14 months were not put on the records. Although, the Act authorises the Board to dispose off the property but the Manual also prescribes the manner of disposing the property. Hence, the decision of the Board was in contravention to the provisions of the Manual.

Forest Department

3.4 Loss due to short recovery of lease rent

Loss of ₹ 5.83 crore due to charging of lease rent at old rates on provisional basis by the Department.

Lease period of two properties of the Forest Department (Department) has expired and renewal of lease agreements is pending for six to 12 years. The Department has suffered a loss of ₹ 5.83 crore due to charging of lease rent at old rates on provisional basis instead of lease rent on the basis of premium value of the land in the year in which renewal of lease was due.

GoUP fixed (September 1999) the lease rent of the leased forest land at the rate of 10 *per cent* per annum of the premium value of the land prevalent in the year of lease. The premium value of the land is fixed at the rate of current circle rate declared by the District Magistrate. Hence, if lease is renewed, the lease rent was to be re-fixed on the basis of value of the land prevailing at the time when lease has expired and its renewal is due.

Further, Section 2(iii) of the Forest (Conservation) Act, 1980 (Act) states that 'Notwithstanding anything contained in any other law for the time being in force in a state, no state Government or other authority shall make, except with the prior approval of the Central Government, any order directing that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization not owned, managed or controlled by Government".

We, during audit (September 2014) of Renukoot, Forest Division of the Department noticed that the Department leased out (June 1978) 9.71 hectare of forest land to M/s Hindalco Industries Limited (Company) at a premium of ₹48,000 and lease rent of ₹ 4,800 *per annum* for 25 years for Labour Housing. The above mentioned lease expired in June 2003 and the Company requested (February 2003) to renew the lease. The Department forwarded (March 2009) the proposal of renewal of lease to Ministry of Environment and Forest (MoEF) for approval in compliance to Section 2 of Act. The MoEF accorded (April 2010) in-principal approval for renewal of lease of 9.71 hectare of land subject to fulfillment of certain conditions which *inter-alia* included that the Hindalco will transfer equivalent non-forest land to the Department in lieu of forest land transferred to it**.** Out of 9.71 hectare of land, 4.63 hectare land has not yet been transferred by the Hindalco.

Similarly, another forest land measuring 61.24 hectare was leased (June 1999) to the M/s Renu Sagar Power Company (a subsidiary of Hindalco) for construction of Ash Disposal Yard at annual lease rent of ₹ 4,53,943 for the period of 10 years. The lease expired in June 2009 and the Company requested (January 2009) to renew the lease. The Department forwarded (July 2012) the proposal of renewal to MoEF in compliance to Section 2 of Act. The MoEF asked (September 2012) the GoUP to furnish "A Report on settlements of rights under the Schedule Tribe and Other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006 in accordance with MoEF's advisory" which is still pending. There were six other conditions, the compliance of which is being compiled by the Department.

We further, noticed (September 2014) that although the lease in both cases could not be renewed till date due to non-fulfillment of above mentioned conditions, despite the directions (January 2011) of Forest Minister, GoUP, the Department did not cancel the leases and take back its land from the user agencies. Moreover, the Department continued to charge the lease rent at old rates on provisional basis instead of lease rent on the basis of premium value of the land in the year in which renewal of lease was due. This had resulted in short levy of lease rent amounting to ₹ 7.16 crore for six to 12 years upto May 2015**{Appendix-3.3(a)}** and loss of interest of ₹ 2.47 crore **{Appendix-3.3(b)}** on short recovered lease rent.

In reply, the Department stated (June 2015) that, on being pointed out by audit, an amount of ₹ 3.80 crore has since been realised on provisional basis. It further stated that it has directed the lessee to expedite the proceeding of renewal of lease. The reply is not acceptable as the Department has yet not taken any action to charge the lease rent on the basis of premium value of the land in the year in which renewal of lease was due. Hence, amount of short

recovery of lease rent is accumulating. Moreover, ₹ 5.83 crore out of ₹ 9.63 crore, accumulated upto May 2015, is yet to be recovered.

Matter was reported (June 2015) to the Government, reply is awaited (September 2015).

Lucknow
The 25 JANUARY 2016

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The 27 JAN 2016

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India