

**CHAPTER-IV**  
**OTHER TAX RECEIPTS**



## CHAPTER – IV: OTHER TAX RECEIPTS

### A. LAND REVENUE

#### 4.1 Results of audit

During 2017-18, Audit test-checked the records of four<sup>1</sup> out of 341 auditable units (1.17 *per cent*) of the Revenue, Registration and Land Reforms Department. The Department collected revenue of ₹ 240.26 crore during 2016-17 out of which the audited units collected ₹ 1.61 crore (0.67 *per cent*). Besides, a Performance Audit on “Acquisition and Alienation of Land in Jharkhand” was conducted in 19 units. Audit noticed deficiencies and irregularities amounting to ₹ 995.71 crore in 32 cases, as detailed in **Table-4.1**.

Table-4.1

Sl. No.	Categories	No. of cases	Amount (₹ in crore)
1	“Acquisition and Alienation of Land in Jharkhand” – A Performance Audit	1	836.83
2	Non-recovery of cess at the time of permanent settlement of <i>Gair Majurwa Khas</i> land	1	0.37
3	Illegal withdrawal of Government money	1	0.98
4	Other cases	29	157.53
<b>Total</b>		<b>32</b>	<b>995.71</b>

The Department accepted (November 2019) audit observations amounting to ₹ 283.06 crore pointed out in the Performance Audit.

<sup>1</sup> Offices of Deputy Collector Land Reforms, Godda, Koderma and Ranchi and office of District Land Acquisition Officer, Ranchi.

## 4.2 Acquisition and Alienation of land in Jharkhand

### 4.2.1 Introduction

Acquisition of land in Jharkhand is the process by which Government of Jharkhand acquires private (*raiyati*<sup>2</sup>) land for government or private sector for specific purposes e.g. development of industries, infrastructural facilities etc. Under this, Government provides compensation received from Requiring Body<sup>3</sup> (RB) to the affected land owners.

Alienation is the process where government land is alienated for development of industry, infrastructural facilities, urbanisation etc. Government land is alienated to the RBs either with cost or without cost on the basis of Act/Rules and executive orders issued by the Government from time to time. The alienation of land involves land under direct management of the government such as *Khas Mahal*<sup>4</sup>, *Gair Majurwa Khas*<sup>5</sup> land, surplus land acquired under ceiling and land acquired through certificate cases.

### 4.2.2 Organisational set up

The laws governing the acquisition/alienation of land in Jharkhand are administered by the Revenue, Registration and Land Reforms Department (Department) with Secretary/Commissioner at the apex level assisted by Divisional Commissioner at the divisional levels.

At the district level, Deputy Commissioner is responsible for acquisition and alienation of land after the approval of State Government with the assistance of District Land Acquisition Officers (DLAOs)/Special Land Acquisition Officers (SLAOs) who acquire private land. SLAO acquires land for major/minor irrigation projects in the State, however, DLAO acquires land for all other acquisitions and the Additional Collector (AC) alienates the Government land. The AC is further assisted by Deputy Collector Land Reforms (DCLR) and Circle Officers (COs). The State is divided into five divisions<sup>6</sup>, 24 district land acquisition and additional collector offices<sup>7</sup> and 264 circle offices<sup>8</sup>. The organisational chart of the Department is as under:

<sup>2</sup> *Raiyati* is privately owned land.

<sup>3</sup> Requiring Body means a company, a body corporate, an institution, or any other organisation or person for whom land is to be acquired by the appropriate Government.

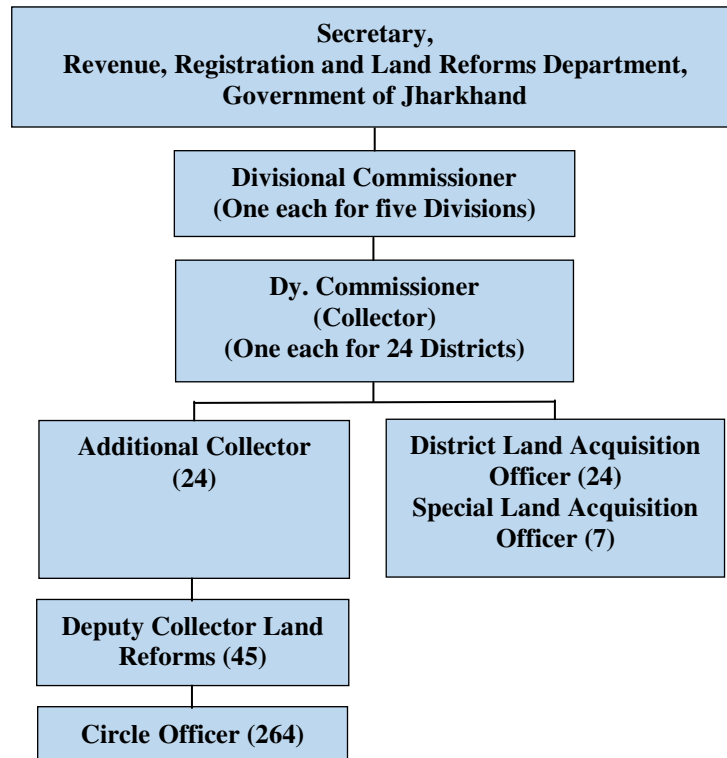
<sup>4</sup> The estates under direct possession/management of the Government.

<sup>5</sup> Means land retained by ex-intermediaries and not settled to *raiyats* subsequently vested in the State under the Bihar Land Reforms Act.

<sup>6</sup> South Chotanagpur (Ranchi), North Chotanagpur (Hazaribag), Santhal Parganas (Dumka), Palamu (Medininagar) and Kolhan (Chaibasa).

<sup>7</sup> Bokaro, Chatra, Deoghar, Dhanbad, Dumka, East Singhbhum (Jamshedpur), Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamtara, Khunti, Koderma, Latehar, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi, Sahibganj, Saraikela-Kharsawan, Simdega and West Singhbhum.

<sup>8</sup> Bokaro (9), Chatra (12), Deoghar (10), Dhanbad (9), Dumka (10), East Singhbhum (11), Garhwa (19), Giridih (13), Godda (9), Gumla (12), Hazaribag (16), Jamtara (6), Khunti (6), Koderma (6), Latehar (9), Lohardaga (7), Pakur (6), Palamu (20), Ramgarh (6), Ranchi (22), Sahibganj (9), Saraikela-Kharsawan (11), Simdega (10) and West Singhbhum (16).



### 4.2.3 Audit objectives

The Performance Audit (PA) was conducted to ascertain whether:

- provisions of the Act, Rules and departmental instructions were enforced properly in course of acquisition/alienation of land;
- the social and financial impact of land acquisition was analysed beforehand by the Government; and
- adequate internal control mechanism was in place for monitoring proper compliance with Rules and Regulations, sanction orders, notifications etc.

### 4.2.4 Audit criteria

The audit criteria were drawn from the following sources:

- The Land Acquisition Act, 1894 (Repealed on 1 January 2014);
- The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013;
- The Jharkhand Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (JRFCTLARR) Rules, 2015;
- Bihar Government Estate (*Khas Mahal*) Manual, 1953;
- Jharkhand Financial Rules, Bihar Treasury Code (adopted by Jharkhand) and Jharkhand Treasury Code, 2016; and
- Standing orders/policies of Revenue, Registration and Land Reforms Department, Government of Jharkhand.

#### 4.2.5 Scope and methodology of audit

The PA for the period 2013-18 was conducted between October 2018 and June 2019 covering seven<sup>9</sup> out of 24 districts<sup>10</sup> by sampling method<sup>11</sup> on the basis of expenditure incurred by the respective districts and corresponding risk values. Besides, Sahibganj district was also selected as the land acquisition for a large project<sup>12</sup> was undertaken in the district during 2016-18.

In these sampled districts, 19 offices (consisting of eight District Land Acquisition Offices, three Special Land Acquisition Offices<sup>13</sup> and eight offices of the Additional Collector<sup>14</sup> dealing with cases of land acquisition and alienation of private and Government land respectively) were selected for examination. In course of audit, records of policy matters were scrutinised at the Directorate level. Records of land acquisition of 94 schemes pertaining to the period 2013-18 and 40 schemes prior to 2013-18, where expenditure was incurred or possession of land was granted during 2013-18, were test-checked. Further, 603 schemes of alienation of land (565 free of cost and 38 with cost) were test-checked, out of which audit observations were made in 50 schemes of land acquisition and 14 schemes of alienation of land.

An entry conference was held (October 2018) with the Secretary, Revenue, Registration and Land Reforms Department, Government of Jharkhand to discuss the objectives, scope and methodology of the performance audit.

An exit conference was held on 8 November 2019 with the Secretary of the Department to discuss the outcomes of the Performance Audit. The responses of the Government/Department have been suitably incorporated in the Report.

#### 4.2.6 Acknowledgement

The co-operation of the Revenue, Registration and Land Reforms Department in providing necessary information and records for audit is acknowledged.

#### Audit findings

#### 4.2.7 Financial Management

Rule 4 of JRFCTLARR Rules, 2015 provides for rendering the estimated cost of acquisition of land by the requiring body to the Collector, which is to be deposited in the Deposit Account (“8443- Civil Deposit”) in the district treasury or in a scheduled bank account maintained separately for this purpose,

<sup>9</sup> Deoghar, Dhanbad, Giridih, Godda, Hazaribag, Ramgarh and Ranchi.

<sup>10</sup> Bokaro, Chatra, Deoghar, Dhanbad, Dumka, East Singhbhum (Jamshedpur), Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamtara, Khunti, Koderma, Latehar, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi, Sahibganj, Saraikela-Kharsawan, Simdega and West Singhbhum.

<sup>11</sup> Stratified random sampling method by categorising them into High, Medium and Low risk factors as below:

Categorisation	Risk Value	Selection	Number of units selected
High	$\geq 175$	100 per cent	5
Medium	$<175 \geq 75$	70 per cent	1
Low	$<75 > 0$	30 per cent	1

<sup>12</sup> Construction of Sahibganj Multi-Modal Port and Road (Inland Waterways Authority of India).

<sup>13</sup> Deoghar, Hazaribag and Ranchi.

<sup>14</sup> Deoghar, Dhanbad, Giridih, Godda, Hazaribag, Ramgarh, Ranchi and Sahibganj.

to be jointly operated by DLAO and Deputy Commissioner (DC). The establishment charges<sup>15</sup> so received are to be deposited into the Government account, while contingency charges<sup>16</sup> are to be deposited in the savings account by DLAOs/SLAOs for day-to-day contingent expenditure. Further, Jharkhand Treasury Code, Jharkhand Financial Rules and instructions issued by the Finance Department provides specific guidance for keeping of money in the designated Personal Deposit Account (PDA) or bank account and manner of its recording in the cashbook and its periodical reconciliation with the bank balances.

Audit scrutiny revealed as under:

#### **4.2.7.1 Parking of fund in ‘8443-Civil Deposits’**

**As on 31 March 2018, ₹ 1,494.39 crore were lying in bank accounts instead of being deposited in “8443- Civil Deposit”.**

According to Rule 330 of Jharkhand Treasury Code, 2016 read with the list of Major and Minor Heads of Accounts of Union and States, sums received in advance from Municipalities or other bodies financially independent of Government for payment of compensation for land acquired for such bodies are to be credited to the head “8443- Civil Deposits (106- Personal Deposits)”. Further, as per executive instructions issued (January 2011) by the Department, funds received for the purpose of land acquisition are to be kept in “8443- Civil Deposit” and should be drawn only when required for immediate disbursement. The Finance Department observed (June 2017) that keeping the amount received for land acquisition in banks was tantamount to financial indiscipline. Consequently, while inviting reference to non-compliance of the earlier departmental instruction of January 2011, the Revenue, Registration and Land Reforms Department instructed (September 2017) the Deputy Commissioners that the amount received for land acquisition was to be deposited in Civil Deposit instead of keeping it in nationalised banks.

However, contrary to the above provisions, Rule 4 of JRFCTLARR Rules, 2015 provided an option to deposit estimated cost of acquisition of land provided by the requiring body in a scheduled bank account maintained separately for this purpose.

Audit observed that the Department instructed (November 2017) the DCs that funds relating to land acquisition should be kept in each district in one bank account, and in special circumstances in maximum two bank accounts, (i) Co-operative bank (excluding Dhanbad) and (ii) any nationalised bank, which was in contravention of the codal provision as well as the instructions of January 2011 and September 2017 which specifically stated that funds received for land acquisition were only to be deposited in Civil Deposit Head.

<sup>15</sup> Establishment Charge is Government revenue which is to be collected from requiring body at the rate of five *per cent* on compensation amount along with cost of acquisition and to be remitted into Government Account under the Revenue Head 0029-00-800-0001.

<sup>16</sup> Contingency Charge is intended to be realised from the requiring body for incurring expenditure on stationery, other contingent expenses like expenses on computer, vehicle, computer operator, *Amins*, Draftsmen etc., at the rate of 0.5 *per cent* of the compensation amount.

The contradiction between the Jharkhand Treasury Code and the JRFCTLARR Rules as well as the contradictory instructions of the Department resulted in the DLAOs/SLAOs parking the funds received from the requiring bodies in banks instead of depositing these in “8443- Civil Deposit”. Audit observed that an amount of ₹ 1,494.39 crore<sup>17</sup> received for land acquisition were lying in the bank accounts as on 31 March 2018 in the sampled districts. This led to several irregularities as pointed out in paragraphs 4.2.7.2 to 4.2.7.5.

**Keeping the funds received for land acquisition in bank accounts instead of depositing the same into Government Account was fraught with the risk of fraud and misappropriation.**

The Department/Government accepted (November 2019) the ambiguity between the provisions laid down in Jharkhand Treasury Code and JRFCTLARR, Rules 2015. It was further stated that the matter had been referred to Finance Department for clarification which had also been addressed to the Accountant General (A&E) Jharkhand (November 2019) for necessary guidance. Accordingly, Accountant General (A&E) Jharkhand has advised (November 2019) that as per provisions of Rule 330 of Jharkhand Treasury Code, Personal Deposit Account can be operated for receipt and payment of compensation of land acquisition under the Head 8443-00-106. Subsequently, the Department directed all Deputy Commissioners on 23 December 2019 to get Personal Deposit accounts opened in favour of Land Acquisition Officer of their districts by December 2019 and ensure transfer of the amounts deposited in banks (excluding Contingency/Establishment expenditure) in Personal Deposit accounts by 15 January 2020.

**4.2.7.2 Maintenance of multiple bank accounts**

**In contravention of Government orders to maintain a maximum of two bank accounts, four to 18 bank accounts were in operation as on 31 March 2018 in nine sampled offices.**

Planning-cum-Finance Department, Government of Jharkhand instructed (September 2016) all Government offices to take prior permission from the Finance Department for opening new bank accounts and to close those bank accounts for which such permission was not obtained. Further, the Department instructed in November 2017 the DCs that funds relating to land acquisition should be kept in each district in one bank account, and in special circumstances in maximum two bank accounts, (i) Co-operative bank (excluding Dhanbad) and (ii) any nationalised bank, and all other bank accounts in excess of two bank accounts were to be closed.

The position of maintenance of bank accounts in the selected districts/offices during 2016-17 and 2017-18, as worked out by Audit from cash books and bank statements collected from the banks, is depicted in **Table 4.2**.

<sup>17</sup> This amount includes compensation amount, establishment charges and contingency charges received from requiring bodies.



Table-4.2

(₹ in crore)

Sl. No.	Name of the office	As on 31 March 2017		As on 31 March 2018	
		Number of bank accounts	Amount in banks	Number of bank accounts	Amount in banks
1	DLAO, Deoghar	13	115.74	8	126.59
2	DLAO, Dhanbad	18	158.33	18	183.14
3	DLAO, Giridih	16	37.30	17	45.70
4	DLAO, Godda	10	311.93	12	602.47
5	DLAO, Hazaribag	20	157.28	17	138.82
6	DLAO, Ramgarh	13	20.55	4	22.07
7	DLAO, Ranchi	36	159.89	7	138.40
8	DLAO, Sahibganj	13	100.76	12	103.84
9	SLAO, Deoghar	2	6.62	1	79.54
10	SLAO, Hazaribag	17	38.69	9	28.58
11	SLAO, Ranchi	1	25.22	1	25.24
<b>Total</b>		<b>159</b>	<b>1,132.31</b>	<b>106</b>	<b>1,494.39</b>

Note: The above figures are exclusive of bank accounts directly maintained by Principal Director - Competent Authority of Land Acquisition (CALA-PD)

Audit observed that:

- In nine land acquisition offices, four to 18 bank accounts were in operation as on 31 March 2018 with balances ranging between ₹ 22.07 crore and ₹ 602.47 crore in violation of Government instructions to limit to two accounts only. Audit observed that DLAOs, Giridih and Godda opened three new bank accounts between November 2017 and February 2018 and maintained balances between ₹ 45.70 crore and ₹ 602.47 crore as on March 2018. The bank accounts were found opened and operated without obtaining sanction of the Finance Department as stipulated in the executive instructions.
- Audit collected bank statements from the concerned banks and cross-checked it with the cheque issue registers in 10 sampled offices<sup>18</sup> for the period 2013-18 and observed that on 287 occasions, funds aggregating to ₹ 1,255.80 crore were transferred from one bank account to another, either in the same bank by opening a new account or to a new/running account in another bank. Reasons for erratic transfer of funds and sanction from the higher authorities were not on record.
- Audit enquired from the test-checked DLAOs/SLAOs whether internal audit by Finance Department and inspection by departmental officers were done during the period 2013-18. DLAO, Dhanbad stated that no records regarding conducting of internal audit was available while the remaining ten DLAOs/SLAOs stated that internal audit of their offices were not done by the Finance Department during the period 2013-18. Further, two DLAOs (Hazaribag and Ramgarh) stated that their office was inspected once by departmental officers during the period 2013-18 while the remaining DLAOs/SLAOs stated that departmental inspection was not done or no record in this regard was available. Resultantly, the Department remained unaware of the number of bank accounts in existence and the amounts parked in these accounts and therefore, could not exercise effective control over funds lying in the banks.

<sup>18</sup> DLAOs: Deoghar, Dhanbad, Giridih, Godda, Hazaribag, Ranchi, Ramgarh, Sahibganj and; SLAOs: Hazaribag and Ranchi.

The Department/Government accepted the audit observations and stated (November 2019) that the concerned Deputy Commissioners had been instructed (between November 2017 and May 2018) to take appropriate action for maintenance of only two bank accounts. Further, on the issue of opening of bank accounts without approval of the Finance Department and opening three new bank accounts in Giridih and Godda, after issuance of instructions (November 2017), it was assured that necessary action would be taken. Furthermore, on the issue of erratic transfer of funds from one bank account to another, it was stated that corrective measures would be taken in the prevailing financial management system after study of systems in Principal Director (Competent Authority of Land Acquisition) and NHAI/ Central Projects.

However, as mentioned in Para 4.2.7.1, after clarification from Accountant General (A&E) that as per provisions of Rule 330 of Jharkhand Treasury Code, Personal Deposit Account can be operated for receipt and payment of compensation of land acquisition under the Head 8443-00-106, the Department directed all Deputy Commissioners on 23 December 2019 to get Personal Deposit accounts opened in favour of Land Acquisition Officer of their districts by December 2019 and ensure transfer of the amounts deposited in banks (excluding Contingency/Establishment expenditure) in Personal Deposit accounts by 15 January 2020.

#### 4.2.7.3 Bank reconciliation not done

**In 11 sampled offices, differences of ₹ 121.71 crore were noticed between the balances as per cash book and bank accounts for failure to undertake reconciliation exercise.**

Rule 86 of Bihar Treasury Code (adopted by Jharkhand) provides that the head of the office should verify, at the end of each month, the cash balance in the cash book. Differences, if any, should be reconciled, and necessary corrections/entries should be made in the cash books.

Audit test-checked the cash books, statement of bank accounts and other related records maintained in the selected offices and observed that periodic bank reconciliation of book balances with the banks was not conducted during 2013-18 in any of the selected offices.

Cross-verification of the balances in banks, as on 31 March 2018, recorded in the cash books in 11 sampled offices with the bank statements procured by audit from the banks revealed difference of ₹ 121.71 crore being excess in bank accounts as detailed in **Table-4.3**.

**Table-4.3**

(₹ in crore)

Name of the office	Cash in bank as per cash book as on 31 March 2018	Cash in bank as per statement collected by Audit	Actual difference in bank balance
DLAO, Deoghar	125.33	126.59	1.26
DLAO, Dhanbad	182.97	183.14	0.17
DLAO, Giridih	8.41	45.70	37.29
DLAO, Godda	545.60	602.47	56.87
DLAO, Hazaribag	130.04	138.82	8.78
DLAO, Ramgarh	22.00	22.07	0.07
DLAO, Ranchi	128.89	138.40	9.51
DLAO, Sahibganj	97.34	103.84	6.50

Table-4.3

(₹ in crore)

Name of the office	Cash in bank as per cash book as on 31 March 2018	Cash in bank as per statement collected by Audit	Actual difference in bank balance
SLAO, Deoghar	79.33	79.54	0.21
SLAO, Hazaribag	28.18	28.58	0.40
SLAO, Ranchi	24.59	25.24	0.65
<b>Total</b>	<b>1,372.68</b>	<b>1,494.39</b>	<b>121.71</b>

The above differences were not reconciled by the concerned DLAOs/SLAOs for reasons not on record. In absence of reconciliation of book and bank balances besides maintenance of multiple bank accounts by the concerned offices, Audit observed transactions in some of the bank accounts without the knowledge/authorisation of the DLAOs. This is a red-flag for the department to carry out an independent investigation of all such cases in detail. Some illustrations of the consequences of not carrying out reconciliation in the offices of the DLAOs Ranchi and Sahibganj are as under:

**Case I:** Audit scrutiny of records in office of the DLAO, Ranchi revealed that as per cash book of June 2017, a balance of ₹ 39.24 lakh was being shown in United Bank of India, Morabadi Branch, Ranchi bank account. Audit obtained bank statement of the account from the concerned bank and noticed that the bank balance was nil since December 2013. After Audit pointed this out in November 2017, DLAO, Ranchi intimated (December 2017) the bank that demand drafts issued by his office in December 2013 were still unpaid and requested the bank to cancel the demand drafts and transfer the amount to another account in Allahabad Bank. The amount was thereafter credited back by the bank on 19 December 2017.

Thus, due to improper maintenance of cash book and non-reconciliation of accounts, Government money remained out of accounts for more than four years.

**Case II:** Audit collected bank statement of an account of DLAO Sahibganj from Bank of India, Taljhari Branch and noticed that the account was declared (August 2009) dormant and the balance available in the account amounting to ₹ 45.62 lakh was debited (October 2015) and transferred to the bank's parking account.

On being pointed out by Audit, the DLAO initiated (June 2019) correspondence with the bank authorities for return of funds and the said amount was thereafter credited back by the bank on 2 December 2019.

Thus, due to improper maintenance of cash book and non-reconciliation of accounts, Government money remained out of accounts for more than four years.

**Case III:** Audit scrutiny of cheque issue register and other records in the office of the DLAO, Ranchi revealed that an amount of ₹ five crore was withdrawn (January 2017) from Allahabad Bank, Albert Ekka Chowk Branch in the form of bank draft to be deposited into the treasury under the head "0029 Land Revenue". However, the bank draft was not deposited into the treasury as on 24 November 2018. As a result, a sum of ₹ five crore remained blocked for more than 22 months.

After being pointed out by Audit (November 2018), the amount was deposited into the treasury in December 2018.

The Department/Government stated (November 2019) that all Deputy Commissioners have been instructed (November 2019) to ensure mandatory reconciliation of cash book and bank accounts at the end of each month.

Other irregularities noticed during cross-check of bank statements and cash books are as under:

- Audit scrutiny of records in the office of the DLAO, Ranchi revealed (September 2017) that Canara Bank, Kanke Road Branch intimated (18 February 2016) DLAO, Ranchi that payment of ₹ 2.01 crore was made on 12 February 2016 against four cheques bearing the signature of the previous DLAO and requested him to confirm that these cheques had been issued by his office. DLAO, Ranchi intimated the bank that the original cheques were available in his office. The specimen signature of the current DLAO had already been communicated to the bank on 26 August 2015. Hence, the funds were fraudulently withdrawn. DLAO intimated (19 February 2016) the fraudulent withdrawal of funds from the bank account to Station House Officer, Gonda, Ranchi and requested him to take appropriate action. Thereafter, a sum of ₹ 1.03 crore was refunded (March 2016) by the bank. The balance amount of ₹ 98.22 lakh was yet to be recovered. Audit noticed that the DLAO did not refer the matter to the Vigilance Department. After this was pointed out (September 2017) by Audit, the DLAO took up the matter with the bank authorities and as a result, the bank agreed (June 2019) to refund the balance amount of ₹ 98.22 lakh. Present status of refund is awaited (February 2020).

- Audit scrutiny of records in office of the DLAO, Ranchi revealed that an amount of ₹ 1.68 crore deducted by Allahabad Bank, Albert Ekka Chowk Branch as tax deducted at source (TDS) was however shown as closing balance in the cash book. Audit collected bank statement of the account from the concerned bank and noticed that ₹ 1.68 crore was deducted as TDS on 16 March 2015 though no interest was credited by the bank during the year 2014-15. After being pointed out by audit, the DLAO raised (July 2019) the matter with the bank. Further action was awaited (February 2020).

On the specific issue of fraudulent withdrawal/transactions without the knowledge of DLAOs, Ranchi and Sahibganj, the Department/Government stated (November 2019) that connivance of the bank authorities in such cases cannot be ruled out, which would be investigated to fix responsibility.

**The above cases are those which Audit had come across during test-check of records. The Department may conduct a thorough check of all transactions in the bank accounts in all districts of the State in a time-bound manner.**

#### **4.2.7.4 Non-remittance of Government revenue**

**Non-adherence to the provisions of the Acts/Rules resulted in non-remittance of revenue amounting to ₹ 37.75 crore into Government Account.**

The provisions of the LA Act, 1894 and RFCTLARR Act, 2013 read with Rule 4 of the JRFCTLARR Rules, 2015 stipulates that the requiring body is to provide the estimated cost of acquisition of land including establishment charges, rent and cess. The establishment charges, rent and cess are to be deposited into Government account (0029-Land Revenue). Further, as per List of Major and Minor heads read with para incorporated in *Rajyadesh*<sup>19</sup>, revenue

<sup>19</sup> *Rajyadesh*: Government of Jharkhand order dictating approval of transfer of land with imposed conditions.

in lieu of lease/transfer of government land including rent and cess are to be deposited into revenue head “0029-Land Revenue”.

Scrutiny of cash book in the sampled districts revealed that three DLAOs<sup>20</sup>, in 13 out of 54 land acquisition cases, retained revenue of ₹ 26.11 crore realised between 2013-14 and 2017-18 on account of establishment charges, rent and cess in bank accounts instead of depositing the same in the head “0029 Land Revenue”. Further, in the office of the Additional Collectors, Deoghar and Godda, an amount of ₹ 11.64 crore realised in lieu of alienation of Government land in five cases between 2010-11 and 2017-18, was not deposited into Government account as of March 2018 and was instead kept in the bank.

**Keeping Government revenue in bank accounts instead of depositing the same into Government account was fraught with the risk of fraud and misappropriation.**

The Department/Government accepted the audit observations and stated (November 2019) that instructions have been issued in November 2019 to the Deputy Commissioners to deposit the amount of establishment charges into the revenue head “0029-00-800-0001”.

#### **4.2.7.5 Accountal of interest earned from bank accounts**

**Absence of provisions for depositing accrued interest besides improper maintenance of records resulted in non-accountal/remission of interest amounting to ₹ 42.77 crore.**

Audit did not come across any notification/instruction issued by the Government of Jharkhand for accounting and remission of interest earned from compensation amounts of land acquisition deposited in different banks.

Audit scrutinised the cash books of the DLAOs/SLAOs in the selected districts and noticed that in eight offices<sup>21</sup>, separate records for accounting of interest earned from the bank accounts were not maintained while three DLAO offices<sup>22</sup> maintained separate cash books for accounting of interest earned<sup>23</sup>. Audit further noticed that the DLAOs/SLAOs were unaware of the actual interest accrued from the bank accounts due to non-reconciliation of accounts and with regard to treatment of interest accrued in bank accounts. Audit collected the bank statements and worked out the amount of interest credited into the bank accounts between March 2013 and March 2018. It was noticed that an amount of ₹ 42.77 crore in the shape of interest accrued remained in bank accounts instead of being deposited into the revenue head.

The Department/Government accepted (November 2019) that provision for deposit of interest earned from bank accounts have not been specifically mentioned in the JRFCTLARR Act, 2013 and JRFCTLARR Rules, 2015 and further stated that specific instruction regarding accountal and remittance of

<sup>20</sup> Giridih, Godda and Ramgarh.

<sup>21</sup> DLAO: Dhanbad, Giridih, Deoghar, Hazaribag, Sahibganj and SLAO: Deoghar, Hazaribag and Ranchi.

<sup>22</sup> Godda, Ramgarh and Ranchi.

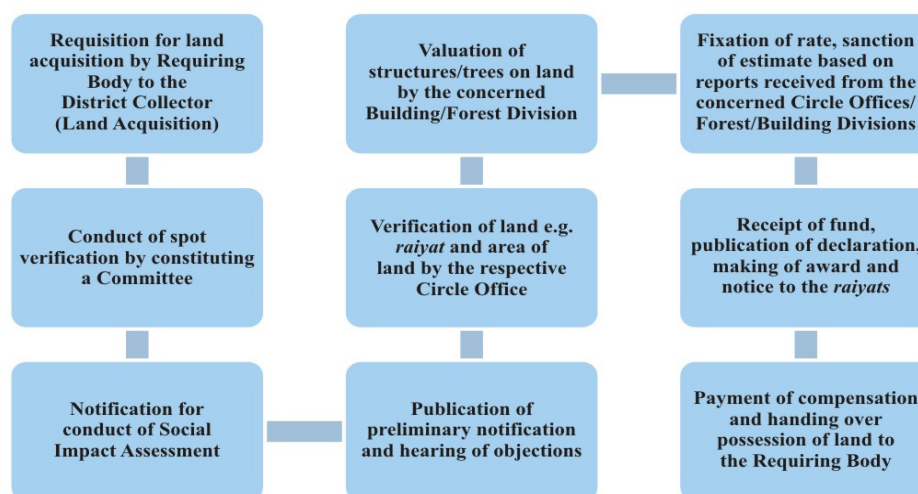
<sup>23</sup> Out of ₹ 42.77 crore accrued interest, only ₹ 22.00 crore was accounted for in the cash book by three DLAO offices (Godda, Ramgarh and Ranchi).

interest earned from bank accounts into revenue head “0029-00-800-0001” has been issued (November 2019) to the Deputy Commissioners.

**The Government may consider evolving a system to monitor the number of bank accounts maintained by each office, to reconcile the funds lying in bank accounts vis-à-vis funds received and utilised, and to ensure prompt deposit of funds into appropriate heads.**

#### 4.2.8 Land acquisition

The process of acquisition of land in the State is shown through the following diagram:



Audit called for (February 2018) data relating to status of land acquisition undertaken in the State during 2013-18 from office of the Secretary, Revenue, Registration and Land Reforms Department. The Department instructed (February 2018) the field offices to provide the requisite information to Audit. The Department further stated (April 2018) that the information relating to land acquisition was available at the districts (DLAOs/SLAOs) and may be collected from there. This indicates that the Department did not maintain a database of land acquisition cases in the State which would have facilitated monitoring at the apex level.

Neither the Department nor the district offices (DLAOs/SLAOs) provided information relating to land acquisition to Audit till November 2019. As such, Audit could not obtain data relating to land acquisition for the whole State. Information relating to land acquisition cases was therefore collected by visiting the sampled districts and therefore audit was confined to examine land acquisition cases in the sampled districts.

##### 4.2.8.1 Status of land acquisition in test-checked districts

In the sampled districts, Audit examined 134 cases of land acquisition, of which 94 cases were undertaken during 2013-18 and 40 cases were those where awards were prepared prior to 2013-18 but expenditure was incurred or land was handed over during 2013-18. The status of 94 cases as on 31 March 2018 is shown in **Table-4.4**.



Table-4.4

(₹ in crore)

Sl. No.	Name of the Office	Number of projects	Area to be acquired (in acres)	Estimated cost	Amount realised from user agency	Number of projects in which award made	Area acquired	Amount disbursed to awardees	Number of cases in which possession granted
1	DLAO, Deoghar	16	1,543.47	595.51	595.50	14	1,536.80	459.95	9
2	DLAO, Dhanbad	7	743.99	927.74	846.87	7	514.82	520.24	6
3	DLAO, Giridih	6	694.85	1,098.38	971.70	5	664.80	624.97	4
4	DLAO, Godda	10	2,036.37	579.74	653.48	6	1,148.60	221.29	2
5	DLAO, Hazaribag	5	390.49	304.88	304.88	5	390.49	183.72	3
6	DLAO, Ramgarh	8	157.07	91.85	90.21	7	150.38	85.00	1
7	DLAO, Ranchi	21	216.96	235.62	197.18	8	131.44	76.23	7
8	DLAO, Sahibganj	16	299.79	179.34	179.34	8	221.80	107.95	2
9	SLAO, Deoghar	3	104.38	88.34	88.34	3	104.38	24.12	0
10	SLAO, Hazaribag	1	30.22	11.96	11.96	1	30.22	0.34	0
11	SLAO Ranchi	1	250.66	65.12	14.84	0	0	0	0
<b>Total</b>		<b>94</b>	<b>6,468.25</b>	<b>4,178.48</b>	<b>3,954.30</b>	<b>64</b>	<b>4,893.73</b>	<b>2,303.81</b>	<b>34</b>

Source: Information furnished by the DLAO/SLAO

Irregularities noticed in the test-checked 134 cases have been discussed subsequently in paragraphs 4.2.8.2 to 4.2.8.9.

#### 4.2.8.2 Social Impact Assessment (SIA)

##### **Irregularities in conduct of SIA defeated comprehensive analysis of the social impact of land acquisition.**

As per Section 9 read with Section 40 of RFCTLARR Act, 2013 and Rules made thereunder, SIA is applicable in all cases except in case of land acquisition for defence, national security and any emergency arising out of natural calamity.

JRFCTLARR Rules, 2015 provide that on receipt of proposal for land acquisition from the requiring body, the Deputy Commissioner shall constitute a team comprising of Revenue officer, Agriculture officer, Forest officer and any other officer for spot verification to enquire whether the proposal is consistent with special provision to safeguard food security prescribed by Section 10 of the RFCTLARR Act, 2013. If the Deputy Commissioner is satisfied that the proposal is consistent with the provision, he will get SIA study done by a SIA team selected by State SIA Unit. SIA team shall identify and assess the nature, extent and intensity of the positive and negative social impacts associated with the proposed project and submit its report to the Deputy Commissioner within six months from the date of its commencement.

An Expert Group consisting of two non-official social scientists, two representatives of *Panchayat*, *Gram sabha* or Municipality and a technical expert in the subject relating to the project, constituted by the Deputy Commissioner shall evaluate the SIA report and make its recommendation within a period of two months from the date of its constitution. The appropriate Government shall examine the SIA report, the recommendations of the Expert Group and report of the Deputy Commissioner to take decision for land acquisition.

In the sampled 94 land acquisition cases under the selected districts, Audit noticed the following irregularities relating to conduct of SIA:

- In DLAO, Ranchi, in two land acquisition projects, involving 17.91 acres of land in two *maujas*, the chronology of events available on file for one *mauja* did not mention about conduct of spot verification by a team of Revenue, Agriculture and Forest officers. In case of another *mauja*, constitution of spot verification team was not found recorded in the file.
- In DLAO, Deoghar, in case of a land acquisition project, spot verification was conducted after 16 months from the date of receipt of proposal from the requiring body. Moreover, SIA was conducted and approved by the expert group before spot verification.
- In two DLAOs<sup>24</sup>, three land acquisition projects, involving 91.42 acres of land in 38 *maujas*, were taken up (between 2013-14 and 2015-16) and award declared. DLAO, Giridih did not conduct SIA in case of one project. In DLAO Deoghar, chronology of events prepared for two projects did not mention about conducting of SIA.
- In DLAOs Godda and Hazaribag, in two land acquisition projects, SIA reports were submitted with delays of more than 8 and 10 months respectively.
- In DLAO, Ranchi, in one land acquisition project, notification regarding constitution of SIA team was approved in July 2016 but sent for publication in newspapers in November 2016 with a delay of more than three months.
- In DLAO, Hazaribag in one project involving 151.45 acres of land in seven *maujas*, SIA report did not mention whether *raiya*s had given consent for land acquisition.
- In DLAO, Ranchi, in case of a land acquisition scheme involving 0.64 acre of land in one *mauja*, the expert group constituted (September 2017) for evaluation of the SIA report did not submit its recommendation. However, possession was given to the requiring body in February 2018.

Audit observed that non-observance of procedures and timelines prescribed for conducting SIA study, delayed submission of SIA reports, non-appraisal of SIA report, allocation of work of SIA before spot verification, etc. defeated the purpose of comprehensive analysis of the social impact of the proposed acquisition.

The Department/Government stated (November 2019) that the irregularities would be examined and systemic errors identified.

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<sup>24</sup> Deoghar and Giridih.



### 4.2.8.3 Declaration for land acquisition cases without/short receipt of fund

**Declaration for land acquisition was published despite short receipt of ₹ 84.01 crore in three land acquisition cases and possession of land was granted to requiring bodies in two cases.**

As per provisions of Rule 24 (1) of the JRCTLARR Rules, 2015, full amount towards the cost of acquisition is to be realised from the requiring bodies before publication of declaration for acquisition. Section 80 of the RCTLARR Act, 2013, provides that if the compensation amount is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount of award with interest thereon at the rate of nine *per cent* per annum from the date of taking possession until it shall have been so paid or deposited, provided that if such compensation or any part thereof is not paid or deposited with a period of one year from the date on which possession is taken, interest at the rate of 15 *per cent* per annum shall be payable from the date of expiry of one year on the amount of compensation or part thereof which has not been paid or deposited.

Out of 33 test-checked cases of land acquisition in the offices of the DLAO, Ranchi and SLAO, Ranchi, in two cases it revealed that the notifications for acquisition of 254.17 acres of land were issued between August 2017 and January 2018 for which declarations were issued between December 2017 and December 2018. However, it was noticed that out of ₹ 74 crore, being the estimated cost, the requiring bodies provided funds of ₹ 20.56 crore only though the entire amount was to be deposited before the date of publication of declaration. It was also observed that in one case of DLAO, Ranchi, possession of land has been granted as well. Publication of declaration without receipt of full amount was in contravention of the provisions of the Act. Moreover, in case of DLAO, Ranchi where possession of land was taken before making full payment has created extra liability in the shape of additional interest payable.

Further, in DLAO, Dhanbad, the process for acquisition of land for Indian School of Mines Extension was initiated on receipt of fund of ₹ 10 crore in March 2012. Declaration for acquisition was made in September 2013 for acquisition of 3.02 acres of land at an estimated cost of ₹ 40.57 crore (including establishment cost of ₹ 1.93 crore) without ensuring full payment of cost of acquisition by the requiring body. Audit noticed that the possession of the land was handed over to the requiring body in February 2015 after making (April 2014) payment of 80 *per cent* of the compensation relating to only 13 out of 41 *raiyats* amounting to ₹ 9.98 crore, which was in gross violation of the provisions of the Rules *ibid*. The requiring body provided fund of ₹ 30 crore in February 2016 after taking possession of the land which was short by ₹ 57.02 lakh. The fund was parked in “8443-Civil Deposit” and remained undisbursed till March 2018, for reasons not on record.

The Department/Government accepted the audit observations and stated (November 2019) that though possession of land had been granted on paper, physical possession may not have had happened which needs to be examined.

It was further stated that even grant of possession on paper without availability and full payment of compensation was highly irregular.

Further, in the case of DLAO, Dhanbad it was intimated that the case has been forwarded to Vigilance Department and penal action against the then DLAO has been initiated.

#### **4.2.8.4 Excess preparation of award for payment of compensation**

**Excess preparation of award, establishment and contingency charges amounting to ₹ 368.94 crore due to incorrect guidelines, misclassification of land and incorrect application of market value of land for computation of compensation.**

Section 26 to 30 of the RFCTLARR Act, 2013 and first schedule mentioned thereunder provides for determination of amount of compensation<sup>25</sup> payable to the affected *raiyats*, which includes cost of land, cost of structures, solatium and additional market value.

➤ Audit noticed that the Department had issued (October 2014) guidelines for calculation of cost of land acquisition which provided that additional market value shall be calculated on market value of land with multiplying factor and also provided solatium on additional market value. This guideline being contrary to the provisions of RFCTLARR Act, 2013 was revoked by the Department by issuing a fresh resolution in August 2018.

Audit noticed that in 10 offices<sup>26</sup> pertaining to 39 out of 93 land acquisition cases taken up between 2011-12 and 2017-18 for 497 *maujas* covering an area of 2,615.54 acres of land, compensation was incorrectly computed as ₹ 3,024.85 crore instead of the correct amount of ₹ 2,765.71 crore based on the incorrect guidelines issued in October 2014. In one case of DLAO, Ranchi, excess computation of award was on account of misclassification of nature of land also. This resulted in excess preparation of award of compensation to the tune of ₹ 259.14 crore. In absence of proper documentation of payment made to *raiyats* for a particular case, the up-to-date payment could not be worked out by audit.

In addition, due to excess preparation of award, excess amount of establishment and contingency charges amounting to ₹ 14.03 crore (establishment cost: ₹ 12.82 crore and contingency charges: ₹ 1.21 crore) were levied on the requiring bodies.

➤ Section 23 of LA Act, 1894 provides that additional market value of land is to be provided on the market value of land without including value of trees/structures.

<sup>25</sup> Cost of land (determined on the prevailing market value at the time of notification and after multiplying factor i.e., multiplying 1 for urban land and 2 for rural land) + Value of structures etc. + Solatium at the rate of 100 *per cent* on cost of land and cost of structures + Additional market value (from the date of SIA notification to date of award) at the rate of 12 *per cent* per annum on market value of land without multiplying factor (As per Schedule 1 of the Act, 2013).

<sup>26</sup> DLAOs: Deoghar, Dhanbad, Giridih, Godda, Hazaribag, Ramgarh, Ranchi and Sahibganj and SLAOs: Deoghar and Ranchi.

Audit noticed that in six offices<sup>27</sup> pertaining to 15 out of 30 land acquisition cases taken up between 2008-09 and 2012-13 for 210 *maujas* covering an area of 2,309.44 acres of land, compensation was incorrectly computed as ₹ 573.81 crore instead of the correct amount of ₹ 482.60 crore due to allowance of additional market value on the value of trees/structures. In two out of 15 cases, excess computation of award was on account of incorrect application of market rate of land also. This resulted in excess preparation of award of compensation to the tune of ₹ 91.21 crore. In absence of proper documentation of payment made to *raiya*s for a particular case, the up-to-date payment could not be worked out by audit.

In addition, due to excess preparation of award, excess amount of establishment and contingency charges amounting to ₹ 4.56 crore were levied on the requiring bodies.

The Department/Government agreed (November 2019) with the fact that excess preparation of estimates and payments thereof was due to the earlier order issued in this behalf (October 2014) which has been revoked in August 2018. However, it was stated that recovery of excess payment thereof is not feasible.

#### 4.2.8.5 Short calculation/payment of award

**Irregular deduction of income tax from the amount of award, irregular preparation of compensation and non-revision of award as per departmental instruction led to short payment of award.**

➤ Section 194 LA of Income Tax Act, 1961 prohibits deduction of TDS on compensation amount paid for acquisition of agricultural land. Further, Section 96 of RFCTLARR Act, 2013 provides that no income tax shall be levied for any award made under this Act except under Section 46.

Audit noticed that in three DLAO offices<sup>28</sup> in three land acquisition projects TDS amounting to ₹ 3.33 crore was deducted from 507 *raiya*s on amount of compensation paid between the period July 2015 and September 2016. This resulted in depriving the *raiya*s of compensation to the extent of ₹ 3.33 crore.

➤ Section 40 of RFCTLARR Act, 2013 provides that an additional compensation of seventy-five *per cent* of the total compensation as determined under Section 27, shall be paid in respect of land and property acquired under emergency provisions.

In the office of the DLAO, Giridih, it was noticed that process for acquisition of 148.008 acres of land, involving 21 *maujas* for construction of Koderma Giridih New Railway Line, was initiated in 2012-13 by invoking emergency provisions as stipulated in Land Acquisition Act, 1894 which was duly approved by the Governor of Jharkhand (December 2012). The Government instructed (December 2013) that if the land is acquired under RFCTLARR Act, 2013, the conditions of this Act would be applicable.

Audit noticed that the Department took up the case under the new Act by issuing fresh notifications which however did not mention that the land was

<sup>27</sup> DLAOs: Deoghar, Dhanbad, Hazaribag, Ramgarh, Ranchi and Sahibganj.

<sup>28</sup> Ranchi, Ramgarh and Giridih.

being acquired under emergency provisions. It was further noticed that preliminary notification under Section 11 and publication of declaration under Section 19 were issued (between March 2013 and July 2015) on the same dates, depriving the *raiylats* of their right to consent which is done only in cases of land acquisition under emergency provisions. Thus, it was evident that the entire process of land acquisition was done under emergency provisions. Issuance of preliminary notification without mentioning emergency provision was in contravention of the Government order of December 2013.

Audit further noticed that the estimated cost of acquisition was ₹ 80.65 crore and the process of acquisition was completed within four to five months and possession of land was handed over in May 2016. Though the Department acquired the land adopting the procedures laid down for emergency provision, it did not compute additional compensation of ₹ 57.07 crore<sup>29</sup> in the award as laid down in the new Act. This deprived the *raiylats* of the additional amount of compensation which was not demanded from the requiring body. Further, in absence of proper documentation regarding payment made to *raiylats* for a particular case, the up-to-date payment could not be worked out by audit.

➤ The Departmental notification No. 1336 dated 28 October 2015 provided market value of land for non-saleable lands situated in Santhal Pargana. Later, the Department instructed (April 2016) the Divisional Commissioner and Deputy Commissioners that awards, if any, declared in pursuance of notification No.1336 dated 28 October 2015 were to be cancelled, revised and declared on the basis of rate of land fixed on the profit yield of crops of that area.

Audit noticed that in DLAOs, Deoghar and Godda, in two LA cases<sup>30</sup>, preliminary notification was published in May 2013 and May 2015, involving 351.21 acres of land. Awards amounting to ₹ 52.37 crore were made between November 2015 and March 2016. However, the DLAOs did not revise the award as per departmental instruction of April 2016 and payments of ₹ 18.38 crore (35.10 *per cent*) were made till March 2018. On the basis of rate of land as per profit yield for those years, Audit calculated the award amounting to ₹ 93.33 crore for these two cases. Thus, non-revision of awards resulted in short preparation of award for ₹ 40.96 crore and consequent deprivation to the *raiylats*.

In the above cases the Department/Government stated (November 2019) that corrective measures would be taken by revising the estimates as pointed out by Audit.

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<sup>29</sup> The estimate of ₹ 80.65 crore was erroneously prepared by the office instead of correct amount of ₹ 76.10 crore as such, additional compensation of ₹ 57.07 crore, being 75 *per cent* of ₹ 76.10 crore was not computed.

<sup>30</sup> Jitpur Coal Block (Godda) and Madhupur bus stand (Deoghar).

#### 4.2.8.6 Irregularities in sanction/payment of compensation

##### ➤ *Sanction of award by competent authority*

**Award of ₹ 104.10 crore was finalised without sanction of the appropriate authority/Department.**

As per executive instructions issued in March 2009, the Collector of the district is entitled to sanction/approve compensation amount upto ₹ 50 lakh, Divisional Commissioner from ₹ 50 lakh to ₹ 1.5 crore and above that sanction of Government was needed. This was revised from November 2013 effective upto April 2015, wherein the Collector was empowered to sanction compensation upto ₹ 1.5 crore, Commissioner upto ₹ 5 crore and awards for ₹ 5 crore and above needed sanction of Government.

In five out of 78 land acquisition cases taken up between 2009-10 and 2014-15 by three DLAO offices<sup>31</sup> in respect of 42 *maujas* involving 282.78 acres of land, Audit observed that awards of ₹ 104.10 crore were finalised (between January 2010 and March 2015) without sanction<sup>32</sup> of the appropriate authority/Government in contravention of the instructions.

In response to the audit observation while accepting the facts, the Department/Government stated (November 2019) that Deputy Commissioners have been directed to examine the cases and do the needful.

##### ➤ *Payment to ineligible persons*

**Failure of the DLAOs to verify the succession certificates and maintain intra-departmental co-ordination resulted in payment of ₹ 89.19 lakh to ineligible persons.**

Section 11(4) of RFCTLARR Act, 2013, provides that no person shall make any transaction of land specified in the preliminary notification or create any encumbrance on such land from the date of publication of such notification till such time as the proceedings under Chapter IV of the Act *ibid* are completed, provided that the Collector may, on application made by the owner of the land so notified, exempt in special circumstances to be recorded in writing.

Violation of the above provisions noticed by Audit are as under:

- DLAO, Ranchi paid compensation of ₹ 86.11 lakh to a *raiyat* in May 2017 though the *raiyat* had purchased (December 2016) the demarcated land after the preliminary notifications issued in November 2016 without obtaining permission for such purchase. Instead of withholding the payment, the compensation was made on the basis of sale deed without verifying the date of transaction and grant of permission for such transaction. This resulted in incorrect payment of ₹ 86.11 lakh.
- In one case of LA, the DLAO, Hazaribag paid (March 2016) compensation of ₹ 5.14 lakh in which five successors were authorised to receive the

<sup>31</sup> Ramgarh, Ranchi and Sahibganj.

<sup>32</sup> Without approval of the appropriate Government: Deoghar: 2 cases, Ramgarh: 15 cases, Ranchi: 11 cases and Sahibganj: 5 cases. Without approval of the Divisional Commissioner: Deoghar: 1 case, Ramgarh: 2 cases, Ranchi: 8 cases and Sahibganj: 3 cases.

award as per report of the Circle Officer, however, only one heir was paid the entire amount of compensation on the basis of affidavit submitted by one of the other four heirs. Thus, compensation of ₹ 3.08 lakh was paid to ineligible persons in contravention of the provisions of the Act.

Audit observed that there was no system in place to flag land demarcated for land acquisition in the registration database to ensure blocking of sale of these lands after issue of preliminary notification for acquisition. Further, in case of payments made to successors of *raiyats* it was noticed that though a system for production of prescribed documents before payment was in place but there was no mechanism to effectively monitor payment to individual successors against each *raiyat*. Further, a web-based user friendly portal was also not in place for affected people to be aware of the payments made or to raise objections with regard to irregular payments resulting in payments to ineligible persons.

The Department/Government accepted the facts and stated (November 2019) that legal action would be initiated in such cases and as a corrective measure instructions have been issued (November 2019) to the Deputy Commissioners/NIC to ensure that all land acquisition projects are flagged in the registration database to block their sale after preliminary notification.

➤ **Payment on submission of inadmissible document**

**Payment of ₹ 8.11 crore was made without obtaining succession certificates from appropriate authority/Court.**

As per departmental resolution (March 2016), in case of deceased awardee, payment of compensation up to ₹ 10 lakh shall be made on submission of succession certificate issued by the concerned circle officer showing the valid *raiyat* to receive compensation. For payment of compensation above ₹ 10 lakh, succession certificate issued by the competent court is required.

Four DLAO offices<sup>33</sup> paid compensation of ₹ 8.11 crore to 45 *raiyats* involved in six cases of land acquisition without obtaining succession certificate from the appropriate authority/Court.

Audit observed that the Department had not formulated any system to ensure that payments were made only after obtaining sanction from the appropriate authority and on production of required documents. The entire process of acquisition from the stage of preparation of compensation to payment of compensation was being conducted manually. In absence of MIS/computerised system to check prescribed requirement for payment, production of required documents, sanction of appropriate authorities, authenticity of *raiyats* etc., was overlooked while making payments.

In response to the audit observation while accepting the facts, the Department/Government stated (November 2019) that the matter would be examined.

**The Department may consider evolving a system to ensure that all land acquisition projects are flagged in the registration database so as to block their sale after preliminary notification.**

<sup>33</sup> Giridih, Hazaribag, Ramgarh and Ranchi.

#### 4.2.8.7 Withdrawal of land acquisition

**Though acquisition of 911.33 acres of land was not required, process for withdrawal of land acquisition was not initiated.**

As per Departmental instruction of June 2003 issued under Land Acquisition Act, 1894, all lands acquired for specific public purposes, when not required by the requiring body shall be relinquished to the Revenue, Registration and Land Reforms Department. Further, Section 93 (1) and (2) of the RFCRTLARR Act, 2013 provides that the appropriate Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken. Whenever the appropriate Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due to the damage suffered by the owner in consequence of the notice of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

Instances of violation of the above norms are as under:

➤ In DLAO, Hazaribag it was noticed that in two cases<sup>34</sup>, the process of acquisition was stopped (between September 2014 and May 2015) after incurring expenditure of ₹ 18.82 crore, out of fund received amounting to ₹ 32.89 crore. The main reasons were cancellation of coal blocks of the requiring bodies in one case and in another, the land intended to build a reservoir, was no longer needed by the requiring body. There was nothing on record to show that DLAO had informed the higher authorities or had taken any action for withdrawal of the above cases.

➤ DLAO, Giridih, in a case of land acquisition<sup>35</sup> taken up in June 2015, for acquisition of 86.65 acres of land involved in 19 *maujas*, incurred expenditure of ₹ 19.1489 crore against the fund of ₹ 19.15 crore (between March 2012 and March 2016) provided by the requiring body. The requiring body intimated (August 2018) that the land involved in 16 *maujas* out of 19 *maujas* were no longer needed. There was nothing on record to show that DLAO had informed the higher authorities or had taken any action for withdrawal of the above cases.

Audit observed that effective steps have not been taken by the Department to de-notify the land or to initiate the process for transfer of land acquired into the land bank. Audit further observed that as periodical reports/returns had not been prescribed to watch the progress of land acquisition cases, the Department remained unaware of the irregularities and also failed to initiate any action in this regard.

The Department/Government accepted the audit observations and stated (November 2019) that instructions have been issued in November 2019 to Deputy Commissioners to review the reported cases and other similar cases and de-notify the land or initiate the process of transfer of land into the land bank.

<sup>34</sup> Tenughat Emta Coal Mines (2011-12) and Garahi Jalashay (2001-02 to 2008-09).

<sup>35</sup> Kadambari Mundro Ranidih Asko *Path*.



#### 4.2.8.8 Creation of liability

**The department kept undisbursed funds in banks instead of depositing it into LA Dispute Courts resulting in creation of liability of ₹ 17.07 crore in shape of interest.**

Section 31 of the Land Acquisition Act, 1894 and Section 77 of RFCTLARR Act, 2013 read with Departmental instruction of August 2017 provides that if the person entitled to compensation shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the compensation to LA Dispute Courts.

According to Section 34 of the Land Acquisition Act, 1894 and Section 80 of the RFCTLARR Act, 2013, if the compensation amount is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount of award with interest thereon at the rate of nine *per cent* per annum from the date of taking possession until it shall have been so paid or deposited, provided that if such compensation or any part thereof is not paid or deposited with a period of one year from the date on which possession is taken, interest at the rate of 15 *per cent* per annum shall be payable from the date of expiry of one year on the amount of compensation or part thereof which has not been paid or deposited.

Audit collected the status of ongoing land acquisitions during 2013-18 in the selected districts and noticed that possession of the acquired land in 59 out of 134 schemes estimated at ₹ 4,064.14 crore (realised ₹ 4,051.70 crore) had been granted to the requiring bodies after incurring expenditure of ₹ 2,844.53 crore (70 *per cent*) only. Thus, ₹ 1,207.17 crore was still to be paid to the *raiyyats*.

Audit test checked the records of payments in three offices of DLAOs<sup>36</sup> and noticed that in five out of 63 land acquisition cases (estimated award- ₹ 243.34 crore) undertaken between 2008-09 and 2014-15, payment of ₹ 165.49 crore was made and ₹ 20.15 crore was deposited into LA Dispute Court. The balance payment of ₹ 57.70 crore was neither made to the *raiyyats* till March 2018 despite availability of fund in bank accounts nor transferred to LA Courts in contravention of the provisions of the Acts *ibid*. No reasons for this were on record or furnished to Audit. This resulted in creation of liability to the tune of ₹ 17.07 crore in the shape of additional interest payable at the rate of nine and 15 *per cent* on the amount of compensation or part thereof.

The Department/Government while accepting the audit observations stated (November 2019) that the process would be reviewed and corrective measures would be adopted.

<sup>36</sup> Deoghar, Dhanbad and Ranchi.



#### 4.2.8.9 Non-verification of land after handing over possession

**The Department did not evolve a system for post-allotment verification of land to establish utilisation of land for the intended use/purpose to enforce the provisions of the Act for resumption.**

As per Section 101 of the RFCTLARR Act, 2013, when any land, acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the land bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government.

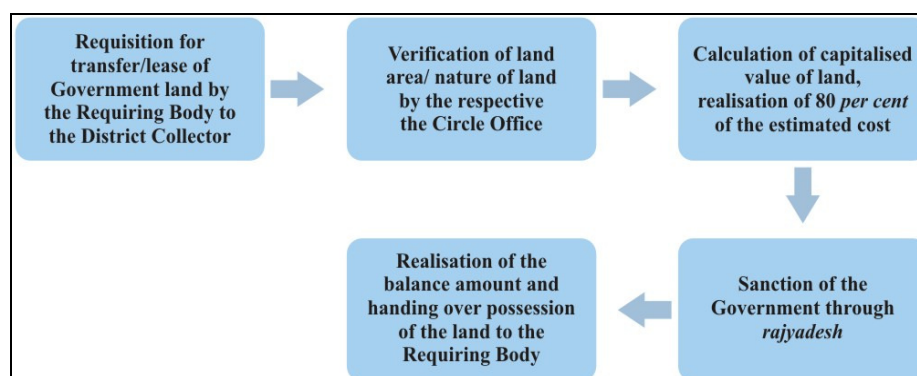
Audit noticed that the Department had not evolved a system to ensure post-allotment verification to ascertain the use of acquired land for intended purposes. Audit did not observe a single case of post-verification by the Department in the selected offices. This indicated that the Department was unaware of the present position of land handed over to the requiring bodies and hence could not enforce provisions of the Act *ibid*, thereby depriving the affected people of their rights to land in case of land remaining unutilised.

The Department/Government accepted the audit observations and stated (November 2019) that may be due to shortage of staff this exercise was not being conducted. However, it was assured that necessary verification would be conducted for the cases taken up in the last five years. Further, Deputy Commissioners have been directed (November 2019) in this regard.

**The Government may consider evolving a system to ensure post allotment verification for compliance to the provisions of the Act and resumption of land in case of deviation from the said purpose or remaining unutilised after a period of five years.**

#### 4.2.9 Irregularities in alienation/transfer of Government land

The process of alienation of land in the State is shown in the following diagram:



Audit called for (February 2018) data relating to status of alienation of Government land on transfer/lease basis in Jharkhand during 2013-18 from the office of the Secretary, Revenue, Registration and Land Reforms Department.

The Department in turn instructed (February 2018) the field offices to provide the requisite information to Audit and further stated that the information relating to alienation of Government land was available at the districts (AC

offices) and may be collected from there. This indicates that the Department did not maintain a database of alienation of Government land at the State level which indicated deficient monitoring at the apex level.

Neither the Department nor the district offices (ACs) provided information relating to alienation of Government land to Audit till August 2019. As such, Audit did not get information relating to alienation of Government land for the whole State.

Audit collected information relating to alienation of Government land by test-check of records in the offices of ACs of the sampled districts and therefore audit was confined to examine alienation cases in the sampled districts.

#### 4.2.9.1 Status of alienation of land in selected districts

In the sampled districts, Audit examined the cases of transfer/lease of Government land undertaken by the selected districts during 2013-18 as well as cases where *Rajyadesh(s)*<sup>37</sup> were issued prior to 2013-18 but land was transferred/leased out during 2013-18. The details are shown in **Table-4.5**.

**Table-4.5**

(₹ in crore)

Sl. No.	Name of the office of the Additional Collector	No of projects transferred without cost	Area alienated without cost (in acres)	No of projects transferred with cost	Area alienated with cost (In acre)	Cost realized
1	Deoghar	106	466.69	3	24.00	45.11
2	Dhanbad	95	339.49	1	69.17	56.30
3	Giridih	107	551.29	1	7.06	15.32
4	Godda	24	225.38	3	212.33	14.30
5	Hazaribag	3	5.68	1	817.46	33.77
6	Ramgarh	30	277.89	1	16.35	3.61
7	Ranchi	159	1,006.94	18	121.74	166.87
8	Sahibganj	41	158.45	10	14.60	2.31
<b>Total</b>		<b>565</b>	<b>3,031.81</b>	<b>38</b>	<b>1,282.71</b>	<b>337.59</b>

Source: Information furnished by the Additional Collector of respective Districts

#### 4.2.9.2 Status of Land Bank

The Department directed (July 2004) all the Deputy Commissioners of Jharkhand to create a land bank to facilitate investors/departments/industries to choose suitable land and prescribed maintenance of two separate registers for Government and private land on the basis of type and nature of land. Further, the Department decided (December 2004) to purchase land other than agricultural land from *raiyats* for the land bank.

The Department instructed (March 2015) the Divisional/Deputy Commissioners to compile the available GM lands categorising them into different cluster sizes in the area and submit a report clearing indicting land which are free from dispute and can be used immediately.

The State Government inaugurated the land bank in January 2016. Details of land available in the land bank as included in the Progress Report of Revenue and Land Reforms Department for the year 2015-16 is detailed in **Table-4.6**.

<sup>37</sup> *Rajyadesh*: Government of Jharkhand order dictating approval of transfer of land with imposed conditions.

**Table-4.6**

Sl. No.	Category	Land available (in acres)
1	<i>Gair Majurwa Khas</i> Land	8,51,947.71
2	<i>Gair Majurwa Aam</i> Land	2,29,345.43
3	<i>Gair Majurwa Jungle Jhari</i> Land	10,06,072.83
4	Unused land of various departments	7,173.23
<b>Total</b>		<b>20,94,539.20</b>

Source: Progress Report of Revenue, Registration and Land Reforms Department, Government of Jharkhand for the year 2015-16

In response to data/information in respect of land bank called for by Audit in February 2019, the Department furnished (March 2019) information regarding availability of 20.95 lakh acres of land without any change in the status as depicted in the progress report of 2015-16. Audit observed that though 2,198.43 acres<sup>38</sup> of land, involved in 470 cases, were transferred/leased out to various institutions during 2016-17 to 2017-18 in the selected districts, the land bank data did not reflect this. Thus, it is evident that land bank data was not being updated thereby defeating the purpose for which it was created.

The Department/Government stated (November 2019) that non-updation of data was due to various constraints not directly under the control of the Department; however, efforts would be taken to update the data. On the aspect of utilisation of land under the land bank by investors/industrialists, as to whether there exists a system for allocation of Government land in lieu of private land to be acquired, it was stated that such exercise, i.e., selection of land by a user agency is purely done by them as per their priorities. Further, it was stated that the main aim of the land bank was to provide land for Government projects and land to landless people. The reply is not in consonance to the objectives for which the land bank was created, i.e., to facilitate investors/ departments/industries to choose suitable land.

#### **4.2.9.3 Incorrect levy of *salami*, rent and cess due to application of incorrect rate**

**Application of incorrect rate of land by treating as agricultural land instead of commercial led to short realisation of *salami*, rent and cess amounting to ₹ 181.98 crore.**

The Bihar Government Estate (*Khas Mahal*) Manual, 1953 and Government resolutions<sup>39</sup> issued thereunder from time to time provides for realisation of *salami*<sup>40</sup>, capitalised value of rent<sup>41</sup> and cess<sup>42</sup> from the requiring body in case of transfer of land on permanent basis. In the case of transfer of land on lease for 30 years, realisation of *salami*, annual rent and cess with an annual increase of 7.5 *per cent* on rent is to be made.

<sup>38</sup> Deoghar: 444.50 acres; Dhanbad: 245.20 acres; Giridih: 406.936 acres; Godda: 232.157 acres; Ramgarh: 259.52; Ranchi: 475.71 acres; and Sahibganj: 134.41 acres.

<sup>39</sup> Para No. (5)(i)(a) and (b) of Resolution No. 241 of January 2011 and Para No. (1) (a) and (b) of Resolution No. 4306 of October 2014.

<sup>40</sup> *Salami* is the current market value of the land as determined by the Registration Department (MVR) circulated from time to time.

<sup>41</sup> Rent is leviable at the rate of two and five *per cent* of *salami* in case of residential and commercial purposes respectively. Capitalised value of Rent: 25 times of the annual residential/commercial rent

<sup>42</sup> Cess is leviable at the rate of 145 *per cent* on the capitalised value of the rent.

In four offices of the Additional Collectors (AC)<sup>43</sup>, 832.88 acres of land was transferred permanently/leased vide *Rajyadesh(s)* issued between April 2013 and March 2018 for commercial purposes in four schemes<sup>44</sup> and ₹ 54.39 crore was levied as *salami*, rent and cess. Though rent was levied at the rate of five *per cent* of *salami* as per commercial use for which land was alienated, *salami* was calculated treating the land as agricultural. Audit worked out that ₹ 236.37 crore was leviable as *salami*, rent and cess on the basis of rates applicable for commercial purposes as per the prevailing Minimum Valuation Register (MVR). Thus, there was short levy of *salami*, rent and cess amounting to ₹ 181.98 crore (**Appendix-I**).

The Department/Government accepted the audit observation and stated (November 2019) that necessary instructions had been issued in November 2019 to the concerned offices to calculate the rate of land as per intended use. Further, the suggestion of Audit for incorporation of the rate of *salami*, in the *Rajyadesh* itself, to avoid application of incorrect rate, was also agreed upon.

**The Department may consider issue of *Rajyadesh* specifying the rate of land depending upon intended use by the requiring body for fixation of *salami* of land.**

#### **4.2.9.4 Non/short realisation of *salami*, rent and cess in land alienation cases**

***Salami*, rent and cess was not realised/short realised or realised with delays.**

In order to complete the process of transfer/lease of Government land within the time schedule and avoid refusal by the applicant, the Bihar Government Estate (*Khas Mahal*) Manual, 1953 read with executive orders/resolution issued between June 2004 and October 2014, provides for realisation of 80 *per cent* of estimated amount of *salami*, rent and cess of the land prior to forwarding the proposal of alienation/ transfer/ lease, to the Department/Government. In any circumstances, the process of alienation/transfer/lease of land was not to be initiated without realisation of 80 *per cent* of the estimated amount of *salami*, rent and cess. Further, the balance amount was realisable within 60 days of the issuance of *Rajyadesh*, failing which such transfer was to be treated as null and void. The Resolution further provides for realisation of differential amount on the current market value effective on the date of transfer. In any circumstances, the amount shall not be less than the approved amount as per *Rajyadesh*.

Violations of the above norms as noticed during audit scrutiny are detailed as under:

➤ ***Non/short realisation of 80 per cent of the estimated value of salami, rent and cess of land before initiating alienation processing***

In 75 cases<sup>45</sup> of land transfer under four offices of the Additional Collectors<sup>46</sup>, 226.157 acres of land was transferred on permanent/lease basis vide

<sup>43</sup> Deoghar, Giridih, Hazaribag and Sahibganj.

<sup>44</sup> Permanent transfer: 1. Deoghar: State Bank of India; 2. Sahibganj: Inland Waterways and 3. Giridih: DFCCIL. Lease for 30 years: Hazaribag: 1. National Thermal Power Corporation.

<sup>45</sup> Permanent transfer: 47 cases and Transfer on lease basis: 28 cases.

<sup>46</sup> Permanent Transfer- Dhanbad, Ranchi and Sahibganj; Lease- Hazaribag.

*Rajyadesh(s)* issued between November 2015 and March 2018 for 11 schemes<sup>47</sup>. The ACs had worked out estimated cost of transfer/lease as ₹ 102.54 crore and of this, ₹ 82.03 crore was realisable being 80 per cent before forwarding these cases to the Government for approval. However, in 50 out of these 75 cases, the ACs realised only ₹ 14.42 crore against realisable amount of ₹ 39.98 crore while in the balance 25 cases no amount was realised against realisable amount of ₹ 42.05 crore before forwarding these cases for approval of Government. Thus, estimated amount of *salami*, rent and cess of ₹ 67.61 crore was not realised before initiating land alienation process in violation of the provisions *ibid*.

Audit did not come across any mechanism existing in the Department from where it could be ascertained by the higher authorities that of 80 per cent of the capitalised value was realised before sending the proposals to higher authorities.

➤ ***Delayed realisation of salami, rent and cess***

In three offices of the Additional Collectors<sup>48</sup>, 79.52 acres of land in 69 cases were transferred on permanent basis vide *Rajyadesh(s)* issued between November 2015 and July 2017 for 10 schemes<sup>49</sup>.

Audit observed that ₹ 59.70 crore, being 80 per cent of the estimated cost (₹ 74.63 crore) was realisable but only ₹ 10.53 crore was paid by the transferees leaving a balance of ₹ 49.17 crore. Further, after issuance of *Rajyadesh(s)* the remaining 20 per cent of the estimated cost amounting to ₹ 14.93 crore along with the unpaid balance of 80 per cent amount (₹ 49.17 crore) was paid between February 2016 and July 2018 though required to be paid between January 2016 and October 2017, after delays ranging between one and 22 months. Consequently, Government revenue of ₹ 64.10 crore (₹ 49.17 crore + ₹ 14.93 crore) remained blocked for such period. However, no penalty could be imposed as State Government circulars contained in *Khas Mahal* Manual are silent on the issue.

**Hence, there are no deterrence measures to check delayed payments to the Government.**

**The Government may consider framing provisions for imposition of penalty for delayed payment of *salami*, rent and cess.**

➤ ***Short realisation of salami, rent and cess due to non-application of current market value of land***

In two offices of AC, Dhanbad and Ramgarh 55.504 acres of land was transferred between March 2016 and May 2017 to Indian Railways in 39 cases. The ACs levied *salami*, rent and cess amounting to ₹ 19 crore for alienation of land on the market value prevailing between 2012-13 and 2015-16. As per provisions contained in the resolution no. 241 of January 2011 and 4306 of October 2014, *salami* along with rent and cess thereupon was required to be computed and realised on the rate applicable on

<sup>47</sup> Dhanbad-DFCCIL; Ranchi- GSI, ASI, DC, NABARD, DVC, RBI, IBM and CPWD; Sahibganj- Inland Waterways; Hazaribag- NTPC-Pakri Barwadih Coal Mines Project.

<sup>48</sup> Dhanbad, Ranchi and Sahibganj.

<sup>49</sup> Dhanbad-DFCCIL; Ranchi- GSI, ASI, DC, NABARD, DVC, RBI, IBM and CPWD; Sahibganj- Inland Waterways.

the date of transfer of such land i.e., between March 2016 and May 2017. The ACs did not apply the current market value of land prevailing at the time of transfer, in contravention of the provisions issued between January 2011 and October 2014 to realise *salami*, rent and cess on the rate applicable on the actual date of transfer, resulting in short realisation of *salami*, rent and cess to the tune of ₹ 15.85 crore (**Appendix-II**).

The Department/Government stated (November 2019) that the cases would be reviewed and action would be taken accordingly. Further, while accepting the fact that there is no penal provisions for non/delayed payment of dues, the Department/Government stated (November 2019) that penal provisions would be incorporated and in extreme cases penal provisions like cancellation of proposal and forfeiture of amount already deposited by the requiring body would be invoked.

#### **4.2.10 Internal control mechanism in the Department**

##### **4.2.10.1 Maintenance and updation of registers**

The Bihar Government Estate (*Khas Mahal*) Manual, 1953 (as adopted by the Government of Jharkhand) provides for maintenance of Register-II. This register, which is maintained in the circle offices, contains a separate page for each tenant and gives details such as name of the *raiyat*, *khata* number, plot number, area of land, etc.

The Department directed (September 2010) the Deputy Commissioners to take timely action to enter the name of the requiring body in the land records (i.e. Register-II) after acquisition of the land so that land acquisition for the same property could not be initiated again as noticed in some cases by the Department.

During audit scrutiny it was seen that possession of 568.80 acres of land was handed over between March 2010 and November 2017 to the requiring bodies in 12 out of 66 land acquisition cases in four offices<sup>50</sup>. Audit test-checked Register-II as available on the Department's website (*jharbhoomi.nic.in*) and found that in 73 out of 310 *khatas* pertaining to these 12 land acquisition cases, mutation of land in favour of requiring body and consequent rectification in Register-II had not been done. Due to non-coordination between land acquisition offices and circle offices, maintenance/updation of the land records in favour of the requiring bodies could not be initiated.

**The Department may consider integrating mutation/rectification of land records with land acquisition and updation of records in case of alienation by adding a module to the existing software (*Jharbhoomi*) or through a new application software.**

##### **4.2.10.2 Inspection by departmental officers**

Rule 47 of the Bihar Government Estates (*Khas Mahal*) Manual, 1953 (adopted by Government of Jharkhand) provides for inspection of prescribed

<sup>50</sup> DLAO: Deoghar (49.92 acre), Dhanbad (18.19 acre) and Ranchi (432.99 acre), SLAO: Deoghar (67.70 acre).



registers<sup>51</sup> by the Collector and report of such inspection in the district annual Land Revenue Administration Report. Further instructions issued under Land Acquisition Act, 1894 provides for inspection by Collectors at least once a year and by Commissioner at such intervals as may be convenient and the notes of inspection made by the Collectors should be submitted to the Commissioner of the Division.

Audit enquired from the test-checked DLAOs/SLAOs whether inspection by the Departmental officers were carried out during the period 2013-18. Six DLAOs/SLAOs<sup>52</sup> replied that inspections by higher officers were not carried out during this period, three DLAOs<sup>53</sup> replied that no records regarding inspection done were available in their offices, while DLAOs Hazaribag and Ramgarh replied that inspection was done once during this period.

The Department/Government accepted the audit observations and stated (November 2019) that instructions have been issued to carry out inspections, at least once in a year, by the departmental higher authorities.

#### **4.2.10.3 Internal Audit**

The Department does not have an internal audit wing. The Planning-cum-Finance Department acts as the internal auditor of the Department.

Audit enquired from the test-checked DLAOs/SLAOs whether internal audit were carried out during the period 2013-18. While ten DLAOs/SLAOs replied that no internal audit of their office was conducted by the Finance Department during this period, DLAO, Dhanbad replied that no records regarding internal audit was available in the office.

The Department/Government accepted the audit observation and stated (November 2019) that Finance Department has been requested (November 2019) to conduct internal audit.

#### **4.2.10.4 Web-based work flow and Management Information System (MIS) for land acquisition**

As per Rule 15 of JRFCTLARR Rules, 2015, the State Government shall create as early as possible, a dedicated, user-friendly website that may serve as a public platform on which the entire work flow of each acquisition case will be hosted, beginning with the notification of the Social Impact Assessment (SIA) and tracking each step of decision-making, implementation and audit.

Audit noticed that the Department has not developed any dedicated user-friendly website to host the progress of land acquisition cases. In its absence, the DLAOs/SLAOs have been uploading data either on the district NIC website or on the department's website. However, details of land acquisition beginning with notification of SIA etc., were not found uploaded on these websites. This prevented the stakeholders from knowing the actual position of land acquisition for a particular scheme which defeated the very intent of information dissemination through a dedicated website.

<sup>51</sup> 56: List of registers; 57: Register-I; 58: Register-II; 59: Register-III; 60: Register –IIIB; 61: Register IV and 62: Register V.

<sup>52</sup> DLAOs – Giridih, Godda and Ranchi; SLAOs –Deoghar, Hazaribag and Ranchi.

<sup>53</sup> DLAOs – Dhanbad, Deoghar and Sahibganj.

The Department/Government stated (November 2019) that a comprehensive website specifically for monitoring the progress of land acquisition would be functional by January 2020 for which NIC has been requested (November 2019) for the same.

#### **4.2.11 Conclusion**

At the apex level of the Department there was absence of macro-level data or information about the total area of land acquired or alienated in the State during 2013-18, as well as status of pending cases.

The contradiction between the Jharkhand Treasury Code and the JRFCTLARR Rules as well as the contradictory instructions of the Department resulted in parking of funds received from the requiring bodies in banks instead of depositing these in “8443- Civil Deposit”. An amount of ₹ 1,494.39 crore received for land acquisition were lying in the bank accounts as on 31 March 2018 in the sampled districts.

Land acquisition offices maintained multiple bank accounts instead of the prescribed number of maximum two bank accounts. Differences in bank balance and closing balance of cash book were not reconciled. There was absence of provisions for accounting and remission of interest accrued and as such accrued interest was lying in the bank accounts of the land acquisition offices.

Cases of excess/short preparation of award, awards finalised without sanction of the appropriate authority and payment of award on submission of inadmissible documents were noticed in the sampled districts.

Land bank data was not being updated thereby depriving stakeholder of the facility of choosing suitable land for their requirement.

Inspection by higher officers was carried out only once during 2013-18 in two out of 11 sampled DLAOs/SLAOs. Internal audit was not conducted by Finance Department in the sampled DLAOs/SLAOs.

A dedicated, user-friendly website to serve as a public platform on which the entire work flow of each acquisition case will be hosted, beginning with the notification of the Social Impact Assessment (SIA) and tracking each step of decision-making, implementation and audit had not been developed.

**The audit findings in this report highlight and flag key areas of concerns which need to be addressed if the objectives of acquisition and alienation of land are to be achieved. Further, the audit findings are those which came to notice within the selected audit sample and there are possibilities that the same irregularities persist in other districts/offices dealing with acquisition/alienation of land cases in the State. The Department may examine all such cases thoroughly in all the districts in the State and take necessary action.**

**The Department/Government appreciated (November 2019) the efforts of Audit and assured to take steps to streamline the whole process of land acquisition/transfer.**



## B. STAMP DUTY AND REGISTRATION FEES

### 4.3 Tax administration

The levy and collection of stamp duty and registration fees in the State of Jharkhand is governed by the Indian Stamp (IS) Act, 1899 and Rules made thereunder and the Registration Act, 1908. The Indian Stamp (Bihar Amendment) Act, 1991, Bihar Stamp Rules, 1954, Bihar Stamp (Prevention of Under-Valuation of Instruments) Rules, 1995 and executive instructions of the State of Bihar as existing on the date of creation of the State of Jharkhand on 15 November 2000 have been adopted by the State.

The Revenue, Registration and Land Reforms Department (Registration Department) is under the overall administrative control of the Principal Secretary/ Secretary at the Government level. The Inspector General of Registration (IGR) is responsible for administration of the Act, Rules and orders issued by the Government from time to time. He is assisted by a Deputy/ Assistant Inspector General (DIG)/ (AIG) and a Deputy Secretary at the headquarters, and an Inspector of Registration in the divisions. Further, there are 24 registration districts<sup>54</sup> each under the charge of a District Sub Registrars (DSRs) and 18 sub-registration offices<sup>55</sup> each under the charge of a Sub-Registrar (SRs). These offices are the primary units responsible for levy and collection of stamp duty and registration fees under the IS Act, 1899 and Registration Act, 1908.

### 4.4 Results of audit

During 2017-18, Audit test-checked the records of 15<sup>56</sup> out of 56 auditable units (27 per cent) of the Registration Department. During the period covered in audit, a total of 2,26,911 documents were registered in the State, out of which 34,408 documents were registered in the test-checked units and Audit had examined 3,685 documents (10 per cent). Audit further analysed the data dump (upto 26 November 2018) relating to registration of documents in Jharkhand. The Department collected revenue of ₹ 607 crore (stamp duty: ₹ 426.52 crore and registration fees and other receipts: ₹ 180.48 crore) during 2016-17 out of which the audited units collected ₹ 198.12 crore (33 per cent). Audit noticed deficiencies and irregularities amounting to ₹ 14.89 crore in 421 cases, as detailed in **Table-4.7**.

<sup>54</sup> Bokaro, Chatra, Chaibasa, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamtara, Koderma, Khunti, Latehar, Lohardaga, Pakur, Palamu, Ranchi, Ramgarh, Sahibganj, Simdega and Saraikela-Kharsawan.

<sup>55</sup> Barhi (Hazaribag), Bermo (Bokaro), Bundu (Ranchi), Chakradharpur (Chaibasa), Chandil (Saraikela-Kharsawan), Dumri (Giridih), Ghatsila (Jamshedpur), Govindpur (Dhanbad), Gola (Ramgarh), Hussainabad (Palamu), Jamua (Giridih), Madhupur (Deoghar), Nagar Utari (Garhwa), Rajdhanwar (Giridih), Rajmahal (Sahibganj), Ranchi Urban Area -02 Doranda Sector, Ranchi Urban Area – 03 Kanke Sector and Ranchi Rural Area.

<sup>56</sup> Offices of District Sub Registrar /Sub Registrar, Chaibasa, Chakradharpur, Deoghar, Giridih, Govindpur, Gumla, Jamshedpur, Jamtara, Lohardaga, Madhupur, Pakur, Palamu, Sahibganj, Ranchi Urban Area -02 Doranda Sector and Ranchi Urban Area – 03 Kanke Sector.

**Table-4.7**

Sl. No.	Categories	No. of cases	Amount (₹ in crore)
1	Short levy of stamp duty and registration fees on mining leases	166	12.68
2	Irregular grant of exemption on stamp duty and registration fee	207	1.01
3	Misclassification of instruments	13	0.57
4	Under valuation of properties	04	0.52
5	Other cases	31	0.11
		<b>421</b>	<b>14.89</b>

The Department accepted audit observations of ₹ 13.69 crore in 403 cases which were pointed out during 2017-18 and recovered ₹ 24.37 lakh in 43 cases.

Irregularities involving 366 cases worth ₹ 13.44 crore have been illustrated in this section of the chapter.

#### **4.5 Compliance to Acts/ Rules**

The Indian Stamp Act, 1899 (IS Act), the Registration Act, 1908, Notification No. 500/Registration dated 19 June 2017 and Bihar Registration Rules, 1937, Bihar Registration Manual, 1946 and Bihar Stamp (Prevention of Under Valuation of Instruments) Rules, 1995 (as adopted by the Government of Jharkhand) made thereunder provide for:

- (i) payment of registration fees at the prescribed rate;
- (ii) payment of stamp duty by the executants at the prescribed rate and;
- (iii) exemption of stamp duty and registration fee to women on one sale deed pertaining to sale of property in favour of women valuing upto ₹ 50 lakh.

Failures of departmental officers to comply with the above mentioned provisions are highlighted below:

#### **4.6 Short levy of stamp duty and registration fees on mining leases**

**Failure to ensure that leases are registered on the basis of verification of the average annual royalty as per the approved mining plan resulted in short levy of stamp duty and registration fees of ₹ 12.43 crore.**

The Registration Act, 1908 stipulates that leases of immovable properties for any term exceeding one year are to be registered compulsorily. According to the Indian Stamp Act, 1899 stamp duty and registration fees are to be charged on the value of average annual rent depending on the periodicity of lease. The Jharkhand Minor Minerals Concession (Amendment) Rules, 2014 provide that mining work will be done as per approved mining plan. Further, as per instructions (November 1996) of the Mines and Geology Department, royalty of one year (as per approved mining plan) or dead rent<sup>57</sup>, whichever is higher, will be considered as average annual rent for the purpose of calculation of stamp duty in respect of mining lease.

<sup>57</sup> Deterrent against the tendency of lease holders in cornering the mining lease and keeping the mineral resource idle.

Audit test-checked the records (between May and October 2017) of 10 district sub-registrar offices/ sub-registrar offices<sup>58</sup> and their cross-verification with the records of 10 district mining offices<sup>59</sup> revealed that 159 lease deeds (out of 166 lease deeds test checked) were registered by the DSRs/SRs between June 2015 and March 2017 on the basis of incorrect valuation instead of adopting average annual royalty as per the approved mining plan. This resulted in short levy of stamp duty and registration fees amounting to ₹ 12.43 crore.

After the cases were pointed out (between June 2017 and January 2018), nine District Sub-Registrars/ Sub-Registrars<sup>60</sup> stated (between June 2017 and March 2019) that correspondence had been made with the concerned department for realisation of revenue, whereas DSR, Gumla replied (March 2019) that stamp duty and registration fee had been levied as per provisions. The reply of DSR, Gumla was not in order as Audit found that valuation of document was less than the average annual royalty projected in the approved mining plan, Audit however, could not ascertain the basis of calculation for arriving at document value.

The matter was reported to the Government (between August 2018 and April 2019); their reply is awaited (February 2020).

#### **Impact of Audit**

DSR, Lohardaga had realised the entire amount raised in the audit observation in the compliance audit during 2017-18 amounting to ₹ 10.40 lakh in five similar cases.

### **4.7 Irregular grant of exemption on stamp duty and registration fee**

**Due to lack of validation controls and ambiguity in the notification the Department failed to detect duplicate beneficiaries resulting in short levy of stamp duty and registration fee amounting to ₹ 1.01 crore.**

The Government of Jharkhand with a view to empowering women of Jharkhand, exempted stamp duty and registration fee on sale deeds pertaining to sale of property in favour of women in the State wide notification dated 19 June 2017. These deeds were registered at a token amount of ₹ one as stamp duty. The scheme was applicable to sale deeds in which the buyers were only women. Only one sale deed per beneficiary was eligible and property valuing upto ₹ 50 lakh was exempted. In case the value of property exceeded ₹ 50 lakh, stamp duty and registration fee were leviable on the amount in excess of ₹ 50 lakh. In order to avail the benefit of this scheme, the beneficiary was required to submit an affidavit to the effect that this benefit has not been availed by her in the past.

Audit obtained data dump (upto 26 November 2018) relating to registration of documents in Jharkhand from JAPIT<sup>61</sup> in December 2018 and found that

<sup>58</sup> District Sub-Registrar Office/ Sub-Registrar Offices, Chaibasa, Deoghar, Giridih, Govindpur, Gumla, Jamtara, Jamshedpur, Pakur, Palamu and Sahibganj.

<sup>59</sup> District Mining Offices, Chaibasa, Deoghar, Dhanbad, Giridih, Gumla, Jamtara, Jamshedpur, Pakur, Palamu and Sahibganj.

<sup>60</sup> District Sub-Registrar Office/ Sub-Registrar Offices, Chaibasa, Deoghar, Giridih, Govindpur, Jamtara, Jamshedpur, Pakur, Palamu and Sahibganj.

<sup>61</sup> Jharkhand Agency for Promotion of Information Technology.

1,61,592 sale deeds were registered between 19 June 2017 and 26 November 2018, out of which 1,08,636 sale deeds were registered in favour of women who were granted exemption under the scheme.

Audit filtered the data, on the basis of *Aadhar* number, of sale deeds registered in favour of women who had been granted exemption under the scheme. Audit could not however analyse 44,336 cases out of 1,08,636 sale deeds registered in favour of women, as either the *Aadhar* number field was blank or incorrect data was captured. Out of the balance 64,300 cases analysed by Audit it was noticed that in 31 registration offices<sup>62</sup> in 412 cases<sup>63</sup>, sale deeds were registered in favour of 205 women on more than one occasion and exemption was also granted in violation of the provisions of the scheme. As such, in 207 sale deeds exemptions were irregularly granted by the DSRs concerned. Audit further verified these 412 cases with the manual records and found that irregular exemption had been granted.

Audit noticed that exemption was granted solely on the basis of affidavits furnished by the beneficiaries. It was further observed that the notification of June 2017 did not prescribe any unique identification mark such as special serial of deed numbers, identification numbers etc. or unique fields like PAN, *Aadhar* number, voter card number etc. to identify and segregate these sale deeds. Due to absence of validation checks in the software, cases of duplicate exemption could not be detected by the registering authorities. Further, the notification did not define the term 'woman' for the purpose of the scheme. Audit observed that in 12 out of 207 cases, exemptions were granted to women as legal guardian for minors, although they had already availed the exemption for themselves in other cases. Thus, due to inadequate internal controls mechanism and ambiguity in the notification, the Department failed to prevent duplicate beneficiaries resulting in short levy of stamp duty and registration fee amounting to ₹ 1.01 crore (stamp duty: ₹ 56.01 lakh and registration fee: ₹ 45.07 lakh).

After the cases were pointed out (February 2019), the DSRs stated that demand notices had been issued to concerned beneficiaries and ₹ 13.97 lakh in 38 cases had been recovered in 10 registration offices<sup>64</sup>. Intimation regarding realisation of the balance amount of ₹ 87.11 lakh in 169 cases is awaited.

The matter has been reported to the Government (between February and April 2019); their reply is awaited (February 2020).

**The Department may consider allotting unique identification for these deeds. Further, unique fields may be prescribed and the application software modified to block the registration process in case of duplicate attempt for exemption.**

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<sup>62</sup> District registrar offices/ Sub registrar offices: Barhi, Bokaro, Chaibasa, Chakradharpur, Chandil, Chatra, Dhanbad, Garhwa, Ghatshila, Giridih, Govindpur, Gumla, Hazaribag, Hussainabad, Jamshepur, Jamua, Koderma, Lohardaga, Nagaruntari, Pakur, Palamu, Rajdhanwar, Rajmahal, Ramgarh, Ranchi, Ranchi Rural, Ranchi Urban 2, Ranchi Urban 3, Sahibganj, Saraikela and Tenughat.

<sup>63</sup> In 205 cases exemptions were granted twice out of which in two cases exemption was availed thrice (i.e.,  $205 \times 2 + 2 = 412$ ).

<sup>64</sup> District registrar offices/ Sub registrar offices; Chakradharpur, Chatra, Dhanbad, Dhanwar, Govindpur, Hazaribagh, Ranchi Rural, Ranchi Urban2, Ranchi Urban3, and Tenughat.

## C. STATE EXCISE

### 4.8 Tax administration

The levy and collection of excise duty is governed by the Bihar Excise Act, 1915 and the Rules made/ notifications issued thereunder, as adopted by the Government of Jharkhand. The Secretary of the Excise and Prohibition Department is responsible for administration of the State Excise laws at the Government level. The Commissioner of Excise (EC) is the head of the Department and is primarily responsible for the administration and execution of state excise policies and programmes of the Government. He is assisted by a Joint Commissioner of Excise, Deputy Commissioner of Excise and Assistant Commissioner of Excise at the Headquarters. Further, the State of Jharkhand is divided into three excise divisions<sup>65</sup>, each under the control of a Deputy Commissioner of Excise. The divisions are further divided into 19 excise districts<sup>66</sup> each under the charge of an Assistant Commissioner of Excise/ Superintendent of Excise (ACE/ SE).

### 4.9 Results of audit

During 2017-18, Audit test-checked the records of 14<sup>67</sup> out of 24 auditable units (58 *per cent*) of the Department. Total 1,432 retail excise shops were settled in the State during 2016-17, out of which 731 retail excise shops were settled in the test checked districts and Audit had examined records of *cent per cent* retail excise shops settled in the test checked units. The Department collected ₹ 961.68 crore revenue during 2016-17 of which the audited units collected ₹ 319.52 crore (33 *per cent*). Audit noticed irregularities amounting to ₹ 43.92 crore in 1,170 cases as detailed in **Table – 4.8**.

**Table-4.8**

Sl. No.	Categories	No. of cases	Amount (₹ in crore)
1	Loss of revenue due to non-settlement of retail liquor shops	38	27.44
2	Undue financial benefit to retail licensees due to improper determination of minimum guaranteed quota	658	8.88
3	Loss of revenue due to short lifting by liquor retail vendors	293	4.38
4	Other cases	181	3.22
<b>Total</b>		<b>1,170</b>	<b>43.92</b>

<sup>65</sup> North Chotanagpur Division, Hazaribag, South Chotanagpur Division, Ranchi and Santhal Pargana Division, Dumka.

<sup>66</sup> Bokaro, Chaibasa, Dhanbad, Deoghar, Dumka, Garhwa, Giridih, Godda, Gumla-cum-Simdega, Hazaribag-cum-Ramgarh-cum-Chatra, Jamshedpur, Jamtara, Koderma, Lohardaga, Pakur, Palamu-cum-Latehar, Ranchi, Sahibganj and Saraikela-Kharsawan.

<sup>67</sup> Offices of ACE, Bokaro, Hazaribag, and SE, Chaibasa, Chatra, Deoghar, Dumka, Giridih, Godda, Koderma, Lohardaga, Palamu, Saraikela-Kharsawan and EDC, Hazaribag and Commissioner of Excise, Ranchi.

The Department accepted (between January and March 2018) audit observations of ₹ 6.90 crore in 662 cases pointed out by Audit and recovered ₹ 34.63 lakh involved in 20 cases up to August 2019.

Irregularities involving 132 cases worth ₹ 2.86 crore have been illustrated in this chapter. This nature of irregularity had been repeatedly reported during the last four years as detailed in **Table – 4.9**.

**Table – 4.9**

Nature of observations	(₹ in crore)									
	2013-14		2014-15		2015-16		2016-17		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Short lifting of liquor by retail vendors	263	2.00	542	4.67	447	5.57	695	23.20	1,947	35.44

#### **4.10 Short lifting of liquor by retail vendors**

**Department did not take action to ensure lifting of minimum guaranteed quota which resulted in short lifting of liquor and non-levy of penalty equivalent to loss of excise duty of ₹ 2.86 crore.**

Jharkhand Excise Act, Rules and policies stipulate that each licensed vendor of a retail excise shop is bound to lift minimum guaranteed quota (MGQ) of liquor of each kind fixed by the Department for the shop failing which revenue equivalent to loss of excise duty suffered by the Government shall be recoverable.

Audit test-checked the records of five excise districts<sup>68</sup> (between May and December 2017) and noticed that 132 shops (out of 301) short lifted 6.69 lakh LPL/ BL of liquor (against requirement to lift 25.12 lakh LPL/ BL) during 2015-16 and 2016-17. It was observed that the MGQ of retail excise shops were fixed on annual basis which was divided into twelve parts and the vendors of retail shops lifted liquor monthly as per their requirement. The excise districts had prepared retail liquor shop-wise reports regarding MGQ fixed, and liquor lifted during the month and up to the month in specified forms, and forwarded the reports to the EC. However, the Department did not take action to ensure lifting of short lifted liquor in subsequent months so that the total MGQ fixed had been lifted by the end of the year. This resulted in short lifting of liquor and consequential non-levy of penalty equivalent to loss of excise duty of ₹ 2.86 crore.


After the cases were pointed out (between May and December 2017), the SEs, Giridih and Saraikela-Kharsawan intimated (between February and September 2018) that an amount of ₹ 24.13 lakh and ₹ 10.50 lakh respectively has been recovered. For the remaining cases the concerned SEs stated that excise duty would be recovered from security deposit of the concerned licensees. Reply of

<sup>68</sup> Chatra, Giridih, Lohardaga, Palamu and Saraikela-Kharsawan.

the SEs was not in order as security deposit was not sufficient to recover the amount in each case.

The matter was reported to the Government between May 2018 and May 2019; their reply is awaited (February 2020).

**Ranchi**  
**The 02 July 2020**

  
**(Indu Agrawal)**  
**Principal Accountant General (Audit)**  
**Jharkhand**

**Countersigned**

**New Delhi**  
**The 15 July 2020**

  
**(Rajiv Mehrishi)**  
**Comptroller and Auditor General of India**

