

CHAPTER 3
REVENUE AND LAND
REFORMS

CHAPTER-3: REVENUE AND LAND REFORMS

3.1 Introduction

The Revenue and Land Reforms Department acquires and alienates land and levies and collects land revenue in Bihar. The Collector who is responsible for the land acquisition is assisted by the District Land Acquisition Officer (DLAO).

The Principal Secretary-cum-Commissioner is the administrative head and is assisted by three Directors, Special Secretary, Joint Secretary and Deputy Secretary at the Headquarters level. At the field level, the Divisional Commissioners, Collectors, Additional Collectors, DLAO, Deputy Collectors, and Circle Officers are responsible for carrying out the work. Circle officers are responsible for the maintenance of land records and collection of land revenue.

3.2 Results of audit

During 2018-19, Audit test-checked the records of 11¹ units out of 952 units of the Revenue and Land Reforms Department. Besides, seven units² of DLAO and seven offices³ of Additional Collectors were also audited during September 2019 and January 2020. Audit scrutiny encompassing audit observations involving ₹ 877.24 crore in 135 cases is shown in **Table-3.1** below.

Table-3.1: Results of Audit

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Audit of payment of compensation/Additional compensation in district land acquisition office	1	125.04
2.	Audit of settlement of sairat	1	9.54
3.	Excess Expenditure under Mahadalit Vikas Scheme	1	18.10
4.	Alienation/transfer of Government land	1	108.54
5.	Payment for aerial survey without fulfillment of the preliminary requirement	1	20.93
6.	Lack of monitoring of fund under National Rural Livelihood Mission Programme head.	1	42.48
7.	Fund not received/short released from GoI and State Government	2	68.69
8.	Irregular transfer/parking of fund in different banks	3	39.52
9.	Short/Non-payment of compensation to landowners	1	28.50
10.	Non/Short remittance of establishment charges/Bank interest	9	180.57
11.	Faulty Estimate	2	20.24
12.	Others	112	215.09
Total		135	877.24

¹ **DLAO:** Araria, Kishanganj, Motihari, Nalanda, Patna, Purnea, Supaul and Vaishali: **Circle Office:** Danapur; **Office of the Principal Secretary Revenue and land reforms Department, Patna** and **Office of the Director Land records and measurement Bihar, Patna.**

² Gaya, Khagaria, Munger, Muzaffarpur, Patna, Saharsa and Saran.

³ Patna, Nalanda, Madhubani, Sitamarhi, Gopalganj, Purnea and Kishanganj.

The Department accepted short levy, short realisation and other deficiencies of ₹ 507.72 crore in 176 cases pertaining to previous years. Five cases involving ₹ 0.27 crore pointed out during 2018-19 were also accepted. The replies in the remaining cases of 2018-19 and those of earlier years not received (May 2020).

3.3 Audit of payment of compensation/additional compensation in the district land acquisition offices

3.3.1 Introduction

Land acquisition is the process by which Government acquires land for a public purpose such as the development of industry, infrastructural facilities and urbanisation, and provides compensation to the affected landowners with rehabilitation and resettlement. Land acquisition process is governed by “Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013 (RFCTLARR)” and the subsequent amendments made from time to time by the Union and Bihar Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement, (BRFCTLARR) Rules, 2014.

Following table depicts component of compensation and their calculation:

Table 3.2

Sl. No.	Component of compensation package in respect of land acquired under the Act	Manner of determination of value
1	Market value of land	To be determined as provided under Section 26 of the RFCTLARR Act, 2013.
2	Factor by which the market value is to be multiplied in the case of rural areas	1.00 (One) to 2.00 (Two) based on the distance of project from urban area.
3	Factor by which the market value is to be multiplied in the case of urban areas.	1 (One)
4	Assets attached to land or building under requisition	To be determined as provided under Section 29 of the RFCTLARR Act, 2013.
5	Solatum	Equivalent to one hundred per cent of the market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 for rural areas or serial number 3 for urban areas plus value of assets attached to land or building against serial number 4 under column (2).
6	Final award in rural areas	Market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 plus value of assets attached to land or building mentioned against serial number 4 under column (2) plus solatium mentioned against serial number 5 under column (2).
7	Final award in urban areas	Market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 3 plus value of assets attached to land or building mentioned against serial number 4 under column (2) plus solatium mentioned against serial number 5 under column (2).
8	Compensation towards rehabilitation and resettlement	Resettlement allowance of ₹ 50,000, transportation cost of ₹ 50,000 and one time payment of ₹ five lakh for each affected family where residential land or residence is acquired.

Audit was conducted to examine compliance to the provisions of existing Acts/ Rules while making payment of compensation to affected landowners of different/ various land acquisition projects. Seven districts⁴ were selected on random sampling basis using Interactive Data Extraction Analysis (IDEA) software. Audit was conducted between September 2019 to January 2020 for the period 2014-15 to 2018-19. In test-checked districts, there were 40 projects involving 588 *maujas*; audit examined 28 projects involving 334 *maujas* and noticed irregularities in 28 projects involving 249 *maujas*.

Audit findings

3.3.2 Non-remittance of establishment charges into the consolidated fund of the State

Four DLAOs failed to remit establishment charges of ₹ 91.03 crore into the Consolidated Fund of the State though the fund was available with them.

Instruction (May 2006) of the Joint Secretary of the Revenue and Land Reforms Department read with Bihar Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (BRFCTLARR) Rules, 2014 provides for collection of establishment charges at the prescribed rates in four⁵ slabs ranging between 20 *per cent* to 35 *per cent*, which was revised (27 June 2018) to two *per cent* of compensation amount, from the land requiring body and to deposit the same in Government account under the Land Revenue head of account.

In four land acquisition offices⁶, Audit examined (between October 2019 and January 2020) records of 19 projects and observed that ₹ 1,293.05 crore was received from requiring bodies for the acquisition of land of 19 projects⁷ during the period December 2009 to September 2019. Land acquisition process was not completed in any of these projects till the date of audit. The establishment charges amounting to ₹ 129.30 crore, proportionate to the acquisition costs, were already received in these projects which were required to be remitted into Consolidated Fund of State. However, the concerned DLAOs remitted ₹ 38.27 crore only. Establishment charges of ₹ 91.03 crore were yet to be remitted into the concerned revenue head under the Consolidated Fund of the State which is in violation of the Rules, *ibid*, although an amount of ₹ 893.44⁸ crore was still lying with DLAOs.

⁴ Gaya, Khagaria, Munger, Muzaffarpur, Patna, Saharsa and Saran.

⁵ Rate of establishment charges: 20 *per cent* if compensation amount is more than ₹ 15 lakh, 25 *per cent* if compensation amount is more than ₹ 10 lakh but less ₹ 15 lakh, 30 *per cent* if compensation amount is more than ₹ five lakh and less than ₹ 10 lakh and 35 *per cent* if compensation amount is less than ₹ five lakh.

⁶ Gaya, Khagaria, Saharsa and Saran.

⁷ NH-2, Muchlind Sarovar Vistar Yojna, NH-83 (Patna-Gaya-Dobhi), Bandhua to Paimar Flyover, BSF Quarter Nirman, Rupauli Nauranga Families rehabilitation and resettlement, Resettlement of nayagaon of affected families, Collector Residence, HathiKothi se biraul path, 33/11 Vidyut Shakti upkendra, 132/33 Kv power sub station, 33/11 Kv power sub station, Matsyagandha Jalashay Project, Simari Bakhtiyarpur SDO Bhawan Nirman, NH-107, Approach road at river Koshi between Baluwahaghat and Gandaul, Gandaknadi par RCC pul cum pahunch path nirman, Digha Sonapur Rail cum approach road and Chhapra-Muzaffarpur new badi rail line.

⁸ ₹ 110.41 crore in PD account and ₹ 783.03 crore in saving bank accounts.

The concerned DLAOs also did not prepare any project-wise account of establishment charges and therefore, in its absence, they could not ensure details of establishment charges to be remitted into concerned revenue head against a project. Further, neither District Collectors nor Director of land acquisition who were supervisory officers of the DLAO at the district level and Department level respectively exercised due monitoring to ensure remittance of establishment charges to Government account. Thus, the DLAOs failed in remitting the amount of establishment charges of ₹ 91.03 crore into the Consolidated Fund of the State, as detailed in **Annexure-6**.

Similar audit observations were made in earlier Audit Reports⁹, however, these irregularities persists which reflects lack of internal control in the Department.

After this was pointed out, DLAO, Saharsa stated (June 2020) that establishment charge of ₹ one crore in respect of NH 107 was remitted into government account. DLAO Gaya accepted (May 2020) that establishment charge was not deposited into government account while remaining DLAOs stated (June 2020) that the establishment charge would be remitted into the government account.

The matter was reported to the Department in February 2020, the reply was not received (January 2021).

3.3.3 Incorrect calculation of additional compensation in estimates

Four DLAOs failed to calculate additional compensation or committed calculation mistakes. These irregularities resulted in incorrect calculation of additional compensation of ₹ 24.56 crore.

Section 23 (1) of the LA Act, 1894 read with Section 30 (3) of the RFCTLARR Act, 2013 (Act 2013) provides for payment of additional compensation at the rate of 12 *per cent* of market value of land from date of publication of the notification of the social impact assessment study till the date of award of the Collector or the date of taking possession of the land, whichever is earlier.

- In two districts (Patna and Saran), Audit observed (between October and December 2019) that the DLAOs prepared the estimates of compensation for seven projects involving 57 *Mauzas* for all the affected landowners during the period April 2016 to September 2019. The DLAO Patna calculated additional compensation for the period from the date of notification to the date of approval of estimate instead of the date of award of the Collector or the date of taking possession of the land, whichever is earlier. The DLAO Saran calculated additional compensation on the amount of double the market value of land instead of market value and things attached on land (value of buildings, chapakal, trees etc., lying on the land). These irregularities resulted in excess calculation of additional compensation of ₹ 8.71 crore as detailed in **Annexure-7**.

⁹ Para no. 3.11 of Report No. 2 of 2018 and Para no. 3.3 of Report No. 2 of 2019.

- In three districts¹⁰, Audit observed (between November and December 2019) that the DLAOs prepared the estimates of compensation for 10 projects¹¹ involving 46 *Mauzas* for all the affected landowners during the period December 2009 to September 2019. In case of five projects,¹² the concerned DLAOs did not include additional compensation in the estimates; in cases of three projects,¹³ DLAOs concerned calculated additional compensation from the date of notification to probable date of possession instead of the actual date of award or possession whichever is earlier. In case of two projects (Chhapra Muzaffarpur new rail line and Digha Sonapur Rail cum approach road), the DLAO Saran committed calculation mistakes. These irregularities resulted in short calculation of additional compensation of ₹ 15.85 crore as detailed in **Annexure-8**.

After this was pointed out, DLAO, Patna stated (October 2019) that action would be taken after obtaining direction from the Department. DLAO Saran accepted (June 2020) audit observation and stated that in cases of excess calculation of additional compensation, estimates were revised after being pointed out in audit. The DLAO further stated that in cases of short/non-calculation of additional compensation, guidance from the Department was being taken. DLAO, Muzaffarpur accepted (June 2020) the observation and stated that necessary correspondence would be made with NHAI for additional compensation.

The matter was reported to the Department in February 2020, the reply was not received (January 2021).

3.3.4 Undue delay in acquisition of land

The DLAO Khagaria failed to make payment to landowners despite availability of funds of ₹ 2.24 crore since January 2015.

Section 25 of the RFCTLARR Act, 2013 provides that the Collector shall make an award within twelve months from the date of publication of the declaration under Section 19, and in case of failure, the entire proceedings for the land acquisition shall lapse.

Audit scrutinised (January 2020) the records of the project of 'Resettlement of 400 families at Balkunda' in the office of DLAO Khagaria. This resettlement was due to displacement of families affected from flood of Kosi and Bagmati rivers. It was revealed that requiring body (Disaster Management Department (DMD)) made available ₹ 9.43 lakh on 27.03.2008 for the acquisition of 20 acres of land, the full amount which was surrendered on 30.03.2008 by the DLAO. The requiring body (DMD) again transferred the same amount of ₹ 9.43 lakh on 30.01.2012.

¹⁰ Muzaffarpur, Saharsa and Saran.

¹¹ Madhura Locomotive Factory, Chhapra Muzaffarpur new rail line and Digha Sonapur Rail cum approach road (**Saran**); NH-102, NH-527C (**Muzaffarpur**); Approach road on Koshi river between Buluwahaghat to Gaundaul, RCC pul at 14th kilometer of Sonbarsa Gwalpara project, Construction of Vidyut sub station, Construction of sub divisional office in Simari Bhakhtiyarpur, Matasyagandha Jalashay project (**Saharasa**).

¹² Madhura locomotive factory (Saran), approach road on koshi river between Baluahaghat to Gandaul, RCC pul at 14th kilometer of Sonbarsa Gwalpara project, Construction of Vidyut sub station and Construction of sub divisional office in Simari Bhakhtiyarpur (Saharsa).

¹³ NH-102, NH-527C (Muzaffarpur) and Matasyagandha Jalashay project (Saharasa).

The chronology of events in the acquisition of land in DLAO Khagaria is detailed in the following **Table 3.3**:

Table 3.3: Chronology of events

Date	Event
13.11.2007	Requisition for acquisition of land of 20 acres for rehabilitation and resettlement of 400 displaced family at Balkunda was made by the Disaster Management Department.
27.03.2008	Fund of ₹ 9.43 lakh was made available by the the Disaster Management Department through budget allocation.
31.03.2008	DLAO Khagaraia surrendered entire amount ₹ 9.43 lakh as it was not used during the financial year.
06.10.2009	District Collector Khagaria forwarded proposal of notification and declaration for acquisition of land for above project to Commissioner, Munger.
02.03.2010	Director, Land Acquisition of Revenue and Land Reforms Department returned the proposal for rectification.
14.05.2010	Rectified proposal sent to the Director, Land acquisition.
09.06.2010	The proposal again returned by the Director for further rectification
05.06.2010	Report regarding type of land called for from Anchal Adhikari- Chautham by the DLAO.
25.12.2010	Report of Anchal Adhikari received after several reminders by DLAOs.
24.02.2011	Rectification report on proposed Notification and Declaration forwarded to the Director.
18.04.2011	The DLAO published notification of this project.
29.04.2011	The DLAO published declaration for acquisition of said land.
30.01.2012	Fund of ₹ 9.43 lakh again received by DLAO/Collector.
08.02.2012	Proposal for approval of acquisition of land under emergency clause was sent to the Commissioner.
02.05.2012	The Revenue and Land Reforms Department approved the proposal for the acquisition of land under the emergency clause ¹⁴ .
22.05.2012	Estimate of ₹ 2.24 crore prepared in accordance with the existing LA Act, 1894 and forwarded to the Commissioner, Munger division.
31.05.2013	Revised estimate was approved by the Revenue and Land Reforms Department.
10.07.2013	DLAO, Khagaria made Demand of fund from Disaster Management Department.
29.08.2013	The DMD demanded original record related to land acquisition from the DM Khagaria.
16.09.2013	The DM Khagaria made available the records related to the DMD
18.12.2013	The DMD after examination of records detected some discrepancies and asked for the report of the DM thereon.
25.11.2014	The DM made available the report to the DMD.
13.01.2015	Fund of ₹ 2.14 crore after deducting already transferred fund of ₹ 9.43 lakh as per revised estimate was made available to DLAO.
03.07.2015	Collector, Khagaria declared award and notices were issued to landowners to receive the payment of compensation.
July to September 2016	Three more notices were issued to the landowners by the DLAO to receive the payment of compensation.
23.06.2017	As the beneficiaries did not turn up the Collector wrote letter to the Principal Secretary Revenue and Land Reforms Department to seek further direction of the Department.
17.08.2017	The Director Land Acquisition directed to the Collector to revise the estimate as per Act, 2013 and to take action against the responsible officials for the delay in payment and land acquisition process.

¹⁴ Section 17 (1) of the LA Act 1894 stipulates that in cases of urgency the appropriate government can acquire land within 15 days from the publication of the notice mentioned in section 9 (1) for public purpose.

Thus, delay on the part of various state officials including DLAO/Collector in preparing and approving estimate led to delayed release of fund by the DMD. Further, DMD also delayed the release of funds after receipt of estimates from DLAO/Collector. However, by the time DMD made the funds available, the new Land Acquisition Act 2013 came into force which further required a revised estimate as per the new provisions in the Act, as the landowners whose land was acquired had not yet received the compensation at old rates. This led to non-payment of compensation to landowners despite the fact that DMD had transferred the amount of ₹ 2.24 crore to the Collector Khagaria and the land was in possession of DLAO/Collector in March 2013.

On this being pointed out, the DLAO Khagaria stated (January 2020) that action would be taken after reviewing the matter and correspondence with the requisitioning body. The DLAO further stated that as the land acquisition project got lapsed, there was need of fresh requisition from requiring Department which was yet to be received. In respect of action against erring officials, the DLAO stated that proposal for initiating action against them was forwarded (November 2017) to the Commissioner, Munger Division.

Thus, due to delay on the part of various State officials including DLAO/Collector in preparing and approving estimate, cost increased from ₹ 9.43 lakh in March 2008 to ₹ 2.24 crore in May 2012 and still needs to be revised further according to the new Act. Even after more than 13 years of initiation of process and payment of ₹ 2.24 crore to DLAO in January 2015, the intended purpose of rehabilitation and resettlement of 400 displaced family at Balkunda could not be achieved.

The matter was reported to the Department in February 2020, the reply was not received (January 2021).

3.3.5 Short payment of compensation towards resettlement and rehabilitation

Application of old rates of rehabilitation and resettlement by the DLAO/Collector while finalising the estimates for payment of compensation resulted in the short payment of compensation of ₹ 1.23 crore to the displaced families.

The RFCTLARR Act, 2013 provides for payment of compensation towards Rehabilitation and Resettlement (R and R), which includes resettlement allowance of ₹ 50,000, transportation cost of ₹ 50,000 and one-time payment of ₹ five lakh for each affected family where residential land or residence is acquired. Before the Act *ibid* ₹ 10,000 for temporary relief and ₹ 5,000 for transportation assistance was payable as per the Bihar Land acquisition, Resettlement and Rehabilitation Policy, 2007.

In two districts (Munger and Patna), Audit observed (between October 2019 and January 2020) that the residence/residential land of 21 families was acquired by the DLAOs concerned. However, the estimates for land acquisition were finalised (between May and December 2015) after incorporating the temporary cost component of ₹ 10,000 and transport assistance of ₹ 5,000 only as prescribed under Rules *ibid*, though the beneficiaries were to be paid the resettlement allowance of

₹ 50,000, transportation cost of ₹ 50,000 and one-time payment of ₹ five lakh as per the provision of Act *ibid*.

Table 3.4: Details of resettlement allowance

(Amount in ₹)

Name of district	Name of Project	Number of affected families	Payable compensation towards R and R	Paid compensation towards R and R	Short payment of R and R
Munger	Construction of bridge across river Ganga connecting Bakhtiyarpur bypass of NH 31	7	42,00,000	1,05,000	40,95,000
Patna	Construction of bridge at 94 Km on NH 80 across Mani river	14	84,00,000	2,10,000	81,90,000
	Total		1,26,00,000	3,15,000	1,22,85,000
In Patna district, actual payment amounting to ₹ 23.40 lakh was not made in five cases as the beneficiaries did not claim the compensation, though payment was shown in DLAO account.					

Thus the application of old rates by the DLAO/Collector while finalising the estimates for payment of compensation resulted in short payment of compensation of ₹ 1.23 crore towards Rehabilitation and Resettlement to the displaced families.

After this was pointed out, the DLAO Patna stated (October 2019) that compliance would be made after obtaining guidance from the Department, and DLAO Munger stated (January 2020) that after verification, demand would be made from the requisitioning Department and R and R allowance would be paid to affected (displaced) families.

The matter was reported to the Department in February 2020, the reply was not received (January 2021).

3.3.6 Fraudulent payment of compensation

Two DLAOs did not exercise due diligence and paid compensation to ineligible persons without verification of relevant documents and thus violating the prescribed conditions, which resulted in fraudulent payments of ₹ 1.18 crore.

As per condition number 2 of the standard format of estimates adopted by the Revenue and Land Reforms Department, DLAO, Additional Collector and the District Collector concerned are responsible for payment of compensation after verification and confirmation of the actual land rights and entitlements of the claimant landowners.

- In DLAO Saran, Audit observed (December 2019) during scrutiny of vouchers related to payment of compensation to landowners relating to two projects (National Highway-19 and Marhaura Diesel Locomotive Factory), that six landowners were paid a sum of ₹48.05 lakh as compensation between April 2015 to January 2016. The landowners produced Land Possession Certificate (LPC) and rent receipts of the land in support of their claim of land rights. These documents were purported to have been issued by the concerned Circle Offices¹⁵ (Land Record office). The DLAO made the payments of compensation based on documents

¹⁵ Garkha, Marhaura and Sonapur.

mentioned above, without checking their authenticity. In one case (Indu Devi) no LPC was found on record neither it was produced after being called for by the audit. Further, Audit verified from the Circle Office that the LPC was not issued to Indu Devi alias Indu Misra and this was also confirmed by the Circle Officer that Indu Devi does not have any land in mauja Talpuraina, thana Marhaura (June 2020).

However, when Audit verified the documents (other than case of Indu Devi) in the concerned Circle Offices, and observed that the documents forming the basis for payments were not issued by these offices and therefore, were fake. Thus, it was evident that the DLAO did not exercise its due diligence and paid compensation without verification of relevant documents, violating the prescribed conditions which resulted into fraudulent payments of ₹ 48.05 lakh to six landowners.

It was further observed that out of the six landowners who received fraudulent payment, two were the same on whom FIRs were already lodged and certificate cases were instituted (November 2018) on detection of fraudulent payment of compensation related to another land in the same DLAO office. However, the DLAO did not investigate further to check the pervasiveness of such malpractices in his jurisdiction, which indicates significant risks and weakness in exercising control in the office.

On this being pointed out, the DLAO Saran stated (December 2019) that further action would be taken after examination of the matter. The DLAO further stated (June 2020) that the matter was being investigated by the concerned Circle Officer.

Thus, it is clear that compensation was paid without ascertaining veracity of the claimant.

The matter was reported to the Department/Government in February 2020, the reply was not received (January 2021).

- During scrutiny of records of land acquisition of a project (NH-333B) in DLAO, Munger, Audit observed (January 2020) that as per Notifications (3A and 3D) published in August 2015 and May 2016, an area of 0.2016 hectares (0.4981 Acre) of land in plot no. 62, Thana number-163 was acquired in *Mauza* Muzaffarpur Kasimpur. As per the records (verification report of Amin and other relevant records), there were only three landowners/beneficiaries in that plot number 62. However, audit observed that an amount of ₹ 70.44 lakh was paid to a person, who was not among the three beneficiaries, by quoting plot no.62 in the valuation register against his name and in other relevant records, and one of the bonafide beneficiary of that plot did not receive his due compensation of ₹ 36.46 lakh. The LPC and other documents (Rent Receipt, Register II) produced by claimant does not show plot no.62 in any documents and thereby not establishing his entitlement under the said plot. Thus, it was evident that the DLAO did not exercise due diligence and paid compensation to the ineligible person without verification of relevant documents, violating the prescribed conditions, which resulted in fraudulent payments of ₹ 70.44 lakh indicating significant risks and weakness in exercising of control in the Department.

In reply the DLAO, Munger accepted (June 2020) the fact that Md. Mohiuddin was paid ₹ 70.44 lakh in lieu of land of 23.57 decimal of Khesra no. 62 without

entitlement. Thus, it is clearly evident that the action of then DLAO for making payment to beneficiary was bereft of due diligence and smacks of connivance.

The matter was reported to the Department in February 2020), the reply was not received (January 2021).

Recommendation: The Department may consider investigating the pervasiveness of the fraud in DLAO, Chhapra and DLAO Munger from a vigilance angle to ascertain reasons for fraudulent payment, to fix responsibility and to initiate action against erring officials.