

**Report of the
Comptroller and Auditor General of India
on
Performance Audit of Land Management in
Scheduled Areas of the State**



SUPREME AUDIT INSTITUTION OF INDIA
लोकहितार्थ सत्यनिष्ठा
Dedicated to Truth in Public Interest



Government of Odisha
Report No. 4 of the year 2024

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Comptroller and Auditor General of India**

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Scheduled Areas of the State**

for the year ended March 2022

Government of Odisha

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Preface

This Report for the year ended March 2022, has been prepared for submission to the Governor of Odisha under Article 151 of the Constitution of India, for being laid before the State Legislature.

The Report contains significant results of the Performance Audit of Land Management in the Scheduled Areas of the State.

The instances mentioned in this Report are those, which came to notice in the course of test audit for the financial years 2017-18 to 2021-22, as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports. Instances relating to the period subsequent to 2021-22, have also been included, wherever necessary.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

Executive Summary

EXECUTIVE SUMMARY

About the Report

Article 244 of the Constitution has made provision for the administration of Scheduled Areas. The purpose of Scheduled Areas is to preserve the Tribal Autonomy and Culture, as well as to promote their economic development, to ensure social, economic and political justice, preservation of peace and good governance. In this direction, both the Government of India and Government of Odisha, have enacted various legislations and framed rules thereunder, from time to time. These Acts/ Rules aim to: (i) make the decision making process, on acquisition of land, participatory, by taking consent of the Gram Sabhas, (ii) maintain fairness and transparency in valuation of land acquired for public purposes, (iii) ensure the rehabilitation and resettlement of families affected/ displaced, due to land acquisition, (iv) safeguard the property rights of Scheduled Tribes and Scheduled Castes, (v) ensure grant of forest rights and (vi) ensure equitable distribution of land, by taking over the ceiling surplus land and distributing the same among the landless population *etc.* These aspects have been discussed in the Report.

Why did we take up this Audit?

According to the 2011 Census, the tribal population of the State was 95.91 lakh. This constituted 22.85 *per cent* of the total population of the State and 9.20 *per cent* of the total tribal population of the country. There are 62 different tribal communities, including 13 Particularly Vulnerable Tribal Groups in the State. Odisha has the third largest concentration of tribal population in the country, after Madhya Pradesh and Maharashtra. The population of Scheduled Tribes, in the Scheduled Areas, accounts for about 68.09 *per cent* of the total tribal population of the State.

Acquisition of land in Scheduled areas should be a last resort, as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013. However, Government acquires land in Scheduled areas, for public purposes, such as construction of irrigation projects or establishment of industries. Determination of the compensation amount and Rehabilitation and Resettlement (R&R) grants constitute risk areas for audit and audit findings, in the past years, as well as media reports, have highlighted the risk of possible undervaluation of land or non-implementation of R&R packages.

In order to ascertain the effectiveness of implementation of the various land reform measures, undertaken for protecting the rights of the ST population and compliance issues relating to the acquisition of land in Scheduled areas, Audit specifically considered whether:

- Land acquisition, for developmental activities, had been undertaken, by following due procedure and ensuring fair compensation and R&R benefits.
- Land rights of the people of Scheduled areas had been safeguarded, as per the extant legal and regulatory provisions.

- Institutional arrangements for implementation of different provisions, relating to management of land, were adequate and effective.
- A monitoring mechanism and internal control system were in place and were effective.

Major Audit Findings

Social Impact Assessment (SIA) is an exercise to determine, *inter alia*, the exact number of people to be affected or displaced, as well as the impairment of their livelihood, based on which R&R packages are given shape. In Scheduled areas, consent of the Gram Sabha (GS) is a must for acquisition of land. Thus, it is imperative to conduct GS in all the villages where land has been identified for acquisition and the acquisition is required to be done as per the consent, obtained in a fair manner, of the GS. The following Audit findings emerged in this regard:

- Audit test-checked 312 Land Acquisition (LA) cases, which included 58 LA cases, relating to irrigation projects, for which SIA was not required. Of the remaining 254 LA cases, SIA had not been done in case of 44 LA cases (17 per cent).
- Preliminary notification for acquisition of land, under Section 11 of the RFCTLARR Act, 2013, is to be issued within 12 months from the date of appraisal of the SIA report by an Expert Group. In the acquisition of 82.852 acres of land, for three projects, preliminary notifications had been issued after lapse of about one and half years from the stipulated date.
- Although obtaining the prior consent of the GS is a pre-requisite for acquisition of land in Scheduled areas, in 126 (43 per cent) out of 294 LA cases, preliminary notifications for acquisition of land had been issued without conducting GS meetings, conducting GS meetings without the requisite quorum, in the absence of consent of GS and by means of *post facto* conduct of GS meetings.

The manner of assessment of market value and procedure, for payment of compensation, have been outlined in the RFCTLARR Act, 2013, to safeguard the interests of the land owners. Significant audit observations in this regard, include the following:

- In 74 (36 per cent) out of 203 test-checked LA cases, the sales data of the adjoining villages had not been obtained, for determination of the market value of the land notified for acquisition. In six LA cases, involving acquisition of 43.48 acres of land, Audit assessed the extent of undervaluation of land, as being ₹ 10.07 crore.
- In Sundargarh district, the Bench-Mark Value (BMV), despite being higher than the average sales value of similar category of land in adjoining villages, had not been considered for determination of the market value of land. Resultantly, the amount of compensation had been under-assessed by ₹ 5.27 crore.
- For acquisition of land for private entities, consent of the land owners, for the amount of compensation, had not been obtained. Besides, the

valuation of land had been done in an unfair manner, resulting in short payment of compensation, by ₹ 63.76 crore.

- Computation of the additional market value of land, had not been done as per the provisions of the Act, resulting in short payment of compensation, amounting to ₹ 4.03 crore, in 120 cases, involving acquisition of 1,061.109 acres of land.
- In 179 cases, involving acquisition of 3,055.583 acres of land, the compensation amount of ₹ 120.94 crore, could not be disbursed, due to non-updation of the land records.
- In 114 LA cases, land measuring 2,449.594 acres, had been physically taken over, after making payment of 83 *per cent* of the compensation amount due, against the stipulation of paying full compensation amount.
- Land measuring 57.453 acres, had been taken over by the Government, without initiating LA proceedings and also without paying any amount towards compensation, in disregard of the provisions of the RFCTLARR Act, 2013.

In regard to the R&R benefits extended to the affected/ displaced families, Audit found that:

- As per the provisions of the RFCTLARR Act, 2013, although the affected families were entitled to R&R benefits, 13,415 affected families had been denied the same, amounting to ₹ 737.82 crore. Only the displaced families were being provided with R&R benefits.
- 2,208 affected/ displaced families had not been disbursed their R&R entitlements of ₹ 176.51 crore, even after their displacement or acquisition of their land.
- R&R benefits had not been extended to 2,390 families, displaced due to land acquisition for four projects, even after lapse of 5 to 60 years.
- In three projects, 1,915 families eligible for RR benefits had been given short payment of R&R benefits, with the short payment amounting to ₹ 10.28 crore.
- In R&R colonies, basic amenities, like all-weather roads, piped drinking water, drainage, individual toilets, Anganwadi centres and public lighting systems, were found lacking.

The Orissa Scheduled Areas Transfer of Immovable Property (OSATIP) (by Scheduled Tribes) Regulation, 1956, amended in 2000, is aimed at protecting the property rights of the ST population. Audit found the following lapses in enforcement of the OSATIP Regulation:

- In the absence of fixation of a time limit for disposal of cases filed under OSATIP Regulations, out of the total 2,134 pending cases, 1,347 cases had remained pending beyond 10 years and 391 cases had been pending for 6 to 10 years.
- In 20 test-checked cases, involving 66.57 acres of land, despite receipt of enquiry reports from the Tahasildar, between July 2008 and September 2021, the OSATIP cases had not been settled by the Sub-Collectors concerned.

- In eight sampled Sub-Collectorates, 90 out of 104 warrants, issued for restoration of 46.141 acres of land, in the names of STs, had not been executed by the Tahasildars.

Audit observations, in regard to implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, or the FR Act, included the following:

- The pace of disposal of forest claims was found to be tardy in the Baripada Tahasil, where 1,154 claims had been pending for disposal, since March 2019.
- Of the 2,20,494 Individual Forest Right titles, issued in the six sampled districts, in 59 *per cent* cases, Records of Rights, had not been corrected and in 15 *per cent* cases, demarcation of allotted lands had not been made.
- On conversion of forest villages into revenue villages, 217 (92 *per cent*) out of 236 forest villages, in the sampled districts, had not been converted into revenue villages.
- In the Sundargarh and Koraput districts, certificates under the FR Act (or FRA certificates) had been issued for diversion of 1,409 Ha of forest land, for non-forest use, without obtaining consent of the concerned GSs or by disregarding the views of GS.

The Orissa Land Reforms (OLR) Act, 1960, aims, *inter alia*, at equitable distribution of land, by taking over of Ceiling Surplus land, for eventual distribution among landless households, as well as regulating the sale of SC land. The significant audit observations thereon, were as follows:

- As many as 50 cases, involving 1,220.16 acres of land, were pending for disposal in five sampled districts. Four of these cases had been pending since 1973-74.
- Out of 44,251.943 acres of Ceiling Surplus land, vested with the Government, possession of 1,462.622 acres had not been taken (as of December 2022).
- Government had taken possession of Ceiling Surplus land, measuring 42,789.321 acres. Of this, 3,460.678 acres had not been distributed among landless households.
- In the eight sampled Sub-Collectorates, out of 2,626 applications, received during the FYs 2017-18 to 2021-22, from SC land owners, seeking permission for disposal of their land, 635 applications were pending, as of March 2022.
- During the FYs 2017-18 to 2021-22, 249 cases had been instituted, in the eight sampled Sub-Collectorates, for restoration of SC land. Of this, 142 cases were pending for disposal, as of March 2022.
- In the six sampled districts, 898 out of 21,659 identified landless households, had not been provided with homestead lands, under the Vasundhara Scheme. Moreover, no survey had been carried out for identification of landless households since 2018, though the same was to be done in each quarter, as mandated by the RDM Department,

despite the fact that there were 7,462 landless households in the Permanent Waiting List of PMAY-G.

Significant audit observations, on Monitoring and Enforcement by the RDM Department, were as follows:

- Out of 12,982.381 acres of land, acquired between 1963-64 and 2018, for public purposes, 9,864.231 acres had remained unutilised for the intended purposes, as of December 2022. Though the unutilised land should have been restored back in the names of the persons, from whom the land had been acquired, this had not been done.
- There were 31,730 cases, involving encroachment of 12,013.90 acres of Government land, pending in the six sampled districts, as of March 2022.
- 14,71,998 land records were pending for digitisation in the six sampled districts, as of December 2022.

What do we recommend?

It is recommended that:

- 1. Social Impact Assessment Studies, being vital for identification of the population to be affected/ displaced, due to land acquisition, should be conducted in all required cases and preliminary notifications for acquisition of land, should be issued within the stipulated period. Responsibility should be fixed in cases of non-conduct of Social Impact Assessment Studies.***
- 2. The Department may fix responsibility against the officers concerned for lapses in conducting Gram Sabha (GS) i.e., acquisition of land without conducting GS, without obtaining consent of GS, land acquisition despite disagreement of GS and getting signature of GS members, without disclosing the names of the projects.***
- 3. Valuation of the land notified for acquisition, should be made with due regard to the average sales price in the adjoining villages and the governing Bench Mark Value, as provided in Section 26 of the RFCTLARR Act, 2013.***
- 4. Valuation of the land, notified for acquisition for private entities, should be made based on the consent of the land owners. For Scheduled areas, Government should fix the floor price of the land, for the benefit of the land owners.***
- 5. Additional market value may be calculated, considering the dates of issue of preliminary notifications and dates of awards, as provided in Section 30 of the RFCTLARR Act, 2013.***
- 6. In case of direct purchase of private land through bilateral negotiation, the market value of land may be fixed, as per Sections 26 to 30 of the RFCTLARR Act, 2013.***
- 7. Records of Rights of land parcels, notified for acquisition, should be updated, as per the schedule prescribed in the RFCTLARR Act, 2013.***

8. *No land should be acquired without following the procedure provided under the RFCTLARR Act, 2013, and physical possession of land should be taken only after ensuring payment of full compensation.*
9. *R&R benefits should be made available to all affected families, within six months from the date of award of compensation, as per the provisions of the RFCTLARR Act, 2013.*
10. *Basic civic amenities, as provided under Section 32 of the RFCTLARR Act, 2013, should be provided in the R&R Colonies, for the socio-economic upliftment of the displaced families.*
11. *Responsibility may be fixed on the Tahasildars for default in submitting enquiry reports, as well as for non-execution of warrants, issued by the Competent Authorities, for restoration of land, in favour of the legally entitled ST persons.*
12. *The timeframe for disposal of cases, filed under the OSATIP Regulations, 1956, may be fixed and measures may be taken to ensure that the Competent Authorities dispose of the pending cases, within the specified timeframe.*
13. *Pending Forest Right Claims, may be settled, expeditiously.*
14. *In regard to Individual Forest Rights (IFRs) issued, the corresponding RoRs should be corrected in the names of the IFR holders and the allotted forest lands should be demarcated.*
15. *Responsibility may be fixed on the Collectors concerned, for issue of FRA certificates, disregarding views of Gram Sabhas.*
16. *Cases instituted for taking over of the Ceiling Surplus land, should be disposed of at the earliest. Government should take possession of the Ceiling Surplus land, settled in its favour and ensure its distribution, among the eligible population, at the earliest.*
17. *Surveys of landless households should be carried out periodically and the identified households should be provided with homestead land, for construction of dwelling units.*
18. *Unutilised acquired land should be returned to the previous land owners, as per the statutory provisions and the regulations, framed thereunder.*
19. *Village-wise Land bank, as envisaged under Rule 42 of the Odisha RFCTLARR Rules, 2016, may be formed to ensure minimum acquisition and to facilitate utilisation of unutilised public land.*
20. *Cases of encroachment of Government land should be disposed of within the prescribed time frame.*
21. *The land records, pending for digitisation, should be digitised at the earliest.*
22. *Land Commission may be reconstituted, District Executive Committees may be formed and monitoring mechanism may be strengthened for disposal of pending land revenue cases and implementation of land reform measures.*

Introduction

CHAPTER 1

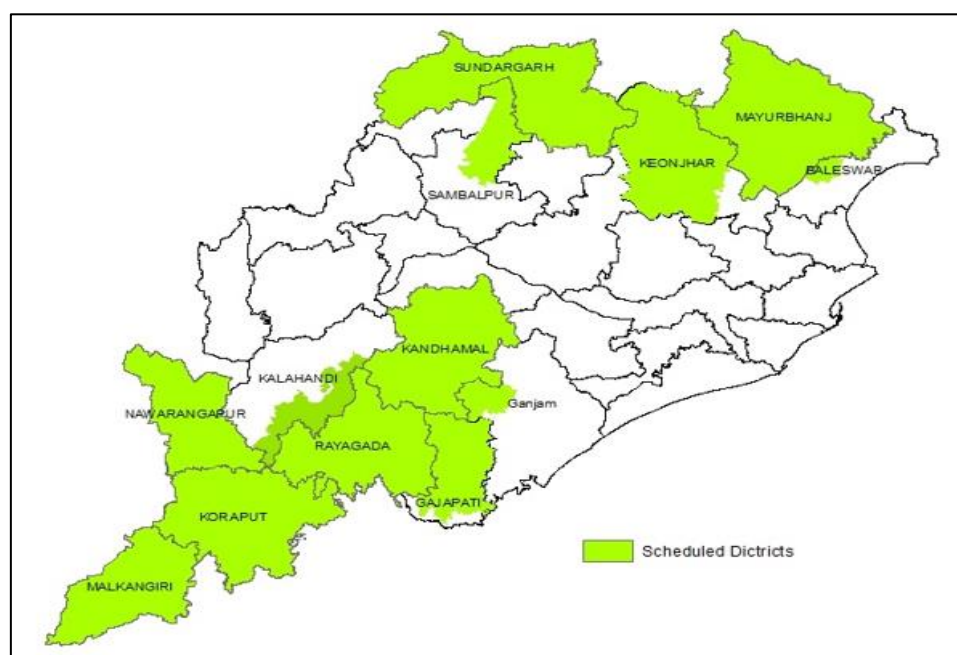
Introduction

1.1 Overview

According to the 2011 Census, the tribal population of Odisha was 95.91 lakh, constituting 22.85 *per cent* of the total population of the State and 9.20 *per cent* of the total tribal population of the country. There are 62 different tribal communities, including 13 Particularly Vulnerable Tribal Groups¹ in the State. Odisha has the third largest concentration of tribal population in the country, after Madhya Pradesh and Maharashtra. The population of STs, in Scheduled areas, accounts for about 68.09 *per cent* of the total tribal population of the State.

The Fifth Schedule, under Article 244 (1) of the Constitution of India, defines ‘Scheduled areas’ as such areas, as the President may, by order, declare to be Scheduled areas. Article 244 of the Constitution includes provisions for administration of Scheduled areas. The criteria followed for declaring an area as Scheduled area were: (a) preponderance of tribal population, (b) compactness and reasonable size of the area, (c) under-developed nature of the area and (d) marked disparity in economic standard of the people. Accordingly, 119 Blocks out of the 314 Blocks of Odisha, had been declared as Scheduled areas, as of March 2022. This comprised about 44.70 *per cent* of the State’s geographical area. The purpose of Scheduled areas is to preserve the Tribal Autonomy and culture, as well as to promote their economic development, to ensure social, economic and political justice, preservation of peace and good governance. The Scheduled districts of the State are shown in *Map 1.1*.

Map 1.1: Scheduled districts of Odisha



¹ A special category of tribal community with regard to its pre-agricultural economy, extremely low level of literacy, isolated habitation, etc.

1.2 Legal framework

Rights in or over land, in relation to land tenures, including the relation of landlord and tenant, collection of rents, transfer and alienation of agricultural land fall under the exclusive legislative and administrative jurisdiction of States, as provided under the Constitution of India². Insofar as acquisition or requisitioning of land is concerned, the same fall under the domain of both Central and State Governments³. The Revenue and Disaster Management (RDM) Department, Government of Odisha, is the nodal department for management of land resources in the State. The Scheduled Tribes (ST) and Scheduled Castes (SC) Development, Minorities and Backward Classes Welfare (SSD) Department, is the nodal department for implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FR Act). Under the FR Act, the SSD Department vests forest rights and occupation of forest land, on forest dwelling ST and other traditional forest dwellers (OTFD), who have been residing in such forests for generations.

To protect and safeguard the land rights of the ST/ SC population by carrying out land reforms, as well as to address issues, arising out of land acquisition and displacement, both - the Central, as well as the State Governments - have enacted various legislations and framed rules thereunder, from time to time, as indicated in *Table 1.1*.

Table 1.1: Main Provisions and impact of Land Legislations in Odisha

Particulars of the Acts and Rules	Significant provision
Orissa Estate Abolition Act, 1952 (State Act).	Abolition of intermediaries
	Vesting of all land rights in the State
	Agricultural land less than 33 acres, to remain with the intermediary, for personal cultivation
The Orissa Scheduled Areas Transfer of Immovable Property (by STs) Regulation, 1956 (Amended in 2002)	Complete ban on transfer of land belonging to ST persons, to non-ST persons, in Scheduled areas
	All non-tribals, owning land originally owned by tribals in Scheduled areas, were required to submit evidence, within two years from September 2002, that the lands, had been acquired through legal means
Orissa Land Reforms Act, 1960 (Amended in 1965, 1973 and 1974) and Orissa Land Reforms Amendment Rules, 1997 (State Act)	Permanent, heritable and transferable rights, in land, for the tiller
	Ban on leasing of land, except under special conditions
	Under adverse possession, land in continuous cultivation for 12 years or more, by a person other than its owner, shall pass to the cultivator
	Rent not to exceed one fourth of the gross produce
	Ceiling on individual holding's at 33 standard acres, later reduced to 20 and thereafter, further reduced to 10 standard acres
Orissa Government Land Settlement (OGLS) Act, 1962 and Rules, 1983 (State Act)	Lease/ alienation of Government land for various purposes, subject to realisation of government dues
	Seventy <i>per cent</i> of the applications received, to be settled with persons belonging to the STs and the SCs

² Seventh Schedule – List - II (State List) - Entry No. 18

³ Seventh Schedule – List - III (Concurrent List) - Entry No. 42

Particulars of the Acts and Rules	Significant provision
Orissa Prevention of Land Encroachment Act, 1972 (amended in 1982) (State Act)	Prohibition of unauthorised occupation of Government land
	Penalties on encroachers to be followed by eviction
	Settlement of unobjectionable Government wasteland with the landless encroachers
The Panchayats Extension to Scheduled Area Act(PESA Act), 1996 (Union Act)	Recognises the traditional rights of tribals over community resources, such as land, water and forests
	Every village to have a Gram Sabha, which is to be consulted before making any acquisition of land in the Scheduled areas or development projects and before resettling or rehabilitating persons, affected by such projects, in the Scheduled areas.
Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Union Act)	Recognises and vests the forest rights and occupation of forest land, on forest dwelling ST and OTFDs, who have been residing in such forests for generations, but whose rights could not be recorded
	Rights to hold and live in forest land, under individual or common occupation for habitation or for self-cultivation for livelihood
	STs and OTFDs, who have lost any of their forest rights, recognised under the FR Act, due to acquisition of land, to be treated as land owners and to be awarded compensation, as per the provisions of the Act
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013 (Union Act)	No acquisition to be made in Scheduled areas, except as the demonstrable last resort
	Prior consent of Gram Sabha to be obtained for acquisition of land in Scheduled areas

(Source: Provisions of the respective Acts/ Rules)

The RDM Department is implementing a programme, namely, 'Vasundhara', since 1974-75, to provide government land, up to the extent of four decimals, free of premium, to each homesteadless⁴ family, for house-site purpose, under the OGLS Act, 1962.

In order to computerise all land records, including: (i) mutations, (ii) maps, (iii) textual and spatial data and (iv) survey/ re-survey and updation of all survey and settlement records, as well as creation of original cadastral records, wherever necessary, GoI launched the Digital India Land Records Modernisation Programme (DILRMP). The main objective of the DILRMP was to develop a modern, comprehensive and transparent land records management system in the country, with the aim of implementing a conclusive land-titling system, with

⁴ Means a person who, together with all the members of his/ her family, who are living with him/ her in common mess, does not have any land fit for constructing dwelling units anywhere in the State and owns less than one standard acre of other land and whose total annual income, together with the annual income of all the members of his/ her family, living with him/ her in common mess, does not exceed an amount, which the State Government specifies from time to time on that behalf

title guarantees. The programme is being implemented by the RDM Department, in the State.

1.3 Background of taking up the Audit

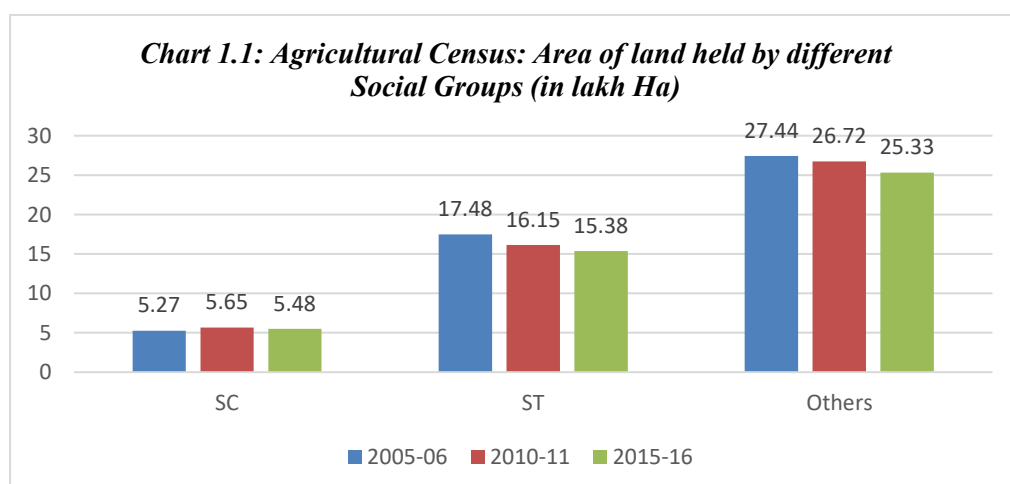
STs are among the socially vulnerable groups, who need socio-economic support of the State, for their development. In order to protect their culture and socio-economic interests, both - Union and State Governments have enacted various legislations and launched a number of welfare programmes. Their livelihood basically depends upon forest produce and farming. Therefore, their own land, as well as the public land of their localities, are the main source of their sustenance. In view of this, special provisions had been made in the RFCTLARR Act, 2013, to safeguard the interests of the tribal population in land acquisition. The FR Act, 2006, also recognises the rights of the tribal population, to the forest land.

District/ Tahasil-wise distribution, of landholding by STs, was neither maintained by the RDM Department/ SSD Department, nor by the concerned Tahasils. However, operational land holdings⁵ and areas, published in the Agricultural Census, conducted by the Government of Odisha, for financial years 2005-06, 2010-11 and 2015-16, showed operational land holding by different social groups, as shown in **Table 1.2** and **Chart 1.1**.

Table 1.2: Operational land holding by different Social Groups in Odisha

Social Groups	2005-06		2010-11		2015-16	
	No. of holders (in lakh)	Area (in lakh Ha)	No. of holders (in lakh)	Area (in lakh Ha)	No. of holders (in lakh)	Area (in lakh Ha)
SC	6.31	5.27	7.02	5.65	7.42	5.48
ST	14.07	17.48	14.26	16.15	14.61	15.38
Others	23.18	27.44	25.39	26.72	26.63	25.33
Total	43.56	50.19	46.67	48.52	48.66	46.19

(Source: Odisha Agricultural Census: 2005-06, 2010-11 and 2015-16)

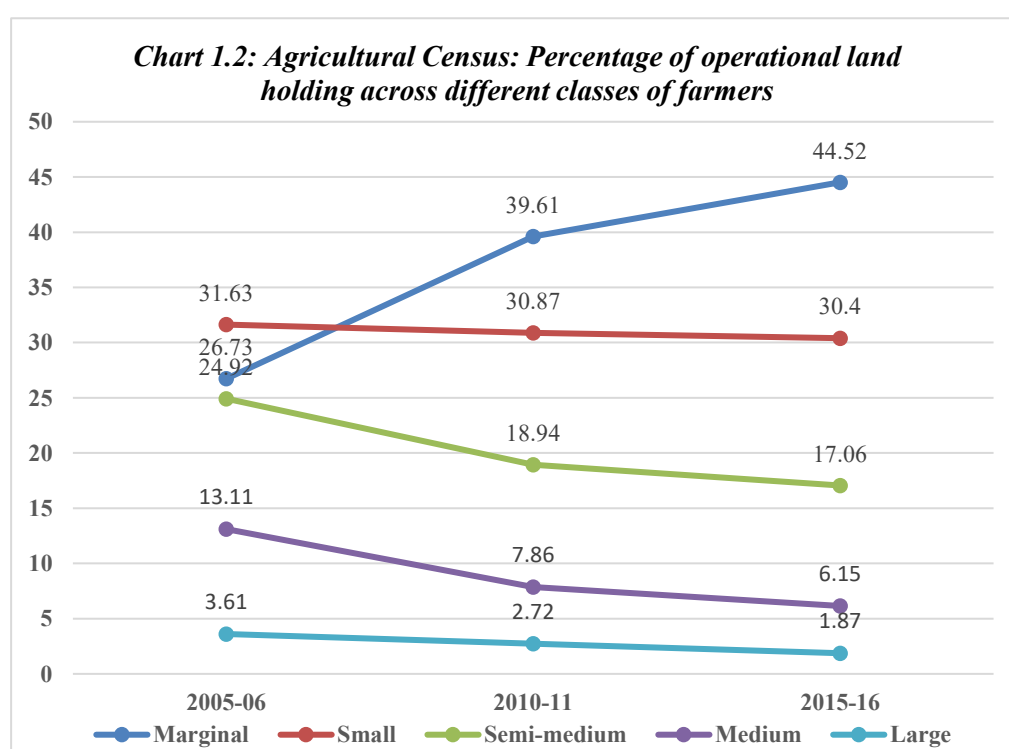


⁵ Land used wholly or partly for agricultural production

As can be seen from **Table 1.2** and **Chart 1.1**:

- The total area of operational land had decreased from 50.19 lakh Ha, in FY 2005-06 to 46.19 lakh Ha in FY 2015-16.
- During the same period, the land holding area, had registered a decrease, in case of ST and Others. In FY 2005-06, 17.48 lakh Ha of total operational land was held by ST, which decreased to 15.38 lakh Ha in FY 2015-16, *i.e.*, by 2.10 lakh Ha (12 *per cent*).

As per the Economic Survey Report, 2022-23, of the Government of Odisha, the distribution of operational land holdings, among marginal (<1 Ha), small (1-2 Ha), semi-medium (2-4 Ha), medium (4-10 Ha) and large farmers (>10 Ha), across the three Agricultural Censuses, during 2005-06, 2010-11 and 2015-16, was as depicted in **Chart 1.2**.



It may be observed from **Chart 1.2** that, as a consequence of shrinkage of agrarian land in the State (as shown in **Table 1.2**), the land holding area, across higher categories had been decreasing, leading to an increase in the population of marginal landholders, indicating the need for a closer examination of the modalities involved in the management of land in the Scheduled areas of the State.

Audit Objectives, Scope and Methodology

CHAPTER 2

Audit Objectives, Scope and Methodology

2.1 Audit Objectives

The Performance Audit, on Land Management in Scheduled areas of the State, was conducted with the objectives of assessing whether:

- Land acquisition, for developmental activities, had been undertaken, by following due procedure and ensuring fair compensation, rehabilitation and resettlement benefits.
- Land rights of the people of Scheduled areas had been safeguarded, as per the extant legal and regulatory provisions.
- Institutional arrangements for implementation of different provisions relating to management of land, were adequate and effective.
- A monitoring mechanism and internal control system were in place and were effective.

2.2 Scope and Methodology of Audit

The Performance Audit covered the financial years from 2017-18 to 2021-22. Audit examined the State level records at the RDM Department, SSD Department and Board of Revenue (RDM Department) in May 2022. At the district level, the records of Collectors of six⁶, out of 13 Scheduled districts⁷, were examined during September 2022 to January 2023. The sampled districts were selected using the Stratified Random Sampling Without Replacement method, on the basis of area of land acquired/ notified for acquisition, during FYs 2017-18 to 2021-22. At the Tahasil level, Audit examined the records of 12 Tahasils⁸ in the Scheduled areas. From the six sampled districts, two Tahasils were selected from each sample district, based on judgemental sampling, considering the area of encroachment of Government land in the Tahasils. Besides, the records of eight Sub-Collectorates⁹ (being the supervising authorities of the selected Tahasils) and seven Special Land Acquisition Officers¹⁰ (SLAOs), were also examined. The sampled Scheduled districts are portrayed in **Map 2.1**.

⁶ Kalahandi, Keonjhar, Koraput, Mayurbhanj, Nabarangpur and Sundargarh

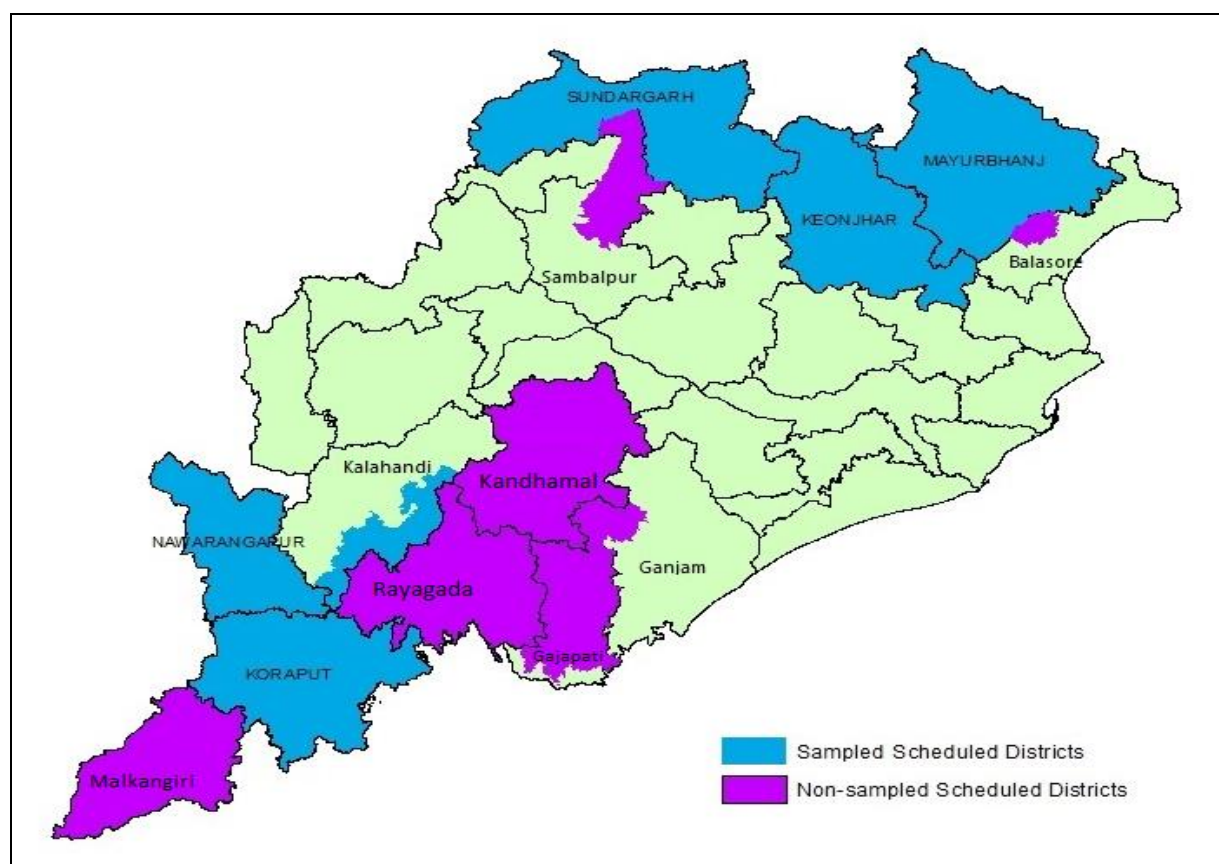
⁷ Districts having high concentration of ST & SC population: Balasore, Gajapati, Ganjam, Kalahandi, Kandhamal, Keonjhar, Koraput, Malkangiri, Mayurbhanj, Nawarangapur, Rayagada, Sambalpur and Sundargarh

⁸ Barbil, Baripada, Bisra, Champua, Lanjigarh, Kaptipada, Koraput, Nandahandi, Semiliguda, Sundargarh, Thuamul Rampur and Umerkote

⁹ Baripada, Bhawanipatna, Champua, Kaptipada, Koraput, Nabarangpur, Panposh and Sundargarh

¹⁰ Special Land Acquisition Offices (SLAOs), established specially for acquisition of land for the project: Telengiri Medium Irrigation Project, Koraput; Jeypore-Nabarangpur and Jeypore-Malkangiri Rail Link Project, Koraput; Talcher Bimalagarh Rail Link Project, Sundargarh; SLAO and Resettlement Officer, Ret Irrigation Project, Kalahandi; Subarnarekha Irrigation Project, Baripada including Project Director, Rehabilitation and Resettlement; Daitari Bansapani Rail Link Project, Keonjhar and Kanpur Irrigation Project, Rimuli, Keonjhar including PD R&R

Map 2.1: Sampled Scheduled districts



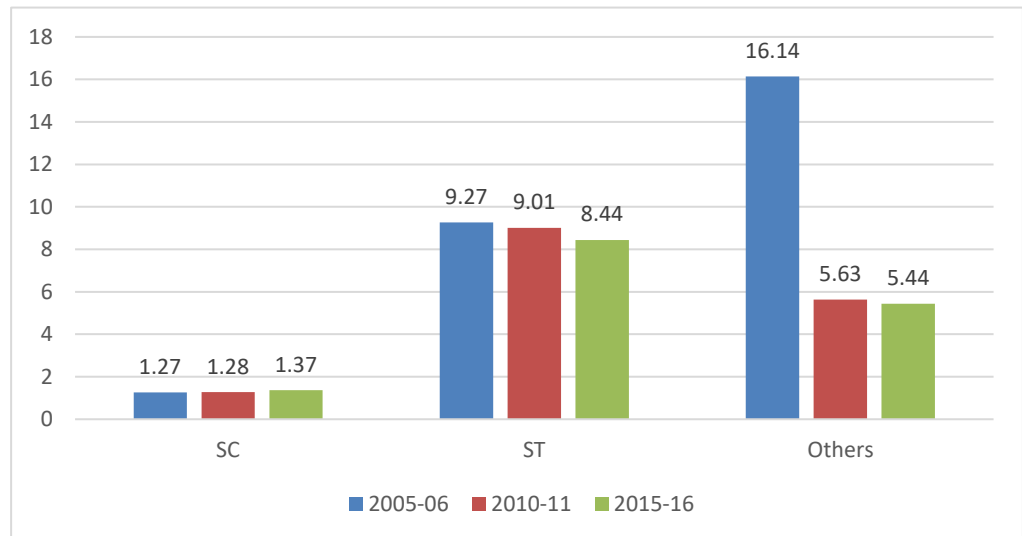
In regard to the six sampled districts, the area of operational land holding by different social groups, published in the Agricultural Censuses, conducted by the Government of Odisha, for FYs 2005-06, 2010-11 and 2015-16, are shown in **Table 2.1**.

Table 2.1: Operational land holding by different Social Groups in the sampled districts

Social Groups	2005-06		2010-11		2015-16	
	No. of holders (in lakh)	Area (in lakh Ha)	No. of holders (in lakh)	Area (in lakh Ha)	No. of holders (in lakh)	Area (in lakh Ha)
SC	1.27	1.27	1.33	1.28	1.52	1.37
ST	7.53	9.27	7.77	9.01	7.98	8.44
Others	12.83	16.14	4.44	5.63	4.54	5.44
Total	21.63	26.68	13.54	15.92	14.04	15.25

(Source: Odisha Agricultural Census 2005-06, 2010-11 and 2015-16)

Chart 2.1: Agricultural Census: Operational land holding by different Social Groups in the Sampled districts (in lakh Ha)



As evident from **Table 2.1**, the operational landholding of ST and Other categories of population, had decreased by 8.95 and 66.29 *per cent*, respectively, as per the Agricultural Census 2015-16, as compared to 2005-06. In case of the ST population, despite implementation of the FR Act since 2005-06 and restriction on sale of land owned by STs to non-ST persons, the decrease in land holding is suggestive of the fact that a significant portion of their land might have been acquired by Government, for public purposes.

In addition to examination of records, Audit also conducted joint physical inspections of land/ sites; verified land use with satellite data and cadastral (Revenue) maps in the background, through Odisha 4k GEO services¹¹; took photographs of land/ sites, wherever found necessary; and conducted interviews of beneficiaries (families rehabilitated in the R&R Colony, landless/ homestead less persons) in the sampled districts. The views of the audited entities were obtained through questionnaires and incorporated in the report, wherever required.

An Entry Conference was held on 2 September 2022, with the Additional Chief Secretary, RDM Department, wherein the objectives, scope, criteria and methodology of audit, were explained. The draft Audit Report was shared (April 2023) with the Heads of the Departments of RDM and SSD, requesting their views on the audit observations. Subsequently, they were also requested (May, June and July 2023) for an Exit Meeting, to discuss the audit observations shared with them. However, neither did they furnish their views on the audit observations nor communicated a date for the Exit Meeting.

2.3 Audit Criteria

The criteria for this audit were drawn from the following documents:

- The Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation, 1956 and Rules, 1959, as amended from time to time

¹¹ An application prepared by the Odisha Space Application Centre, the apex body of the State of Odisha, for space technology applications

- Orissa Land Reforms Act, 1960
- Orissa Government Land Settlement Act, 1962/ Orissa Government Land Settlement Rules, 1983
- Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (of GoI)
- Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014 (of GoI)
- Odisha Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2016
- Orissa Prevention of Land Encroachment Act, 1972/ Orissa Prevention of Land Encroachment Rules, 1985
- Orissa Estates Abolition Act, 1951
- The Panchayats (Extension to Scheduled Areas) Act (PESA Act), 1996
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, and Rules made thereunder
- Circulars/ orders/ instructions, relating to management of land in Scheduled Areas, issued by the State/ Central Governments, from time to time.

2.4 Organisational set-up

The RDM Department, headed by its Secretary, is responsible for acquisition/ lease/ alienation of land; rehabilitation and resettlement of affected/ displaced families, arising out of land acquisition; prevention of land encroachment; and carrying out different land reform measures, like distribution of Government waste land for agriculture/ homestead purposes, distribution of ceiling surplus land and prohibition of alienation of tribals' land. The Department is assisted by the Board of Revenue; Director, Land Records, Survey and Consolidation; and three Revenue Divisional Commissioners (Berhampur, Cuttack and Sambalpur) at the State level. At the District level, the District Collectors, assisted by Sub-Collectors, Assistant/ Deputy Collectors, Land Acquisition Officers (including Special Land Acquisition Officers) and Tahasildars, are responsible for the management of land. The SSD Department is responsible for implementation of the FR Act. The Department, headed by its Secretary, implements the FR Act, through the District Collectors.

2.5 Acknowledgement

Audit acknowledges the co-operation of the (i) Departments of RDM and (ii) SSD, in providing necessary information and records to Audit, for furnishing compliance to the Audit observations.

**Acquisition of Land:
Social Impact Assessment and
Conduct of Gram Sabha
meetings**

CHAPTER 3

Acquisition of Land: Social Impact Assessment and Conduct of Gram Sabha meetings

Social Impact Assessment (SIA) is an exercise to determine, *inter alia*, the exact population to be affected or displaced, as well as the impairment of their livelihood, based on which Rehabilitation and Resettlement (R&R) packages are given shape. In Scheduled areas, consent of the Gram Sabha (GS) is necessary for acquisition of land. Thus, it is imperative to conduct GS meetings in all the villages identified for land acquisition and the acquisition is required to be done as per the consent, obtained in a fair manner, of the GS. This Chapter contains observations on conduct of SIA and GS meetings.

- *Audit test-checked 312 Land Acquisition (LA) cases, which included 58 LA cases relating to irrigation projects, for which SIA is not required. Of the remaining 254 LA cases, SIA studies had not been carried out in case of 44 LA cases (17 per cent).*
- *Preliminary notification for acquisition of land, under Section 11 of the RFCTLARR Act, 2013, is to be issued within 12 months from the date of appraisal of the SIA report by an Expert Group. In the acquisition of 82.852 acres of land, for three projects, preliminary notifications had been issued after a lapse of about one and half years from the stipulated date.*
- *Although obtaining the prior consent of the GS is a pre-requisite for acquisition of land in Scheduled areas, in 126 (43 per cent) out of 294 LA cases, preliminary notifications for acquisition of land had been issued without conducting GS meetings, conducting GS meetings without the requisite quorum, in the absence of consent and by means of post facto conduct of GS meetings.*

3.1 Process of acquisition of land

Matters relating to acquisition of private land, by Government, were governed by the Land Acquisition Act, 1894 (LA Act 1894), which was replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013, with effect from 1 January 2014. Government of Odisha framed the Odisha RFCTLARR Rules, 2016, with the objective of ensuring a humane, participative, informed and transparent process in land acquisition, in the Scheduled areas, as well as to provide just and fair compensation to the affected families. The RFCTLARR Act, 2013, and the rules made thereunder, mandate prior consultation with the

concerned GS¹² in regard to such land acquisition. A brief description of some important sections of the RFCTLARR Act, 2013, is given in **Table 3.1**.

Table 3.1: Brief description of some sections of the RFCTLARR Act, 2013

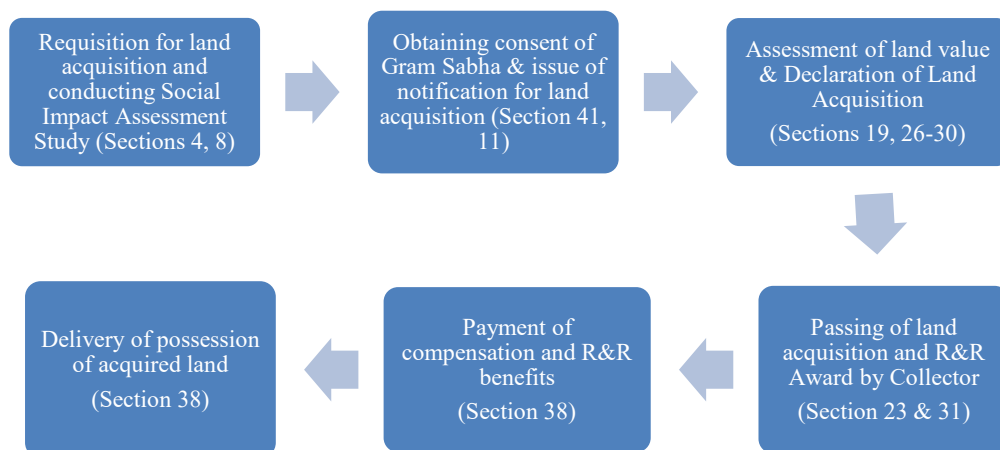
Sections	Brief description	Timelines
4-6	Carrying out Social Impact Assessment(SIA) Study	Six months from the date of commencement of study.
7-9	Appraisal of Social Impact Assessment Report by an expert group	Two months from the date of its constitution.
41	Obtaining consent of GS	15 days from the date of completion of SIA study.
11	Issue of preliminary notification	12 months from the date of appraisal of the SIA Report, submitted by the Expert Group.
26-30	Determination of market value of land and award of solatium	12 months from the date of publication of preliminary notification under Section 11 of the RFCTLARR Act, 2013.
16	Preparation of Rehabilitation and Resettlement plan	
19	Publication of declaration and summary of R&R	
23 & 31	Passing of R&R award for land acquisition	12 months from the date of publication of declaration under Section 19 of the RFCTLARR Act, 2013.
38	Payment of compensation and taking over possession of acquired land	<u>Compensation</u> : Three months, <u>Monetary part of R&R entitlements</u> : Six months, <u>Infrastructural entitlements</u> : 18 months from the date of award, <u>Taking over of possession</u> : After making full payment of compensation.

(Source: Compiled from the RFCTLARR Act, 2013)

The process outlined in the RFCTLARR Act, 2013, to be followed for land acquisition, is depicted in **Chart 3.1**.

¹² A body consisting of persons, registered in the electoral rolls, relating to a village. In all the cases of acquisition or alienation of any land in Scheduled Areas, consent of the concerned Gram Sabha and the Panchayats is to be obtained in Form-M, before publication of preliminary notification under sub-section (1) of Section 11 of the RFCTLARR Act, 2013

Chart 3.1: Process of Land Acquisition



In this audit, an attempt was made to ascertain whether the provisions of various legislations, as well as the rules framed thereunder, had been complied with, by the land acquisition authorities.

3.2 Land under acquisition during FYs 2017-18 to 2021-22

In the six sampled districts, which are Scheduled areas, 793 Land Acquisition (LA) cases¹³ were initiated, for acquisition of 9,307.6906 acres of land, during FYs 2017-18 to 2021-22. Of these, 315 LA cases were test-checked in Audit, as detailed in **Table 3.2**.

Table 3.2: Land under acquisition in sampled Districts

District	Total		Test-checked in Audit	
	No. of LA cases	Area in acres	No. of LA cases	Area in acres
Kalahandi	184	2,008.345	8	125.64
Keonjhar	131	937.139	59	589.069
Koraput	100	1,344.116	100	1,344.116
Mayurbhanj	269	3,192.807	39	1,528.645
Nabarangpur	5	12.17	5	12.17
Sundargarh	104	1,813.1136	104	1,813.1136
Total	793¹⁴	9,307.6906	315	5,412.7536

(Source: Information furnished and records of the Offices of the sampled Collectors)

¹³ Each LA case represents land acquisition, for a particular village, at a particular time, for which one preliminary notification, under Section 11 and one declaration, under Section 19, are to be made

¹⁴ Kalahandi and Keonjhar are partially covered Scheduled areas and the LA cases represent figures for the entire district, while the test-checked cases, in these two districts, relate to the Scheduled areas

The status of land acquisition, in regard to the 315 test-checked LA cases, was as under:

Table 3.3: Status of land acquisition in the sampled districts

District	Test-checked LA cases	Preliminary notifications issued u/s 11 ¹⁵		Declarations u/s 19 ¹⁶		Compensation awards passed		Possession handed over to requisitioning body	
		No.	Acreage	No.	Acreage	No.	Acreage	No.	Acreage
Kalahandi	8	5	7.66	5	7.66	8	125.64	6	120.03
Keonjhar	59	59	589.069	45	561.878	45	561.878	43	558.823
Koraput	100	93	1,156.463	42	210.547	41	210.00	39	209.41
Mayurbhanj	39	37	1,527.35	37	1,527.35	37	1,527.35	29	1,403.733
Nabarangpur	5	1	0.74	1	0.74	1	0.74	1	0.74
Sundargarh	104	93	1,776.55	73	765.90	71	764.46	40	249.395
Total	315¹⁷	288	5,057.832	203	3,074.075	203	3,190.068	158	2,542.131

(Source: Information and records furnished by the Offices of the sampled Collectors)

3.3 Social Impact Assessment Study

Section 4 of the RFCTLARR Act, 2013, requires that, whenever the appropriate Government intends to acquire land for a public purpose, it shall carry out a SIA study by an agency¹⁸, as nominated by the respective State Government. Accordingly, the RDM Department had engaged the Nabakrushna Choudhury Centre for Development Studies (NCDS), Bhubaneswar, to conduct SIA studies for all land acquisition cases. The SIA study was, amongst other matters, required to include assessment, as to whether the proposed acquisition would serve public purpose; estimation of the affected and displaced families; social impact of the project; nature and cost of addressing them; and the impact of these costs, on the overall costs of the project, *vis-a-vis* the benefits of the project. The SIA report was, then, to be examined by an Expert Group, constituted under the chairmanship of the Collector concerned. The Expert Group was to communicate its views on the SIA report, to the RDM Department. Conduct of SAI studies, is, however, exempted, under Section 6 of the RFCTLARR Act, 2013, read with RDM Department's clarification (March 2016), in regard to irrigation projects, where the process of Environment Impact Assessment (EIA) is required.

As per Section 14 of the RFCTLARR Act, 2013, where a preliminary notification under Section 11 is not issued within 12 months from the date of communication of the views of the Expert Group on the SIA report, then, such a report shall be deemed to have lapsed and a fresh SIA shall have to be prepared.

¹⁵ Notifications issued under Section 11 of the RFCTLARR Act, are referred to as preliminary notifications

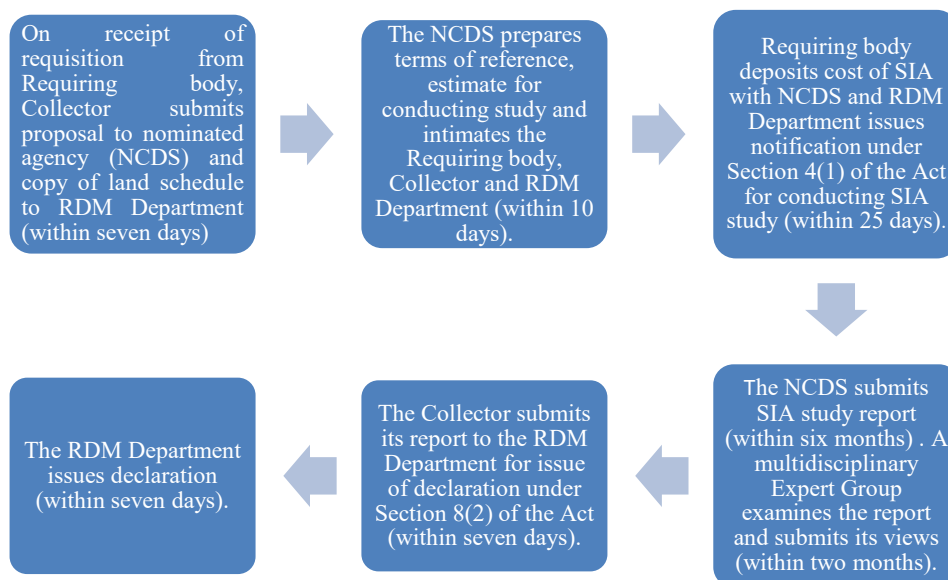
¹⁶ When the appropriate Government is satisfied, that any particular land is needed for a public purpose, a declaration shall be made to that effect

¹⁷ Includes three LA cases of Kalahandi District, involving acquisition of 117.98 acres of land, where the preliminary notifications and declarations were made, as per the provisions of the LA Act, 1894, but no awards were passed. In these three cases, compensation was determined as per the provisions of the new act *i.e.*, RFCTLARR Act, 2013

¹⁸ The agency would survey the affected areas, conduct group discussions with the affected people, collect their opinions, conduct public hearings and submit report on the number of people affected, due to the proposed land acquisition

The process to be followed, for the SIA, is depicted in **Chart 3.2**.

Chart 3.2: Process of SIA study



On test-check of 312 LA cases, Audit noticed that in 52 LA cases, which were related to irrigation projects, SIA study was not required and six LA cases related to direct purchase of private land. Out of the remaining 254 LA cases, SIA was conducted for 210 cases and not conducted for 44 cases. In this context, Audit observed the following:

3.3.1 Acquisition of land without conducting SIA or EIA studies

As per Section 6 of the RFCTLARR Act, read with RDM Department's clarification of March 2016, SIA studies are exempted for irrigation projects, if EIA studies have been conducted. In 44 LA cases, 203.35 acres of land were acquired, during FYs 2017-18 to 2021-22, for two irrigation projects, viz. Telengiri Medium Irrigation Project (TMIP), Koraput and Ret Irrigation Project (RIP), Kalahandi¹⁹.

Audit noticed that neither EIA nor SIA studies had been conducted for either of these two irrigation projects. Since EIA studies had not been conducted, SIA studies were mandatory, before acquisition of land, as per Section 4 of the RFCTLARR Act. However, in contravention of these statutory provisions, 203.35 acres of land was acquired, during FYs 2017-18 to 2021-22, without conducting SIA study. Thus, in violation of the statutory provisions, 203.35 acres of land was acquired irregularly. Moreover, it could not be ensured, in audit, as to whether all the families affected or displaced, due to acquisition of land for the aforesaid projects, had been awarded compensation and R&R benefits.

In reply, the Special Land Acquisition and Rehabilitation & Resettlement Officer (SLA & RRO), TMIP, stated (October 2022) that SIA study was not conducted, since the same is exempted for irrigation projects, as per the RFCTLARR Act, 2013. It was added that the TMIP project had been initiated

¹⁹ TMIP: 39 LA cases, 195.69 acres and RIP: 5 LA cases, 7.66 acres

prior to enactment of the Environment Protection Act, 2006, and, therefore, conduct of EIA was not a necessity. On the other hand, the SLA & RO, RIP, stated (January 2023) that the Audit observation had been noted, for future guidance.

The reply of the SLA & RRO, TMIP, was not convincing, since the notifications for acquisition of land had been issued during 2016 to 2021, under Section 11 of the RFCTLARR Act and Section 4 of the said Act, required conduct of SIA studies, before issue of notifications. Non-conduct of SIA study was, therefore, violative of the RFCTLARR Act, 2013.

3.3.2 Issue of preliminary notification under Section 11, after lapse of SIA report

The preliminary notification under Section 11 of the RFCTLARR Act, was to be issued within one year from the date of appraisal of the SIA report by an expert group, as per Section 14 of the RFCTLARR Act.

In six LA cases, in the Koraput district, involving acquisition of 82.852 acres of land, for three projects, Audit noticed that preliminary notifications, for acquisition of land, had been issued under Section 11, after lapse of the SIA report, as detailed in **Table 3.4**.

Table 3.4: Details of LA cases, where SIA reports had lapsed

Project/ No. of LA cases	Area in acres	Date of appraisal of the SIA reports by the expert group	Date by which preliminary notification were to be issued	Date of issue of preliminary notification
Admunda MIP/ 4	46.370	5 January 2021	3 April 2022 ²⁰	16 June 2022
Jagamunda MIP/ 1	10.650			23 May 2022
Jeypore-Nabarangpur Rail Link Project/ 1	25.832	29 July 2021	29 July 2022	15 March 2023
Total	82.852			

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

As can be seen from **Table 3.4**, 82.852 acres of land had been acquired on the basis of expired SIA reports, which was irregular. As the socio-economic status of the population affected by land acquisition, was prone to change with the passage of time, fresh SIA studies should have been conducted, to assess their updated status. Non-conduct of SIA studies afresh implied that there was no assurance that the interests of the affected/ displaced families had been duly safeguarded, as per the Act.

In reply, the LAO, Koraput, stated that, due to the Covid 19 Pandemic, preliminary notifications under Section 11, could not be issued within the stipulated period of one year from the date of appraisal of the SIA reports. The reply was not acceptable, since even after excluding the period of 88 days, declared as *force majeure*, due to the Covid 19 pandemic, preliminary notifications had not been issued within one year, in regard to the two MIPs (Admunda and Jagamunda).

²⁰ A period of 88 days (5 May 2021 to 31 July 2021), declared as *force majeure*, due to Covid-19 pandemic, is added to the stipulated period

The SLAO, Jeypore-Nabarangpur Rail Link Project, while admitting the fact of lapse of statutory period for issue of preliminary notification, attributed the reasons to delay in conducting GS meetings. The reply is not convincing, as a fresh SIA study should have been conducted, as per Section 14 of the RFCTLARR Act, 2013.

Recommendation 3.1: Social Impact Assessment Studies, being vital for identification of the population to be affected/ displaced, due to land acquisition, should be conducted in all required cases and preliminary notifications for acquisition of land, should be issued within the stipulated period. Responsibility should be fixed in cases of non-conduct of Social Impact Assessment Studies.

3.4 Prior consent of Gram Sabha for acquisition of land

Article 243 of the Constitution of India defines ‘Gram Sabha’ as a body consisting of persons, registered in the electoral rolls, relating to a village. As per Section 41 of the RFCTLARR Act, in case of acquisition or alienation of any land in the Scheduled areas, the prior consent of the concerned GS or the Panchayats or the autonomous District Councils, at the appropriate level²¹, shall be obtained before publication of preliminary notification under Section 11 of the RFCTLARR Act, 2013. Further, Section 4 of the Panchayats Extension to Scheduled Area (PESA) Act, 1996, provides that the GS, or the Panchayats at the appropriate level, shall be consulted, before making acquisition of land in Scheduled areas, for development projects.

As per instruction (January 2018) of RDM Department, the LAO/ SLAO/ SLA&RRO are to obtain consent of GS within 15 days of completion of SIA study and before issue of preliminary notification. The LAO/ SLAO/ SLA&RRO is to request the Block Development Officer/ Sarpanch concerned, for convening GS meetings.

In four out of the six sampled districts, deficiencies like acquisition of land without conducting GS meetings, disregarding the views of the GS, obtaining consent of the GS without the required quorum, conducting GS meeting after issue of preliminary notification, were noticed, as detailed in **Table 3.5**.

Table 3.5: Overview of GS meetings conducted in the test-checked LA cases

District	No. of LA cases, where GS meetings were required to be held	No. of GS meetings actually held	No. of GS meetings not held	No. of GS meetings conducted, without required quorum	No. of cases, where land was acquired, disregarding the views of the GS	No. of LA cases, where GS meetings were held, after issue of preliminary notification u/s 11
Kalahandi	5	1	4	-	-	-
Keonjhar	59	59	-	-	-	-
Koraput	93	59	34	24	-	10
Mayurbhanj	39	37	2	-	-	-

²¹ The consent of the Panchayats or the Autonomous District Councils shall be obtained in cases, where the Gram Sabha does not exist or has not been constituted

District	No. of LA cases, where GS meetings were required to be held	No. of GS meetings actually held	No. of GS meetings not held	No. of GS meetings conducted, without required quorum	No. of cases, where land was acquired, disregarding the views of the GS	No. of LA cases, where GS meetings were held, after issue of preliminary notification u/s 11
Nabarangpur	1	1	-	-	-	-
Sundargarh	97	64	33	-	29	-
Total	294	221	73	24	29	10

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

3.4.1 Acquisition of land, without conducting GS meetings

In case of acquisition of 297.4886 acres of land, as detailed in **Table 3.6**, consent of the GS had not been obtained.

Table 3.6: LA cases, where consent of GS had not been obtained

District	Project	No. of LA cases	Area in acres	Period of land acquisition
Koraput	TMIP	34	37.36	2017-22
Sundargarh	Talcher-Bimlagarh Rail Link Project (TBRLP)	29	247.64	November-December 2021
	For roads and approach road to bridges	4	4.1736	October 2018 to April 2022
Kalahandi	RIP	4	7.02	June 2017 to August 2018
Mayurbhanj	For roads and approach road to bridges	2	1.295	March to December 2021
	Total	73	297.4886	

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

Audit noted that:

- In case of TMIP, the SLA & RRO, without conducting GS meetings for acquisition of 37.36 acres of land, issued preliminary notifications under Section 11 of the RFCTLARR Act, during February 2016 to January 2021. The preliminary notifications were issued on the basis of GS meetings, conducted one to nine years earlier, for acquisition of different lands in the same villages. This constituted an irregularity, as different GS proceedings had been used for issue of these preliminary notifications.
- In case of TBRLP, the LA case records, furnished to Audit, neither contained any mention regarding conducting of GS meetings, nor could copies of GS meetings, be furnished to Audit, for scrutiny.
- In case of the remaining projects, GS meetings were not conducted for acquisition of land.

Audit observed that the said land had been acquired, without obtaining consent of the GS, in contravention of the provisions of PESA, as well as RFCTLARR

Act, due to which the inhabitants of these Scheduled areas were deprived of the legal safeguards provided in the PESA, as well as in the RFCTLARR Acts.

In reply, the SLA & RRO, TMIP, stated (October 2022) that GS meeting was conducted five to seven years back, during earlier acquisitions made in the same villages. At that time, it was verbally intimated to the villagers that, if any additional land would be required at any time, this consent would be enclosed. The reply was not convincing, as GS meetings were to be conducted for each land acquisition case, which had not been done. Further, labeling the consent of the GS, given earlier on different land acquisition cases, as the consent given by the GS for acquisition of different patches of land, was irregular.

The SLAO, TBRLP, stated that GS meetings had been conducted before issue of preliminary notifications under Section 11 of the RFCTLARR Act, 2013, but the case records were not readily traceable.

In case of acquisition of roads and approach road to bridges, made through direct purchase, the LAO, Sundargarh, stated (December 2022) that direct purchase of private land had been made, as per the RDM Department notification issued in May 2016²². The reply was not convincing, since the notification referred to, related to constitution of District Level Independent Multidisciplinary Expert Group to evaluate the SIA study reports and did not relate to direct purchase of private land. Moreover, any notification, issued in regard to land acquisition, would have to be in conformity with the statutory requirements.

3.4.2 Obtaining consent of GSs, without the required quorum

Odisha RFCTLARR Rules, 2016, are silent on the requirement of quorum in conducting GS meetings for acquisition of land. However, Rule 17 of the RFCTLARR (Social Impact Assessment and Consent) Rules, 2014, of GoI, provided that the quorum for obtaining consent of GS shall be at least fifty *per cent* of the total members of the GS, provided that one third of the total women members of the GS, shall also be present in the GS meeting.

Audit noticed that the Collectors of Koraput and Nabarangpur districts had issued (April 2021 to July 2022) preliminary notifications, under Section 11 of the RFCTLARR Act, 2013, in regard to 41 LA cases, for acquisition of 871.246 acres of land, for the Jeypore-Nabarangpur and Jeypore-Malkanagiri new broad gauge Rail Link Projects. The preliminary notifications were issued on the basis of consents given by the GSs concerned. Audit compared the number of members who had attended/ signed the GS proceedings, with the voter lists in regard to all 41 LA cases. In 24 LA cases (58 *per cent*), Audit noticed that the percentage of attendance in the GS meetings was only 0.30 to 8.80 *per cent*, against the requirement of 50 *per cent*, as shown in **Appendix 3.1**. Participation of one third of the total women members of the GS, was also not ensured. As such, the consents of GSs were not valid, since the required quorum was lacking. However, the Collectors of both the districts had issued preliminary notifications, on the basis of the invalid GS consent.

²² Notification No. 14158/ RDM, dated 7 May 2016

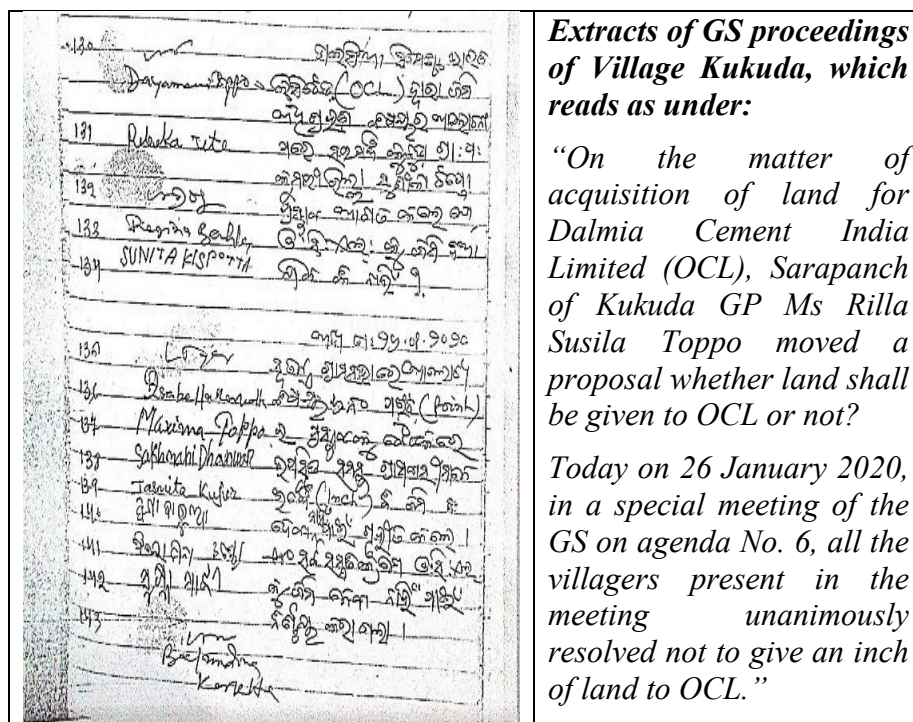
The SLAO, Jeypore-Nabarangpur and Jeypore-Malkanagiri new broad gauge Rail Link Project, did not furnish any specific reply, in regard to the consent of the GS having been obtained, without the required quorum.

3.4.3 Issue of preliminary notifications, disregarding the views of the GS

The Collector, Sundargarh, issued (March 2018 to December 2021) preliminary notifications, under Section 11, for acquisition of 1,528.91 acres of land, in 64 LA cases. GS proceedings, in regard to 32 cases, involving acquisition of 355.525 acres of land, were not made available to Audit. Out of the remaining 32 LA cases, consent of GS was available for only three LA cases²³, for acquisition of 8.12 acres of land. In regard to the remaining 29 LA cases, preliminary notifications, for acquisition of 1,165.265 acres of land, for four projects, had been issued (**Appendix 3.2**), disregarding the views of the GSs concerned. On further scrutiny, Audit noticed the following:

- In 10 cases, involving acquisition of 1012.725 acres of land, for two projects, *i.e.* ‘four-laning coal corridor road’, by the Executive Engineer, Roads and Bridges Division, Sundargarh, and ‘Expansion of mining by Dalmia Cement (Bharat) Limited’ formerly known as M/s OCL India Limited, the GSs concerned had objected to the land acquisition. However, disregarding the views of the GSs, preliminary notifications had been issued by the Collector, Sundargarh. Sample of one such GS proceedings is shown in **Image 3.1**.

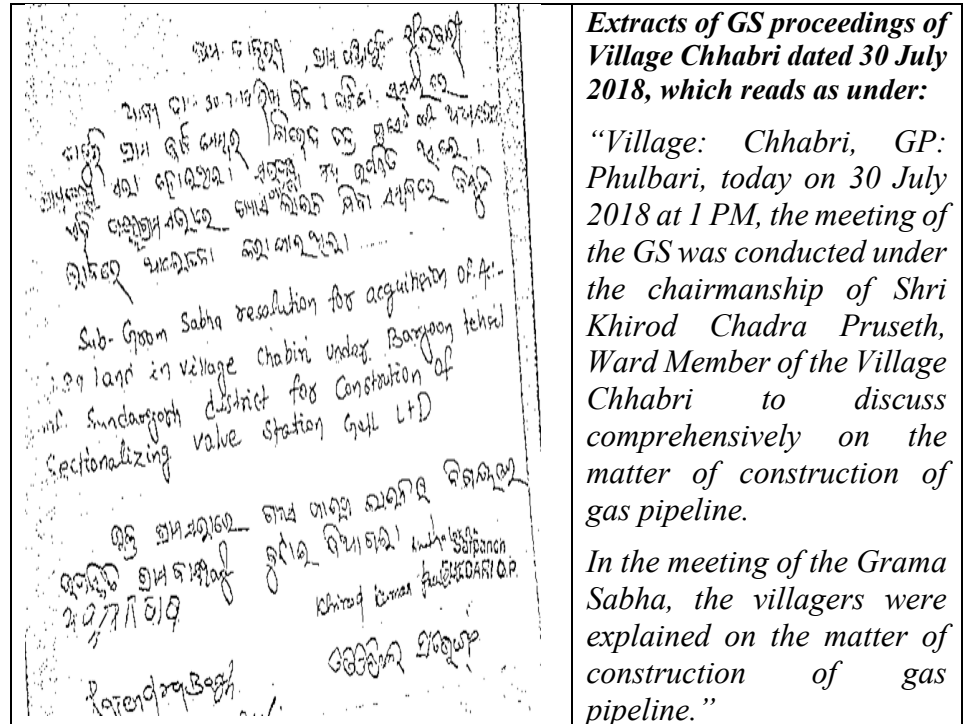
Image 3.1: GS proceedings of village Kukuda



²³ LA Case No. 47/18: Mega Lift Irrigation Project and LA case Nos. 55/18 and 56/18: Mining project of ESSAR Steel

- There was no consensus in the GS for acquisition of 37.05 acres of land in six LA cases²⁴. In the GS meetings, either the projects had only been discussed or the meetings had been postponed, due to absence of officers of Government/ project proponent, to clarify the doubts raised in the GS meeting.

Image 3.2: GS proceedings of village Chhabri



- In 13 cases²⁵, involving acquisition of 115.49 acres of land, the GSs concerned had given conditional support for acquisition of land. The conditions included payment of compensation at a rate of ₹ 70 lakh per acre; taking of pollution control measures, renovation of medical centre, school, library, tube well, temple, waiting hall, provision of drinking water and street light; renovation of pond; provision of employment; avenue plantation, etc.

Acquisition of land, disregarding the views of the GSs, was irregular. Also, the inhabitants of the Scheduled areas were deprived of the legal safeguards provided in the PESA and RFCTLARR Act, in regard to acquisition of their land.

Response of the Collector, Sundargarh, had not been received (February 2024).

²⁴ LA Case Nos. 24/18: Sareikela, 25/18: Bandhpali, 36/18: Surda, 37/18: Nialipali, 38/18: Jhimermahul and 53/18 Chabiri

²⁵ LA Case Nos. 02/17: Kalamegha, 03/17: Laikera, 04/17: Chuabahal, 05/17: Kanaktora, 26/18: Duduka, 28/18: Barpali, 29/18: Mahikani, 30/18: Badbanga, 31/18: Bijadihi, 32/18: Aunlabahal, 33/18: Sribhubanpur, 34/18 Budelkani and 40/18: Bramhanipali)

3.4.4 Conducting GS, after issue of preliminary notification and without quorum

The Collector, Koraput, issued preliminary notification, under Section 11 of the RFCTLARR Act, for acquisition of 71.897 acres of land, before conducting GS meetings, in 10 LA cases, for six projects, as detailed in **Table 3.7**.

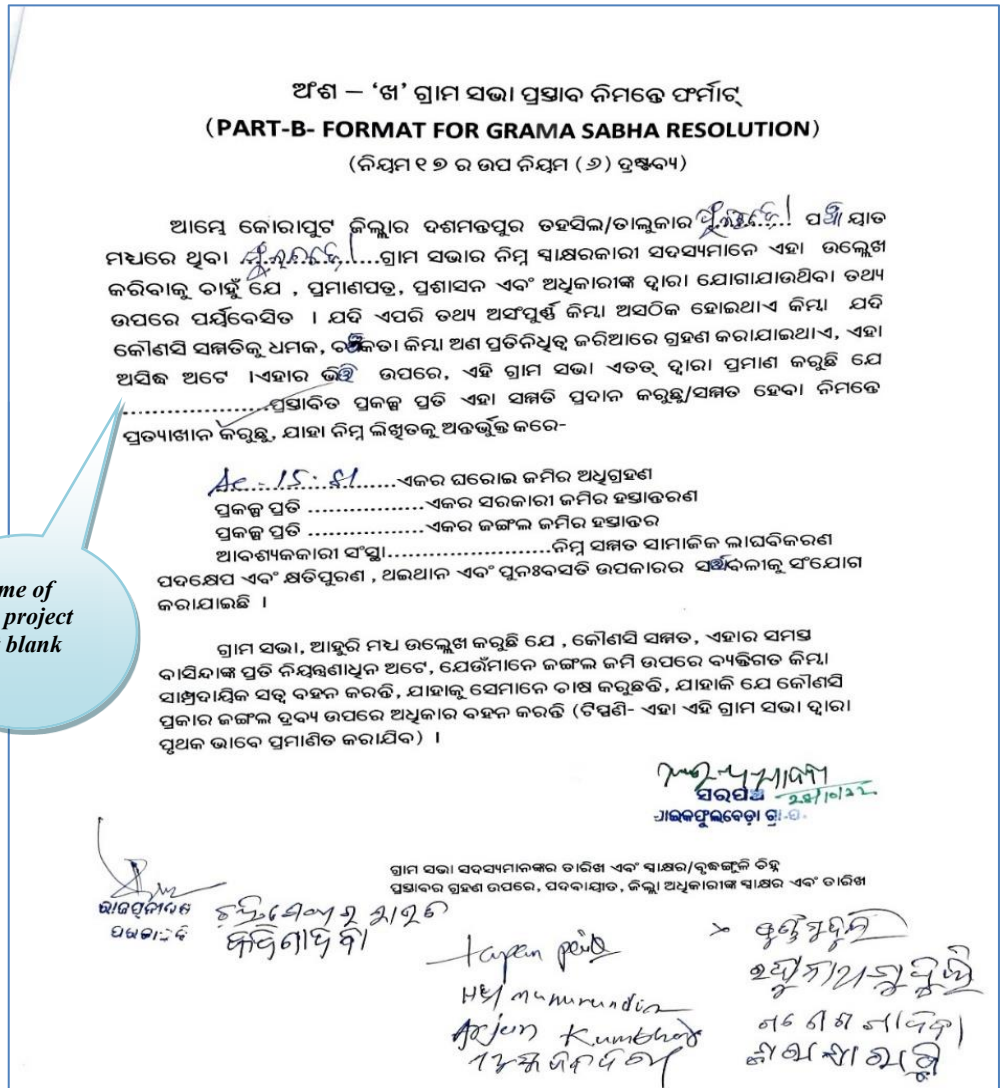
Table 3.7: LA cases where GSs were conducted after issue of preliminary notification

LAO	Purpose of acquisition	No. of LA cases	Area (in acres)	Date of issue of preliminary notification	Date of GS	Percentage of members, who attended the GS meeting
LAO, Koraput	Admunda MIP	4	46.37	16-06-22	28-10-22	1.50 to 9.09
	Baghri MIP	1	0.390	08-02-22	06-06-22	GS resolution not available
	Jagamunda MIP	1	10.650	23-05-22	08-06-22	3.60
	Petujodinala MIP	2	9.19	08-02-22	07-07-22	2.34
	Tunpar MIP	1	4.750	08-02-22	07-06-22	1.04
LAO-cum-Tahasildar, Laxmipur, Koraput	Doubling of Koraput Singapur Road Train line	1	0.547	02-11-21	28-04-22	4.46
	Total	10	71.897			

(Source: Records of the Offices of the test-checked LAOs)

Further scrutiny revealed that the GS meetings had been conducted without quorum, land acquisition proposals had either been refused in the GS meetings, or the resolutions did not explicitly contain a statement of consent to the project, rendering them invalid. The GS resolutions, in regard to Admunda and Petujodinala Minor Irrigation Project (MIP), did not even contain the names of the projects. A photocopy of the GS proceedings of the Phulbeda Village, conducted for acquisition of 15.81 acres of land, for Admunda MIP, is shown below:

Image 3.3: GS proceedings of village Phulbeda



Name of the project left blank

As such, in a number of cases, the GS proceedings were not valid, insofar as acquisition of land was concerned. The LAOs concerned did not furnish any specific replies, regarding non-obtaining consent of the GSs, for issuing the preliminary notifications.

Thus, land had been acquired, without obtaining consent of the concerned GSs, or by disregarding their views, or by obtaining their consent without the required quorum, or by obtaining their consent after issue of preliminary notification under Section 11.

Recommendation 3.2: The Department may fix responsibility against the officers concerned for lapses in conducting GS i.e. acquisition of land without conducting GS, without obtaining consent of GS, land acquisition despite disagreement of GS and getting signature of GS members, without disclosing the names of the projects.

**Assessment of Market Value
And
Payment of Compensation**

CHAPTER 4

Assessment of Market Value and Payment of Compensation

In order to safeguard the interests of the land owners, the manner of assessment of market value and procedure for payment of compensation, have specifically been outlined in the RFCTLARR Act, 2013. Audit, however, came across instances of non-adherence to the provisions, in assessing the market value of the land, as well as in the payment of compensation. Significant audit observations, in this regard are given below:

- *In 74 (36 per cent) out of 203 test-checked LA cases, the sales data of adjoining villages had not been obtained for determination of the market value of the land, notified for acquisition. In six LA cases, involving acquisition of 43.48 acres, Audit assessed the under-valuation of land, amounting to ₹ 10.07 crore.*
- *In one case, the Benchmark Value, despite being higher than the average sales value of similar category of land in adjoining villages, had not been considered for determining the market value. Resultantly, the amount of compensation had been under-assessed by ₹ 5.27 crore.*
- *For acquisition of land for private entities, the amount of compensation consented to by the land owners, had not been obtained. Besides, the valuation of land had been done in an unfair manner, resulting in short payment of compensation, amounting to ₹ 63.76 crore.*
- *Computation of additional market value had not been done, as per the provisions of the Act, resulting in short payment of compensation, amounting to ₹ 4.03 crore, in 120 cases, involving acquisition of 1,061.109 acres of land.*
- *In 179 cases, involving acquisition of 3,055.583 acres of land, the compensation amount of ₹ 120.94 crore, could not be disbursed, due to non-updation of land records.*
- *In 114 LA cases, land measuring 2449.594 acres, had been physically taken over, after making payment of 83 per cent of the compensation, though full payment was to be made for taking physical possession of the land.*
- *Land measuring 57.453 acres, had been taken over by Government, without initiating LA proceedings and also without paying any amount towards compensation, in disregard of the statutory provisions.*

4.1 Assessment of the Market Value of Land

As per Section 26 of the RFCTLARR Act, 2013, read with RDM instructions of February 2014, Collectors were required to adopt the higher of the following, in assessing and determining the market value of land:

- The *market value* specified in the Indian Stamp Act, 1899, for the registration of sale deeds or sale agreement, in the area where the land is situated, or the market value of land, as per the approved Benchmark Value²⁶ (BMV), whichever is higher; or
- The *average sale price* for similar type of land, situated in the nearest village or nearest vicinity, in the immediate preceding three years; or
- *Consented amount of compensation*, as agreed upon under sub-section (2) of Section 2, in case of acquisition of lands for private companies, agreed to by at least 80 *per cent* of the affected families, at the time of giving consent for their land to be acquired.

In addition to the market value of the land, the land owner is also entitled to compensation towards value of assets attached to the land²⁷, multiplying factor²⁸; solatium²⁹ and additional market value, at the rate of 12 *per cent* per annum, for the intervening period, from the date of preliminary notification to the date of award of compensation. The process of assessment of the market value and award of compensation, is depicted in **Chart 4.1**.

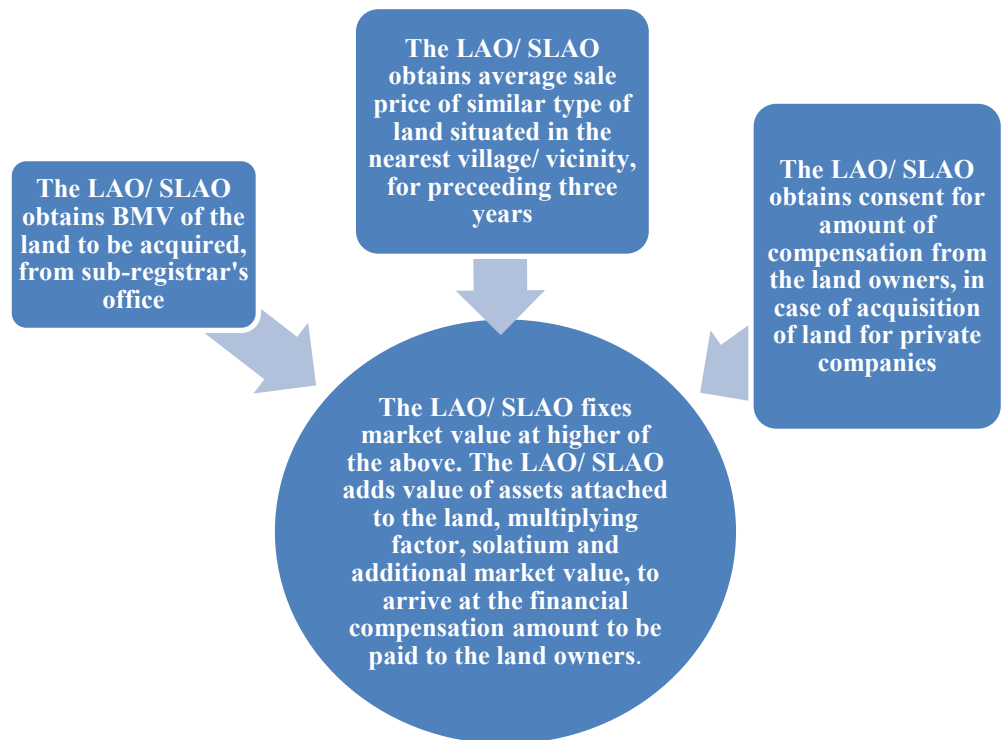
²⁶ Floor price fixed by Government, under the Odisha Stamp Rules, 1952, as amended from time to time. It is revised biennially by the Government

²⁷ Cost of trees, wells, structures, *etc.*, standing on the land

²⁸ Market value is multiplied by a factor, ranging from one to two, considering the distance from nearest urban area

²⁹ After determination of compensation to be paid, a Solatium, equivalent to one hundred *per cent* of the compensation amount, is added to arrive at the final award

Chart 4.1: Process of assessment of market value of land



Audit scrutinised the fixation of the compensation amount, in 203 LA cases, involving acquisition of 3,190.068 acres of land, in the six test-checked districts and noticed deficiencies in the valuation of land, as tabulated below:

Table 4.1: Overview of the assessment of market value, in the test-checked LA cases

District	Compensation awards passed (No./ area in acres)	No. of cases, where sale data of the adjoining villages was not considered	No. of cases where the compensation was less than the BMV	No. of cases settled without obtaining the consented amount of compensation	No. of cases of under-assessment of additional market value
Kalahandi	8/125.64	-	-	3	-
Keonjhar	45/561.878	4	-	-	44
Koraput	41/210.00	2	-	-	-
Mayurbhanj	37/1527.35	-	-	-	7
Nabarangpur	1/0.74	-	-	-	-
Sundargarh	71/764.46	68	1	2	69
Total	203/ 3,190.068	74	1	5	120

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

Scrutiny of these 203 LA cases, in Audit, revealed instances of violation of Section 26 of the RFCTLARR Act, 2013, by the SLAOs/ LAOs, for determining the amount of compensation to be paid to the land owners, as discussed in the succeeding paragraphs.

4.1.1 Fixation of market value of land, ignoring the sales data of adjoining villages

As per Section 26 of the RFCTLARR Act, 2013, the average sale price for similar type of land, situated in the nearest village or nearest vicinity, during the immediate preceding three years, is to be collected, for comparison with the BMV, and the highest between the two, is to be taken as the rate of compensation. In three of the test-checked districts (Keonjhar, Sundargarh and Koraput), in the acquisition of 753.14 acres of land, by four LAOs/ SLAOs³⁰, the sales data of adjoining villages, had not been obtained/ considered, for assessment of the market value of land. Audit noticed that:

- In the acquisition of 1.23 acres of land, in four LA cases, LAO, Keonjhar, had fixed the market value of land at ₹3.63 lakh to ₹2.10 crore, per acre, taking into account only the BMV. The LAO did not consider the average sale price of similar types of land at the adjoining villages, which ranged between ₹20 lakh and ₹2.13 crore per acre, *i.e.*, higher than the BMV. As a result, the concerned land owners were paid compensation that was short by an amount of ₹ 36.55 lakh. On this being pointed out in Audit (December 2022), the LAO revised (January 2023) the market value of the land, as per the average sale price.
- In the acquisition of 247.64 acres of land, in 29 LA cases, for TBRLP, SLAO, TBRLP, determined the market value of land, based on the average sale value of land, in the preceding three years, only in the villages concerned, ignoring the average sale value in the adjoining villages. Audit analysed the fixation of market value in case of 43.48 acres of land in five LA cases and found that the market value of land had been fixed at ₹1.10 lakh to ₹1.75 lakh, per acre, *i.e.* same as the BMV. Accordingly, compensation amounting to ₹ 2.73 crore, was awarded. However, the average sale value, in the adjoining villages, ranged between ₹1.60 lakh and ₹18.10 lakh, per acre, based on which the compensation amount worked out to be ₹ 12.80 crore. Thus, there was under assessment of compensation, by an amount of ₹ 10.07 crore. Some of the villagers refused to receive the award amount, alleging fixation of the market value on the lower side. A District Level Committee, headed by the Collector, Sundargarh³¹ examined the under-valuation issue and decided to increase the compensation amount. Even though the District Level Committee raised the compensation amount to ₹5.33 lakh per acre, in regard to the entire 247.64 acres, the same was not approved by the RDM Department. Fixation of market value, deviating from the laid down procedure, and its subsequent enhancement, as well as rejection of the enhanced amount, were indicative of arbitrariness in the fixation of market value.

In reply, SLAO, TBRLP, stated that sale data of the adjoining villages could have been considered for fixation of market value of land. The fact, however, remained that the SLAO did not rectify the market value,

³⁰ LAO, Keonjhar: 4 cases, 1.23 acres; LAO, Koraput: 2 cases, 14.31 acres; LAO, Sundargarh: 39 cases, 489.96 acres and SLAO, TBRLP: 29 cases, 247.64 acres

³¹ Other members were Additional District Magistrate, Sundargarh; Sub-Collector, Bonai; LAO, Sundargarh; Tahasildars of Kolra, Lahunipara, Bonai and LAO, TBRLP

despite admitting the lapse. At the same time, the LAO, Keonjhar, rectified the market value, after this was pointed out in Audit.

- In the other 41 LA cases, pertaining to the Sundargarh (39 cases) and Koraput (two cases) districts, sales data of the adjoining villages had not been obtained in acquisition of 504.27 acres of land³². In the absence of such data, Audit could not vouchsafe correctness of the amount of compensation determined by the respective LAOs.

Collector, Koraput, stated that the Audit observation had been noted, for future guidance.

4.1.2 Fixation of market value less than the BMV

In the acquisition of 16.72 acres of land, for the Super Thermal Power Project of NTPC Limited, the LAO, Sundargarh, fixed the market value at the average sales value per acre, which was less than the BMV, as detailed in **Table 4.2**.

Table 4.2: Category-wise land value

Category of land ³³	Average sales value	BMV	Under-assessment
	<i>(Figures are ₹ in lakh per acre)</i>		
Mal Sadharana	16.73	32.00	15.27
Goda II	16.25	32.00	15.75
Gharabari	25.50	30.25	4.75

(Source: Records of the Offices of the LAO, Sundargarh)

As can be seen from **Table 4.2**, the LAO had fixed market value less than the corresponding BMV, contrary to the provisions of Section 26 of the RFCTLARR Act, 2013. As a result, the land owners had been paid short compensation, amounting to ₹ 5.27 crore. Reply of LAO, Sundargarh had not been received (as of February 2024).

Recommendation 4.1: Valuation of the land notified for acquisition, should be made with due regard to the average sales price in the adjoining villages and the governing Benchmark Value, as provided in Section 26 of the RFCTLARR Act, 2013.

4.1.3 Fixation of market value of land, without obtaining consent of the land owners on the amount of compensation

Section 26 (3) (a) of the RFCTLARR Act, 2013, provides, *inter alia*, that, where the market value of the land cannot be determined for the reason that the transactions in land are restricted by or under any other law, for the time being in force in that area, the State Government shall specify the floor price or minimum price per unit area of the said land. In case of acquisition of land for private companies, the Act also provides that the market value of land shall be the consented amount, as agreed upon. Audit noticed the following in this regard:

³² Sundargarh: 39 LA cases for 489.96 acres and Koraput: 2 LA cases for 14.31 acres

³³ Mal Sadharan and Goda II category land represent agricultural land, while as Gharabari land represents house-sites and its adjoining land

4.1.3.1 Under-valuation of land acquired for M/s Vedanta Limited

The Odisha Industrial Infrastructure Development Corporation (IDCO) applied (January 2013) for acquisition of 117.98 acres of private land, in three villages³⁴, under the Lanjigarh Tahasil of Kalahandi District, for establishment of industries by a private company, namely, Vendanta Limited (Vedanta). The land identified for the purpose comprised 7.92 acres of homestead land and 110.06 acres of non-homestead land³⁵. The preliminary notification, in this regard, was issued in December 2013.

For determination of the market value, the LAO could collect sales statistics of 3 out of 14 adjacent villages only, as there had not been any sale transactions in other villages. Accordingly, the market value of homestead land was fixed at ₹ 32.69 lakh per acre and that of non-homestead land at ₹ 2 lakh per acre, based on the average sales value being higher than the BMV. The compensation awards, amounting to ₹ 9.86 crore, for 110.06 acres of land, were issued during November 2016 to March 2017. Possession of land in two villages (Bandhaguda and Rengopali) was handed over (March 2018) to IDCO, while payment of compensation in respect of Kothaduar village, was under progress (as of November 2022).

Audit observed that:

- The District Collector, Kalahandi, had imposed restrictions on sale of land in 29 villages (including the three villages mentioned above), under the Lanjigarh Tahasil, in July 2002³⁶ and March 2004³⁷, which was in force (as of November 2022). The reason for imposing such restriction was that, in the event of further expansion of the industrial facility by M/s Vedanta, land in these villages would be utilised for the purpose. Due to this restriction, there had been only 11 sales transactions in these three villages. In view of the negligible number of sale transactions, the valuation, made on the basis of the sales data, was not truly representative of the market value of land.
- In this context, a comment had been made vide Paragraph 2.1.3.9 of the Report of the Comptroller & Auditor General of India (Civil) for the year ended March 2011 on Government of Odisha, that such restriction, devoid of any legal basis and, in absence of any registered sale and purchase of land, would keep the benchmarked price of land, in the area, at an artificial level, and would also facilitate further acquisitions of land, for promoters of industry, at rates below their economic value. Since prohibition was in place, on sale of land, determination of the market value of land, on the basis of only a few transactions, would not indicate the fair price. Therefore, assessment of market value, by the LAO, on the basis of these limited transactions, was not fair.

³⁴ (i) Village Kothaduar: LA case No. 03/2013, area: 4.97 acres; (ii) Village Rengopali: LA case No. 04/2013, area: 107.35 acres and (iii) Village Bandhaguda: LA case No. 05/2013, area: 5.66 acres

³⁵ Homestead land: House sites; non-homestead land: Agricultural and other land except homestead land

³⁶ 12 villages, including Kothaduar and Bandhaguda

³⁷ 18 villages, including Kothaduar and Rengapoli (village Kothaduar, which was repeated in both the orders)

- The Collector, Kalahandi, had sanctioned (November 2012) lease of 2.15 acres of *Rasta kisam*³⁸ Government land, in village Kothaduar (*i.e.*, one of the three villages³⁹), in favour of IDCO, for establishment of industries by Vedanta, at ₹ 15.40 lakh per acre. As against this, after 16 to 21 months⁴⁰, the market value of non-homestead land was arrived at as being ₹ 2 lakh per acre. Thus, in view of non-availability of sale transactions in the three villages and very few transactions in nearby villages, the market value, of *Rasta kisam* Government land, could have been adopted for determination of non-homestead land, in these three villages.
- The LAO also had not obtained consent from the affected land owners, in regard to the agreed amount of compensation, to be paid, as required under the RFCTLARR Act, 2013. Despite imposition of restriction on sale of land, the floor price of the land had also not been fixed by the Government.

Thus, the LAO had neither assessed the market value in a fair manner, nor exercised due diligence, to arrive at the highest of the three criteria, as provided under Section 26 of the aforesaid Act, for determining the amount of compensation to be awarded. Considering the cost of Government land, determined in November 2012, the compensation amount, for 110.06 acres of non-homestead land, worked out to be at least ₹ 73.62 crore, against which the land owners had been awarded compensation, amounting to ₹ 9.86 crore only. As a result, the land owners had been deprived of the compensation amount, amounting to ₹ 63.76 crore.

In reply, the LAO, Kalahandi, stated (December 2022) that no sale transactions were available for the years from 2011 to 2013, due to which the sale statistics of neighbouring villages, covering the periods from 2011 to 2013, had been taken into consideration, for determination of the market value. Moreover, no objection had been received from any of the land owners, from the villages of Bandhaguda, Kothduar and Rengopali, in regard to less payment of compensation.

The reply is not convincing, as the amount consented to by the land owners had not been obtained by the LAO for determination of the market value of land, nor had the floor price been fixed. Despite these deficiencies, the rate at which the Government had valued its own land, for lease in favour of Vedanta, in one of the acquisitioned villages, had also not been adopted as the basis for determining the market value. Moreover, non-receipt of objection against valuation of land from the land owners should not be treated as an indicator of fairness in valuation of land, as ignorance of the land owners might be one of the reasons for not raising any objection.

³⁸ *Rasta Kisam* land are common use land which are not leasable. The same was converted (March 2012) to leasable land *i.e. Patita Kisam*

³⁹ Kothaduar, Rengopali and Bandhaguda

⁴⁰ Notifications for acquisition of land had been issued in December 2013 and May 2014. Valuation of Government land was done in August 2012

4.1.3.2 Acquisition of land for Dalmia Cement (Bharat) Limited and M/s ESSAR Steel Limited

The Collector, Sundargarh, acquired (April 2021 to January 2022) 277.412 acres of land, in five LA cases, for two private companies (Dalmia Cement (Bharat) Limited, formerly known as M/s OCL India Limited, and M/s ESSAR Steel Limited). The LAO, Sundargarh, fixed (January and October 2021) the market value of land at ₹6.05 lakh and ₹13.75 lakh per acre, respectively, on the basis of BMV/ sale data of village proper. However, the LAO did not obtain the consent of the land owner on the amount, though for acquisition of land for private companies, the consent of the land owner was to be obtained, as provided in the Act.

The same LAO, Sundargarh, however, fixed (December 2020) the market value of land at ₹32.35 lakh and ₹11.53 lakh per acre, on the basis of consent of the land owner, against BMV and average sale price of ₹18.15 lakh and ₹1 lakh per acre, respectively, for acquisition of 2.79 acres of land, for Gail India Limited (a GoI PSU).

It is evident from the above that the LAO did not fix the market value on the basis of consent of the land owners, for acquisition of land for private companies, though provided in the Act. However, the LAO fixed the market value, based on the consent of the land owners, for acquisition of land for Government PSU, though this was not provided in the Act. As the consented amount of land was evidently higher than the BMV/ average sales value, the LAO, by not obtaining the consented amount, deprived the concerned land owners of the higher compensation amount, in regard to acquisition for private companies. Response of the Collector, Sundargarh had not been received (February 2024).

Recommendation 4.2: Valuation of the land, notified for acquisition for private entities, should be made based on the consent of the land owners. For Scheduled areas, Government should fix the floor price of the land, for the benefit of the land owners.

4.1.4 Under-assessment of additional market value

After issue of declaration under Section 19 of the RFCTLARR Act, 2013, the Collector issues notices, stating that the Government intends to take possession of the land, and that claims to compensations and rehabilitation and resettlement for all interests in such land, may be made to him/ her. The Collector enquires into the objections, if any, and passes award of compensation under Section 23 of the Act. As per Section 30 (3) of the RFCTLARR Act, 2013, read with RDM Department Clarification (June 2018), in addition to the market value of the land, provided under Section 26, the Collector shall, in every case, award an amount (termed as Additional Market Value), calculated at the rate of twelve *per cent* per annum, on such market value, for the period commencing from the date of issue of the preliminary notification under Section 11, to the date of award, or the date of taking possession of the land, whichever is earlier.

Audit noticed that, in 120 test-checked LA cases, involving acquisition of 1,061.109 acres of land, the calculation of Additional Market Value (AMV) was not in consonance with the provisions of the RFCTLARR Act/ instructions of the RDM Department. During preparation of estimate, the LAOs/ SLAOs had calculated the AMV, for periods ranging from 365 to 965 days, which had also been approved by the land requisitioning authorities⁴¹. During passing of award, the period for which AMV to be paid were to be revised considering the actual date of award. The period were, however, not revised, even though the awards under Section 23, were eventually passed with time gaps of 388 to 1,314 days, from the dates of issue of the preliminary notifications, under Section 11. Due to non-revision of the AMVs, an amount of ₹944.42 lakh, was awarded against ₹1,347.31 lakh due, as detailed in **Table 4.3**:

Table 4.3: Details of less award of additional market value

(₹ in lakh)

Name of the Unit	No. of LA cases	Area (in acres)	Period for which AMV was due (in days)	Period for which AMV paid (in days)	Amount of AMV due	Amount of AMV awarded	Less amount awarded
SLAO, DBRLP, Keonjhar	16	11.05	1,187-1,195	365	138.01	42.41	95.60
SLAO, KIP, Keonjhar	25	546.113	444-1314	365-965	574.40	501.59	72.81
SLA&RRO, TMIP, Koraput	29	33.25	388-942	365	3.93	2.75	1.17
LAO, Mayurbhanj	7	2.769	488-817	365	12.98	10.81	2.17
SLAO, SIP, Mayurbhanj	3	126.66	794-1,312	730	360.67	203.46	157.21
LAO, Sundargarh	11	93.627	411-593	365	107.07	79.09	27.98
SLAO, TBRLP, Sundargarh	29	247.64	890-1,134	730	150.25	104.31	45.95
Total	120	1,061.109			1,347.31	944.42	402.89

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

In reply, the SLAOs of TMIP, TBRLP, DBRLP and KIP, assured that revised estimates would be prepared, considering the date of award. The SLAO, SIP, stated that the AMV had been calculated for two years, as per the instructions of the RDM Department and the same had also been approved by the land requisitioning authorities. Response of LAO, Sundargarh, had not been received(as of February 2024).

The reply furnished by the SLAO, SIP, was not acceptable, as it was in contravention of the provisions of Section 30 of the RFCTLARR Act.

Recommendation 4.3: Additional market value may be calculated, considering the dates of issue of preliminary notifications and dates of awards, as provided in Section 30 of the RFCTLARR Act, 2013.

⁴¹ The authority which files requisition for acquisition of land

4.1.5 Under-valuation of landed property of an SC land owner in a Scheduled area

In case of direct purchase of private land, market value is to be fixed, as per the provisions of Sections 26 to 30 of the RFCTLARR Act. As per Section 22 of the Orissa Land Reforms Act, permission of sale of land, belonging to SC, is required to be granted by the Sub-Collector concerned.

Audit noticed, in Sundargarh district, that the Collector, Sundargarh, had approved (October 2018) an estimate of ₹6.04 lakh⁴², for acquisition of 0.09 acre of land, through the direct purchase mode⁴³, from a land owner belonging to the SC community. The land value had been assessed as per the BMV of the year 2013. The said land was required by the Executive Engineer (EE), Rural Works (RW) Division, Rourkela, for construction of road and bridge. The EE, before seeking permission from the Sub-collector for purchase of land, started construction of a portion of bridge and road, on the said land. The land owner filed (December 2019) a petition before the Sub-Collector, Panposh, seeking restraining the EE from any construction over his land, until fair compensation was paid. The land owner had also requested (September 2020) enhancement of the compensation, as per the then applicable BMV. The Sub-Collector ordered (November 2020) that valuation of the land be made as per the BMV, 2019, which was ₹ 55 lakh per acre (prevailing during the period 2019-21). Accordingly, the value of 0.09 acre land worked out to be ₹ 10.49 lakh. The Sub-Collector, Panposh, granted (June 2021) permission to the EE, to purchase the land at the approved rate. The EE, however, purchased (July 2021) the said land at ₹6.04 lakh, *i.e.*, the pre-revised rate. Thus, the land owner received compensation that was short by an amount of ₹ 4.45 lakh, as compared to the amount that was actually due to him.

Audit observed that, despite the order of the Sub-Collector, to revise the value of the land as per the BMV, 2019, the EE paid ₹ 6.04 lakh to the land owner, as per the old BMV rate. The sale deed registering authority also allowed the registration, despite payment of sales consideration at a lower rate. As a result, the SC land owner was deprived of fair land value, amounting to ₹ 4.45 lakh.

Recommendation 4.4: In case of direct purchase of private land through bilateral negotiation, the market value of land may be fixed, as per Sections 26 to 30 of the RFCTLARR Act, 2013

4.2 Payment of compensation

The RFCTLARR Act, 2013 and the Odisha RFCTLARR Rules, 2016, envisaged that the land records, of the land parcels intended to be acquired, be updated before issue of preliminary notification. The compensation amount was to be paid within a period 15 days of passing of awards, or the amount would

⁴² Land value: ₹2,70,000 at BMV of ₹30,00,000 per acre, additional market value: ₹32,400 and solatium: ₹3,04,000)

⁴³ Direct purchase of private land means purchase through bilateral negotiations, as provided under Section 46 of the RFCTLARR Act, 2013, read with RDM Department's instructions of January 2016. In case of direct purchase of private land, the market value is determined, as per Sections 26 to 30 of the RFCTLARR Act, 2013

be deposited with the designated authority⁴⁴, for eventual payment to the entitled land owners. Audit noticed deficiencies in the updation of land records, as well as in the payment of compensation, as discussed in the succeeding paragraphs.

4.2.1 Non-disbursement of compensation, due to non-updation of land records

As per Rule 4(2) of the Odisha RFCTLARR Rules, 2016, on receipt of application for acquisition of private land, the District Collector is to send the land particulars of the proposed project area, to the Tahasildar concerned, for updating the Record of Rights (RoRs), within a period of three months. Further, as per Section 11(5) of the RFCTLARR Act, 2013, after issue of preliminary notification under Section 11 and before issue of a declaration under Section 19, the Collector is required to undertake and complete the exercise of updating the land records.

As per Rule 28 (3) of the Odisha RFCTLARR Rules, 2016, payment of compensation is to be made within a period of 15 days of passing of the award, by organising disbursement camps and through account payee cheques, or by way of electronic transfer of funds, to the bank accounts of the awardees, whichever is preferable. As per Section 77 of the RFCTLARR Act, 2013, if the person, entitled to compensation, does not consent to receive it, or if there is no person competent to alienate the land, or if there is any dispute as to the title for receiving the compensation or as to its apportionment, the Collector is to deposit the amount of the compensation with the Authority, to which a reference under Section 64, is to be submitted.

Audit noticed that, in 288 LA cases, involving acquisition of 5,057.832 acres of land, by 13 LAOs/ SLAOs⁴⁵, in six sampled districts, preliminary notifications under Section 11 of the RFCTLARR Act, 2013, had been issued during February 2016 to July 2022. Subsequently, declarations under Section 19, for acquisition of 3,074.075 acres of land, had been issued in 203 LA cases, during November 2016 to December 2022. Thus, the records of land, involved in these 203 LA cases, were supposed to have been updated. Audit, however, observed that, in 182 cases (90 per cent), involving 3,057.57 acres of land, land records had not been updated, as detailed in **Table 4.4**:

Table 4.4: LA cases, on which declarations under Section 19 were made, without updation of RoRs

District	Name of the LAO/ SLAO	LA cases, where declarations were made		LA cases, where RoRs had not been updated	
		No.	Area (in acres)	No.	Area (in acres)
Kalahandi	SLA&RO, RIP	5	7.66	5	7.66

⁴⁴ Land Acquisition, Rehabilitation and Resettlement Authority, established under Section 51 of the RFCTLARR Act, 2013, for the purpose of providing speedy disposal of disputes, relating to land acquisition, compensation, rehabilitation and resettlement

⁴⁵ LAO, Koraput; LAO-cum-Tahasildar, Laxmipur; SLA&RRO, TMIP, Koraput; SLAO, Jeypore-Nabarangpur and Jeypore-Malkanagiri Rail Link Project, Koraput; LAO, Sundargarh; SLAO, TBRLP, Sundargarh; LAO Mayurbhanj; SLAO, SIP, Mayurbhanj; SLA&RO, RIP, Kalahandi; LAO, Nabarangpur; LAO, Keonjhar; SLAO, KIP, Keonjhar; and SLAO, DBRLP, Keonjhar

District	Name of the LAO/ SLAO	LA cases, where declarations were made		LA cases, where RoRs had not been updated	
		No.	Area (in acres)	No.	Area (in acres)
Keonjhar	SLAO, KIP	25	546.113	25	546.113
	LAO, Keonjhar	4	4.715	0	0
	SLAO, DBRLP	16	11.05	0	0
Koraput	LAO, Koraput	2	14.31	2	14.31
	LAO cum Tahasildar, Laxmipur	1	0.547	1	0.547
	SLA&RRO, TMIP	39	195.69	39	195.69
Mayurbhanj	LAO, Mayurbhanj	10	8.23	10	8.23
	SLAO, SIP	27	1,519.12	27	1,519.12
Nabarangpur	LAO Nabarangpur	1	0.74	0	0
Sundargarh	LAO, Sundargarh	44	518.26	44	518.26
	SLAO, TBRLP	29	247.64	29	247.64
Total		203	3,074.075	182	3,057.57

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

Audit noticed, in 179 out of the aforesaid 182 test-checked cases, that compensation of ₹370.49 crore, had been awarded (January 2017 to November 2022), by eight LAOs/ SLAOs. Out of this, an amount of ₹120.94 crore could not be disbursed, as of December 2022, due to non-updation of land records, as summarised in **Table 4.5**:

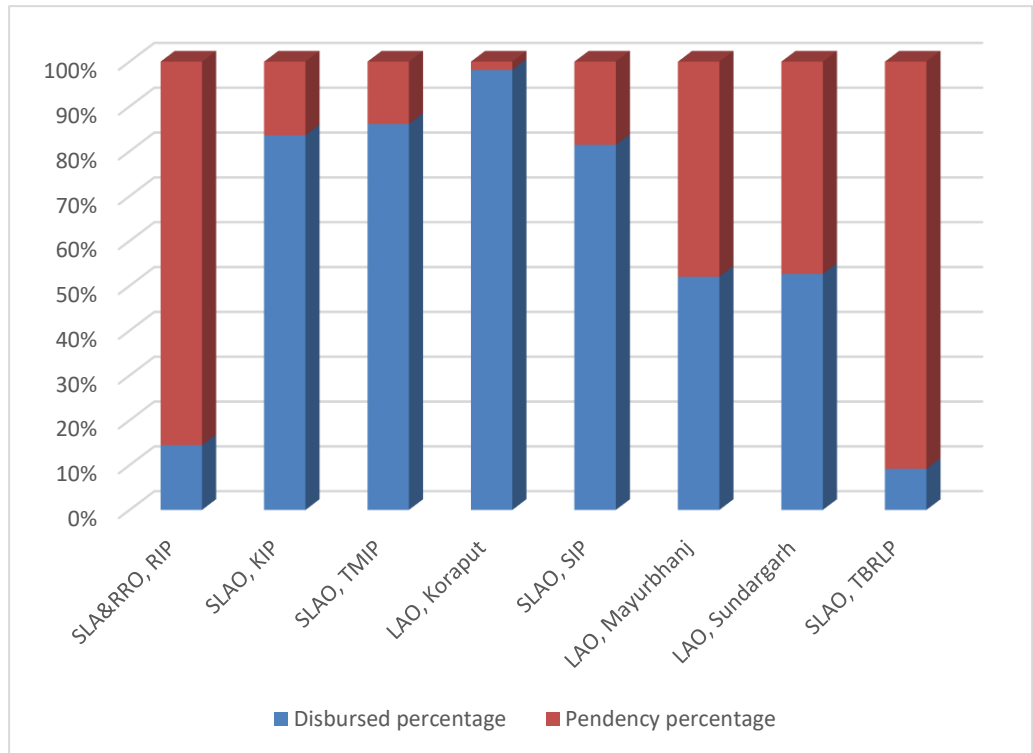
Table 4.5: Details of non-disbursement of compensation

District	Name of LAO/SLAO	No. of LA cases	Area acquired	Status of compensation disbursed (₹ in lakh)		
				Awarded	Disbursed	Balance
Kalahandi	SLA&RRO, RIP	5	7.66	27.72	4.01	23.71
Keonjhar	SLAO, KIP	25	546.113	8,514.75	7,117.03	1,397.72
Koraput	SLAO, TMIP	39	195.69	655.80	564.70	91.10
	LAO, Koraput	2	14.31	447.47	439.25	8.22
Mayurbhanj	SLAO, SIP	27	1,519.12	12,037.97	9,804.57	2,233.40
	LAO, Mayurbhanj	10	8.23	1,322.27	688.01	634.26
Sundargarh	LAO, Sundargarh	42	516.82	11,613.12	6,113.93	5,499.19
	SLAO, TBRLP	29	247.64	2,429.66	222.96	2,206.70
Total		179	3,055.583	37,048.76	24,954.46	12,094.30

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

The LAO/ SLAO-wise percentage, of disbursed and undisbursed compensation amounts, are depicted in **Chart 4.2**:

Chart 4.2: LAO/SLAO- wise percentage of compensation disbursed and undisbursed



Audit observed that:

- In 15 LA cases⁴⁶, no compensation had been paid (as of December 2022), even though compensation awards of ₹ 11.48 crore, had been passed during August 2020 to November 2022.
- In 39 LA cases, the percentage of payment was below 50, whereas, in another 34 cases, the percentage of payment ranged between 50 and 80.
- Even though the compensation remained unpaid beyond the prescribed period, the same had not been referred to the LARR authority. Besides, such delayed payment led to consequential delay in taking over of possession of acquired land, as well as commencement of projects.

This has been discussed in detail in **Paragraph 4.2.2**.

⁴⁶ LAO, Sundargarh: 1; SLAO, TBRLP, Sundargarh: 9; SLAO, TMIP: 1; LAO, Mayurbhanj: 3 and SLARRO, RIP: 1

Case study: 4.1

In case of acquisition of land in village Kaloshiria, under the Kuarmunda Tahasil of Sundargarh District, for establishment of a gas pipeline project by GAIL India Limited, the LAO, Sundargarh, passed (March 2021) an award of compensation of ₹120 lakh, for acquisition of 0.90 acres of land⁴⁷. The recorded tenant had passed away. The LAO passed (9 March 2021) the compensation award in favour of 11 persons, who were the legal heirs. Four of the legal heirs, submitted an affidavit, stating that the remaining seven legal heirs had authorised them to receive the compensation amount on their behalf. Accordingly, the LAO paid the entire compensation amount to the four persons. Subsequently, two objection petitions were received from the three legal heirs, regarding non-receipt of compensation. The matter was enquired into by the Sub-Collector, Panposh, who reported (July 2021) that one co-sharer had misled the other legal heirs and obtained their signatures/ thumb impressions on the affidavit, without revealing the exact facts, either regarding the acquisition of land or apportionment of the amount. The Additional District Magistrate, Sundargarh, lodged an FIR (November 2021) against the legal heirs, who had appropriated the compensation amount.

Had the RoRs been corrected, prior to passing of the award of compensation, the genuine land owners could have received their share, without such complications.

- Apart from the above, in 20 LA cases, pertaining to the Keonjhar district⁴⁸, involving acquisition of 15.765 acres, despite updation of land records and award of compensation of ₹ 8.47 crore, during July 2021 to April 2022, an amount of ₹ 1.06 crore had not been disbursed, as of December 2022.

In reply, the SLA&RRO, TMIP, stated that the Tahasildar had not updated the RoRs, though requested. The SLAO, SIP, Baripada, stated that payment of compensation would be made after updation of RoRs. No response was furnished by LAOs, Sundargarh and Mayurbhanj, while other LAOs/ SLAOs noted the audit observation, for future guidance. The SLA&RO of RIP, assured that the final notice for disbursement of compensation, would be issued. The SLAO, KIP and DBRL, did not furnish any specific reply.

Recommendation 4.5: Records of Rights of land parcels, notified for acquisition, should be updated, as per the schedule prescribed in the RFCTLARR Act, 2013.

⁴⁷ Recorded tenant: Dulu Oram, S/o Chaian Oram; Khata No.129/141, Plot No. 586, area to be acquired: 0.90 acres, out of 1.52 acres

⁴⁸ SLAO, DBRLP: 16 cases and LAO, Keonjhar: 4 cases

4.2.2 Taking possession of land, before payment of compensation

As per Section 38(1) of the RFCTLARR Act, 2013, read with RDM Department instructions (March 2016), the Collector can take possession of land, only after ensuring full payment of compensation.

Audit noticed that possession of 2,542.131 acres of land had been taken over, in 158 out of 203 test-checked LA cases, where compensation awards had been passed during FYs 2017-18 to 2021-22. Audit found that, in 114 out of 158 LA cases, full possession, of 2,449.594 acres of land, had been taken, by paying only 83 per cent of the total compensation amount⁴⁹, as detailed in **Table 4.6**:

Table 4.6: Taking over possession of acquired land, before ensuring full payment of compensation

District	Name of LAO/ SLAO	LA cases, where possession was handed over		LA cases, where possession was taken over without ensuring full payment of compensation	
		No.	Area (in acres)	No.	Area (in acres)
Kalahandi	LAO, Kalahandi	2	113.01	2	113.01
	SLA&RO, RIP	4	7.02	3	3.54
Keonjhar	LAO, Keonjhar	2	1.66	1	0.80
	SLAO, DBRL	16	11.05	14	9.42
	SLAO, KIP	25	546.113	24	514.463
Koraput	LAO, Koraput	2	14.31	1	0.26
	SLA&RRO, TMIP	37	195.10	21	185.29
Mayurbhanj	LAO, Mayurbhanj	6	6.203	3	5.036
	SLAO, SIP	23	1,397.53	21	1,389.19
Nabarangpur	LAO, Nabarangpur	1	0.74	0	0
Sundargarh	LAO, Sundargarh	39	247.345	23	226.535
	SLAO, Sundargarh	1	2.05	1	2.05
Total		158	2,542.131	114	2,449.594

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

Thus, taking over possession of land, without ensuring full payment of compensation amount, contravened the instructions of the RDM Department, as well as the RFCTLARR Act, 2013.

The SLA&RRO, TMIP, accepted the fact and assured that the matter of payment of the balance compensation amount, would be taken up with the competent authority. The SLAO, SIP, stated that possession had been taken over, considering the interest of the project. The SLAO, KIP, assured that, in future, possession would be taken over after ensuring full payment of compensation. The SLAO, DBRLP, stated that possession had been taken over, due to government pressure for construction of doubling railway link project.

⁴⁹ Compensation amounting to ₹250.69 crore (83 per cent) was paid against the total compensation amount of ₹301.83 crore

The replies are not acceptable, since the interests of the land owners had been overlooked by taking possession of land, before ensuring full payment of the compensation.

4.2.3 Non-payment of compensation towards structures, wells, ponds and trees

The Collector, Sundargarh, passed (August 2013) a compensation award, amounting to ₹713.29 crore, for acquisition of 2,731.431 acres of land, for establishment of a 4,000 MW Ultra Mega Power Project, at Sundargarh. The acquired land was handed over to the land requisitioning authority, viz. IDCO, during November 2014 to February 2015. The amount included ₹620.87 crore towards land, ₹85.70 crore towards structures, wells, ponds, etc. and ₹6.72 crore towards trees.

Audit noticed that the Rehabilitation and Periphery Development Advisory Committee⁵⁰ (RPDAC), in its meeting (18 October 2014), decided that compensation towards the value of trees (₹ 6.72 crore) and structures (₹ 85.70 crore), not be disbursed, until finalisation of the R&R site. Thereafter, neither was any RPDAC meeting held, nor was the R&R site, finalized. As a result, compensation amounting to ₹ 92.42 crore, remained undisbursed, despite lapse of more than nine years, from the date of award (as of December 2022).

In reply, the Sub-Collector, Sundargarh, while admitting the fact, assured that steps would be taken for early disbursement of the pending compensation amount.

4.2.4 Irregular deduction of income tax at source (TDS) from the compensation amount

As per Section 96 of the RFCTLARR Act, 2013, no income tax or stamp duty shall be levied on any award or agreement made under this Act, except under Section 46, i.e., Direct Purchase of land. The Central Board of Direct Taxes also clarified (25 October 2016) that compensation received in regard to award or agreement, which has been exempted from levy of income tax, vide Section 96 of the RFCTLARR Act, 2013, shall also not be taxable. Audit noticed, in this regard, that:

- The LAO, Sundargarh, had deducted TDS, amounting to ₹5.86 crore, from 264 awardees, at the rate of 10 *per cent* of the compensation amount awarded for structures, during FYs 2018-19 to 2021-22, irregularly. The TDS amount had, however, been deposited with the concerned IT authority.
- During FY 2022-23, the same LAO again deducted TDS of ₹21.90 lakh, irregularly, from 17 awardees, towards the compensation for structures. This amount was, however, not deposited with the concerned IT authority. Out of the deducted amount, the LAO had refunded ₹12.74 lakh to six awardees, while the balance amount of ₹9.16 lakh, was lying with the LAO (December 2022), which was irregular.

Thus, the LAO, Sundargarh, had been irregularly deducting TDS, violating the provisions of the RFCTLARR Act.

⁵⁰ Constituted as per the Odisha R&R Policy, 2006, to oversee the R&R measures initiated

In reply, the LAO stated that TDS had been deducted inadvertently from the structure owners, having PAN and the amount had been deposited under the IT head. The concerned persons were filing IT returns and getting back their deducted compensation, accordingly. The reply was not convincing, since deduction of TDS, from the compensation awarded towards acquisition of land, was irregular. Further, there was no documentary evidence, available with the LAO, in support of the fact that the land owners had got back the TDS amount.

4.2.5 Acquisition of private land, without initiating LA proceedings and without payment of compensation

Article 300A of the Constitution of India envisages that no citizen shall be deprived of his property, except under authority of law. The RFCTLARR Act, 2013, empowers the State Government to acquire private land, after following due procedure. Section 38 of the Act, *inter alia*, authorises the Collector to take possession of the acquired land, after ensuring full payment of compensation and R&R entitlements, to the entitled persons.

Audit noticed that the process of acquisition of 57.453 acres of land, situated in Scheduled areas, as detailed in **Table 4.7**, was at an initial stage with the LAOs, Sundargarh and Koraput. However, the land had already been occupied by the Government, even before initiation or conclusion of LA proceedings.

Table 4.7: Occupation of private lands, before acquisition of land and payment of compensation

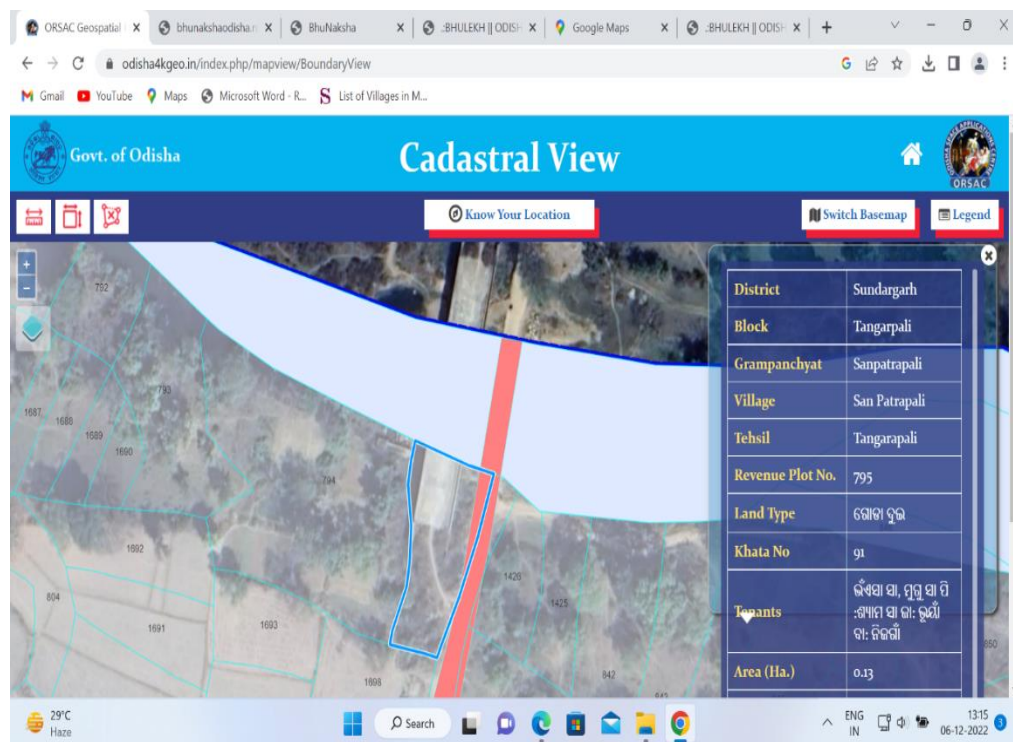
Sl. No.	Purpose of requirement of land	Name of Village/ area under acquisition (in acres)	Remarks
A. LAO, Sundargarh			
1	Construction of Head Works of Ghoghar Medium Irrigation Project (MIP)	Itma/ 3.82	LA case initiated. Issue of SIA notification under process. No compensation paid. Irrigation project already constructed, as seen from Google maps.
2	Construction of Ghoghar MIP	Itma/ 3.10	SIA notification issued in October 2018 and declaration made in February 2020. Payment of compensation not yet made. Irrigation project already constructed, as seen from Google maps.
3	Construction of Gadiajore MIP	Gadiajore/ 21.78	SIA notification issued in January 2020. No further progress in LA proceedings. Irrigation project already constructed, as seen from Google maps.
		Amasdegi/ 7.86	
4	Construction of Reservoir of head works of Mashinanalla MIP	Tatijore/7.75	SIA notification issued in June 2020. No further progress in LA proceedings. As per the SIA report, the MIP had been constructed since 1994 and the plots under acquisition had been submerged in the reservoir.
		Birkaldihi/ 3.68	
5	Construction of HL Bridge over	Sanapatrapa li: 0.48 acre	SIA notification issued in February 2022. As seen from the cadastral view, the HL

Sl. No.	Purpose of requirement of land	Name of Village/ area under acquisition (in acres)	Remarks
	Saraswati Nalla (Bandhapali Kingirkela Road)	and Khuntgaon: 0.35 acre	bridge over Saraswati Nalla had already been constructed over a portion of the land that was intended for acquisition in village Sanapatrapali.
6	Construction of HL Bridge over IB (Subdega Rajpur Road)	Kukuridihi: 1.918 acre and Gailo: 1.455 acre	SIA study under process. As seen from the cadastral view, HL bridge over the river Ib had been constructed over a portion of a land that was intended for acquisition at village Kukuridihi.
B. LAO, Koraput			
7	Development of Jeypore Airstrip	Souraguda/ 5.26	SIA notification issued in November 2019, for 3.32 acres and, in June 2022, for 1.94 acres. Preliminary notification under Section 11 issued in August 2022, for 3.32 acres. The notified land had already been occupied and construction was under progress.
Total		57.453	

(Source: Records of the Offices of the test-checked LAOs/ SLAOs and cadastral view of plots)

A cadastral view of Plot No. 795 of village Sanapatrapali (at Sl. No. 5 in the table), showing construction of a bridge, over a portion of the plot, is given in Image 4.1.

Image 4.1: Cadastral view of Plot No. 795 of village Sanapatrapali



Case study: 4.2

Private land, measuring 4.59 acres, at village Bhogabati, under the Betaonati Tahasil of the Mayurbhanj District, was occupied by the Panchayati Raj and Drinking Water Department, for construction of a Gram Panchayat Office, prior to 1960. No compensation had been paid to the land owners, despite repeated requests. The aggrieved land owners filed an appeal before the Hon'ble Orissa High Court (in September 2011). The High Court directed (November 2015) completion of LA proceedings within six months, from the date of issue of the direction. The Collector, Mayurbhanj, passed (March 2018) compensation awards of ₹6.44 crore, of which ₹6.35 crore had been disbursed, as of September 2022.

Thus, while the RFCTLARR Act, 2013, provides special safeguards for persons residing in Scheduled areas, by stipulating that land acquisition in these areas should be the last resort and, in no case, should acquisition be made without the consent of the GS, the implementing authorities⁵¹ in the RDM Department of the Government of Odisha, by violation of the Act, had acquired land, even without waiting for conclusion of the LA proceedings. Even in cases, where the Government is aware that the private land has been acquired, without following due procedure, as prescribed in the Act and without paying compensation to the land owners, the Government is not taking initiatives to compensate the land owners. As such, the land owners were compelled to resort to the court of law.

The LAO *cum*-Sub-Collector, Jeypore, admitting the audit observation, stated that, due to urgent requirement for construction of approach road and extension of airstrip, the concerned land parcels had been acquired before conclusion of the LA proceedings. Response of the Collectors, Sundargarh and Mayurbhanj, had not been received (as of February 2024).

Recommendation 4.6: No land should be acquired without following the procedure provided under the RFCTLARR Act, 2013, and physical possession of land should be taken only after ensuring payment of full compensation.

⁵¹ The Collectors and LAOs/ SLAOs

**Rehabilitation
And
Resettlement**

CHAPTER 5

Rehabilitation and Resettlement

The RFCTLARR Act, 2013, envisages Rehabilitation and Resettlement (R&R) benefits for both affected and displaced families, in order to improve their social and economic conditions, post-acquisition of land. The R&R Policy of the State Government also had certain provisions in this regard. Audit reviewed the R&R benefits granted in the sampled districts and the significant audit findings, in this regard, are as follows:

- *Although, as per the provisions of the RFCTLARR Act, 2013, the affected families, were entitled to R&R benefits, the same were being denied to them. Only displaced families were being given the R&R benefits.*
- *As many as 2,208 affected/ displaced families had not been disbursed R&R entitlements of ₹ 176.51 crore, even after their displacement or acquisition of their lands.*
- *In four projects, 2,390 families, displaced due to land acquisition, had not been given the R&R benefits, even after lapse of 5 to 60 years.*
- *In three projects, 1,915 families eligible for R&R benefits had been paid R&R benefits at rates that were lower than their entitlement, by an amount of ₹ 10.28 crore.*
- *In R&R colonies, basic amenities, like all-weather roads, piped drinking water, drainage, individual toilets, Anganwadi centres and public lighting systems, were lacking.*

Section 3 of the RFCTLARR Act, 2013, defines ‘affected family’ as a family whose land or other immovable property, has been acquired. It also includes families, other than the owner of the land acquired, whose livelihood is primarily dependent on the land acquired. The Act defines ‘displaced family’ as any family, which, on account of acquisition of land, has to be relocated and resettled, from the affected area, to the resettlement area.

5.1 Provisions for R&R

5.1.1 Provisions in the RFCTLARR Act, 2013

Section 19 (2) of the RFCTLARR Act, 2013, provides that the Collector shall publish a summary of the R&R Scheme, indicating the names of the affected and displaced families, arising due to land acquisition. Section 31 of the RFCTLARR Act, 2013, provides for passing of the R&R award by the Collector, for each affected family, as provided in the Second Schedule of the Act. The Second Schedule of the Act provides for different elements of R&R entitlements, like provision for housing units, land, annuity or employment,

subsistence grant, *etc.*⁵². As per Section 108 of the RFCTLARR Act, 2013, where a State law, or a policy framed by the Government of a State, provides for a higher compensation or offers more R&R benefits than calculated under the Act, the affected family may exercise an option to avail such higher R&R benefits.

5.1.2 Provisions in Odisha R&R Policy

The Odisha R&R Policy (ORRP), 2006, provides for R&R benefits for 'displaced' families of all types of projects. Unlike the RFCTLARR Act, 2013, the 'affected' families are not entitled to R&R benefits, under the ORRP, 2006. However, families affected due to acquisition of land for irrigation projects/national parks and sanctuaries, are entitled to R&R benefits. Clause 13 of the ORRP, 2006, provides for revision of rehabilitation grants, every two years, on the basis of the wholesale price index.

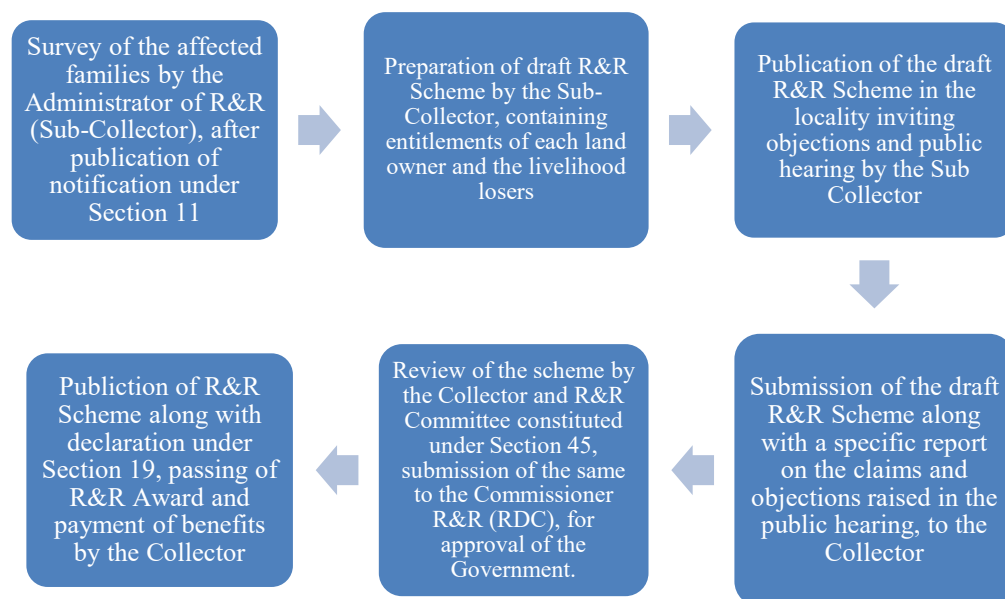
Clause 9 of the ORRP, 2006, lays down that an encroacher family, which is landless⁵³ or homesteadless, as defined in the Orissa Prevention of Land Encroachment Act, 1972, and is in possession of the encroached land, for a period of at least 10 years, continuously, prior to the date of notification of acquisition of the said land, will get *ex gratia*, equal to the compensation amount for similar category of land.

The process of R&R Award, as per the RFCTLARR Act, 2013, is depicted in **Chart 5.1**.

⁵² Provision of housing unit, in case of displacement; land for land to the affected family, in case of irrigation projects; choice of annuity or employment to the affected families; subsistence grant for displaced families, for a period of one year; transportation cost for displaced families; one-time grant to each affected family of an artisan, small trader or certain others; fishing rights to affected families, in case of irrigation/ hydel projects; one time resettlement allowance to each affected family and stamp duty and registration fee, *etc.*

⁵³ 'Landless' means a person, the total extent of whose land, excluding homestead, together with the lands of all the members of his family, who are living with him in common mess, is less than one standard acre and whose total annual income, together with all the members of his family who are living with him in common mess, does not exceed an amount, which the State Government specifies from time to time, in that behalf

Chart 5.1: Process of R&R award



5.2 Grant of R&R benefits

Audit test-checked 315 LA cases, processed in the six sampled districts, during FYs 2017-18 to 2021-22. Of these, in 200 LA cases, compensation towards acquisition of 3,072.088 acres of land, had been awarded by the Collectors, as of November 2022. From the SIA report and information furnished to Audit, it was seen that 14,563 families had been affected, while 786 families had been displaced, due to acquisition of the above mentioned land. District/ Project-wise details of the affected/ displaced families, are given in **Table 5.1**.

Table 5.1: Families affected/ displaced, due acquisition of land

District	Unit	Area acquired (in acres)	No. of families affected	No. of families displaced
Kalahandi	SLAO, RIP	7.660	50	-
Keonjhar	LAO, Keonjhar	4.715	518	-
	SLAO, DBRL	11.050	1,242	-
	PD, R&R KIP	546.113	919	83
Koraput	LAO, Koraput	14.310	23	-
	SLA&RRO, TMIP	195.690	516	117
Mayurbhanj	LAO, Mayurbhanj	8.23	175	-
	PD, R&R, SIP	1519.120	8,310	586
Nabarangpur	LAO, Nabarangpur	0.740	1	-
Sundargarh	LAO, Sundargarh	516.820	1,765	-
	SLAO, TBRLP, Sundargarh	247.640	1,044	-
Total		3,072.088	14,563	786

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

Deficiencies noticed in regard to provision of R&R benefits, are discussed below:

5.2.1 Denial of R&R benefits to affected families

ORRP, 2006, did not envisage benefits for affected families⁵⁴, while the RFCTLARR Act, 2013, provided for benefits, for both affected and displaced families, in regard to all types of projects. The RDM Department specified (March 2017) that benefit of ₹ 25,000 would be payable to each affected family, having cattle or having a petty shop, in consonance with the RFCTLARR Act, 2013. However, it did not notify any amount that would be payable to affected families towards annuity/ employment and resettlement grant, in line with the provisions of the RFCTLARR Act⁵⁵, 2013.

Audit noticed that the Collectors/ RDM Department did not prepare summaries of R&R Schemes, in regard to the affected families, though this was required under Section 19(2) of the RFCTLARR Act, 2013. Due to non-issue of specific instructions, by the RDM Department or revision of the ORRP, 2006, the R&R Schemes, prepared by the Collectors, did not include the affected families.

In Himachal Pradesh, for acquisition of 27.8356 hectares of land, under RFCTLARR Act, 2013, for the Luhri Hydro Electric Project Stage-I, a joint venture of Government of India, the State Government had approved (November 2021) an R&R Scheme for the project affected families, which provided (November 2021) for payment of annuity/ employment at ₹5 lakh per family and resettlement grant of ₹50,000 per family.

Out of 14,563 affected families, 1,148 affected families of SIP, Mayurbhanj, were provided with R&R benefits, under the ORRP, 2006. However, the remaining 13,415 affected families were deprived of R&R benefits of ₹737.82 crore⁵⁶, towards annuity/ employment and resettlement grant.

Thus, the provisions of the RFCTLARR Act, 2013, were not complied with, insofar as grant of R&R benefits, towards annuity/ employment and resettlement grant, were concerned.

In reply, the SLAOs of TMIP, TBRLP, RIP and Collector, Koraput, stated that no instruction had been received for payment of R&R benefits to the affected families. The PD R&R, KIP, assured that clarification in the matter, would be sought from the Government. The LAO Keonjhar, and SLAO, DBRLP, stated that R&R benefits were not provided, as no livelihoods/ habitations, were affected. The replies are not acceptable, since payment of R&R benefits is envisaged in Section 31 of the RFCTLARR Act, 2013.

Replies of LAO, Sundargarh, LAO, Mayurbhanj, LAO, Nabarangpur and PD, R&R, SIP, had not been received (as of February 2024).

5.2.2 Non-disbursement of R&R entitlements to displaced/ affected families

Section 38 of the Act provides that the Collector should take possession of land, after ensuring full payment of compensation, as well as R&R entitlements, to the entitled persons (within a period of three months, for the compensation, and

⁵⁴ Except certain benefits in cases of families affected by acquisition of land for irrigation projects/ National Parks and Sanctuary projects

⁵⁵ As per the RFCTLARR Act, 2013, annuity/ employment: ₹5 lakh per family and one-time resettlement grant: ₹50,000 per family

⁵⁶ For 13,415 affected families, annuity/ employment at the rate of ₹5 lakh per family and resettlement grant at the rate of ₹ 0.50 lakh per family

a period of six months, for the monetary part of the R&R entitlements, commencing from the date of the award, made under Section 30).

Audit noticed that:

- R&R entitlements of ₹176.51 crore, for 2,208 affected/ displaced families, had not been paid, by the PD, R&R, SIP, Mayurbhanj (₹135.97 crore for 1,321 families) and PD R&R, KIP, Keonjhar (₹40.54 crore for 887 families), as of September 2022.
- In case of SIP, Mayurbhanj, the beneficiaries had not vacated their land, due to non-payment of R&R entitlements.
- In case of KIP, Keonjhar, the displaced families had been evacuated, before full payment of R&R benefits.

The PD, R&R, SIP, stated that, due to non-production of valid documents, like proof of age, lack of ordinary residential status, *etc.*, the R&R assistance had remained undisbursed. The reply furnished by PD, R&R, SIP, was not acceptable, since the affected families had been identified after due survey. PD, R&R, KIP assured that necessary steps would be taken, for disbursement of the amount, at an early date.

5.2.3 Non-rehabilitation of displaced families

Audit noticed in three out of the six sampled districts that, 6,401.901 acres of land, as detailed in **Table 5.2**, were acquired during 1963-64 to 2016-17, requiring rehabilitation and resettlement of 2,390 displaced families. However, the displaced families had not been rehabilitated, as of December 2022.

Table 5.2: Rehabilitation of project displaced families

Name of the Project	Year of acquisition	Area acquired (in acres)	No. of displaced families
Ultra Mega Power Project (UMPP), Sundargarh	2014-15	2,731.431	1,958
Aditya Aluminium Refinery plant by Hindalco Industries Limited (HIL), Koraput	2007-08	431.340	122
Hindustan Aeronautics Limited(HAL), Koraput	1963-64	3,121.150	75
Vedanta Aluminium Limited (VAL), Kalahandi	November 2016 to February 2017	117.980	235
Total		6,401.901	2,390

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

Audit noticed that:

- In case of UMPP, Sundargarh, R&R benefits had not been provided, due to non-finalisation of the R&R site. The displaced families were staying in their homes, without any income/ livelihood, as their main source of income, *i.e.* agricultural land, had been taken over for the project, since 2014-15.

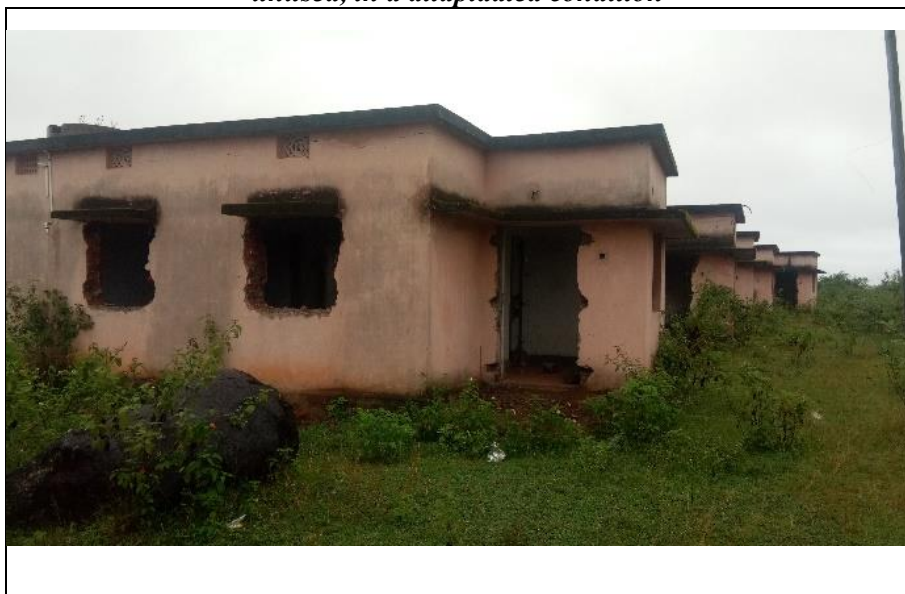
In reply, the Sub Collector-cum-LAO, Sundargarh, assured that the issue of rehabilitation of project affected and displaced families, would be taken up with the higher authorities, for necessary remedial action.

- In case of HIL, the 122 families, after being displaced from their own homes, were residing on Government land. Though 34.72 acres of land had been sanctioned (February 2008), in favour of IDCO, at Biriguda village, for construction of an R&R colony, the same had not been constructed, as of September 2022.

The LAO, Koraput, stated that the IDCO had been instructed for construction of the R&R colony for proper rehabilitation of the displaced families.

- In pursuance of instructions (January 2014) of the RDM Department, for relocation of displaced families at suitable locations, the Collector, Koraput had constructed (August 2015) 82 dwelling houses, in the Mohanpada village, under Koraput Tahasil, at a cost of ₹4.94 crore, with these funds having been provided by HAL. The displaced families, demanding permanent jobs in HAL, did not turn up for relocation at the R&R colony. Physical inspection (September 2022) of the site, by the representative of LAO, in the presence of Audit, revealed that the houses, as shown in photograph below, had been left unused, in a dilapidated condition, covered with bushes. The doors and windows, sanitary fittings and water tanks fixed on the roof of most of the houses had been stolen.

Image 5.1: Dwelling houses, constructed at the Mohanpada village, lying unused, in a dilapidated condition



Audit observed that, prior to the construction of the dwelling houses, the consent of displaced families, to be rehabilitated, had not been obtained. Further, effective steps had not been taken for safeguarding these houses.

Regarding HAL, the LAO stated that the displaced families were refusing to shift to the new colony, demanding permanent jobs in HAL, which was not under the purview of the district administration. The LAO also stated that, due to non-utilisation of dwelling houses, the same were in a dilapidated condition, as pointed out by Audit. The LAO assured that immediate steps would be taken to safeguard the houses.

- In case of VAL, R&R entitlements of ₹21.61 crore, in regard to 209 out of 235 displaced families, of three villages, were approved (November 2022) by the Sub-Collector, Bhawanipatna. The same had, however, not been paid (as of December 2022). Further, out of 219 houses, constructed for displaced families, 127 had been allotted, while the remaining 92 houses were lying vacant.

The LAO, Kalahandi, did not furnish any specific reply, regarding the delay in rehabilitation of the displaced families.

5.2.4 Non-payment of R&R assistance to displaced families, residing on Government land

As per Clause 9 of the ORRP, 2006, an encroacher family is also entitled to R&R assistance. Audit noticed that the Commissioner R&R, Berhampur, had approved (November 2020) rehabilitation assistance of ₹64.40 lakh, for eight homesteadless families, residing on Government land. Accordingly, their names had been included in the declarations made (May 2021) by the RDM Department, under Section 19 of the RFCTLARR Act, 2013, for acquisition of land. Though the said land had been taken over (February 2022) by the land requisitioning authority and the eight families had been displaced, the R&R assistance had not been paid, as of November 2022.

In reply, the SLA&RRO, TMIP, assured that the matter would be referred to the Water Resources Department, *i.e.*, the land requisitioning department, for early sanction of the R&R assistance. The fact, however, remains that the families had been displaced, prior to payment of R&R assistance, in contravention of the provisions of the Act.

5.2.5 Short award of R&R benefits

Clause 13 of the ORRP, 2006, provided for revision of rehabilitation grants, after every two years, on the basis of the wholesale price index. Accordingly, the RDM Department made the 7th biennial revision (25 May 2021) of rehabilitation grants, in monetary terms, applicable for the period from 1 April 2020 to 31 March 2022. Audit, however, noticed that the R&R benefits had not been paid to 1,915 families, at the enhanced rate, as summarised in **Table 5.3**.

Table 5.3: Short award of R&R benefits

Project	No. of affected/displaced families	Date of sanction of R&R estimate	Amount sanctioned	Amount due, as per the enhanced rate	Short payment
TMIP, Koraput	117	March 2021	9.57	10.25	0.68
SIP, Mayurbhanj	525 ⁵⁷	March 2021 to March 2022	40.52	42.96	2.44

⁵⁷ Includes 325 families, affected by irrigation projects

Project	No. of affected/ displaced families	Date of sanction of R&R estimate	Amount sanctioned	Amount due, as per the enhanced rate	Short payment
KIP, Keonjhar	1,273 ⁵⁸	March 2021 to June 2022	101.30	108.46	7.16
Total	1,915		151.39	161.67	10.28

(Source: Records of the Offices of the test-checked LAOs/ SLAOs)

Audit noticed that:

- In case of TMIP, Koraput, the R&R grant estimates had been approved as per the rates applicable for the period from April 2014 to March 2016 (4th biennial revision).
- In case of SIP, Mayurbhanj and KIP, Keonjhar, the R&R grant estimates had been approved as per the rates applicable for the period from April 2018 to March 2020 (6th biennial revision).
- Though R&R grants had been approved for all the three projects, during the same period, the basis of estimation was different, in all three cases. This indicated that no uniform basis had been adopted for estimation of R&R grants. Despite the lack of uniformity in calculations, the RDM Department had approved these R&R estimates.
- Further, despite upward revision of the R&R rates (May 2021) retrospectively, from 1 April 2020, the approved R&R estimates had not been revised.

Due to non-revision of the R&R assistance, as per the rate prevailing at the time of sanction, these 1,915 eligible families had been paid R&R assistance, that was short by ₹10.28 crore. However, in one case, *i.e.*, R&R grants of ₹13.12 lakh, pertaining to two displaced families of the Birikala village, prepared (January 2017) by the PD, R&R, KIP, on the basis of the 4th biennial revision, were revised (December 2021) to ₹ 14.05 lakh, as per the 7th biennial revision.

In reply, PD, R&R, SIP, stated that the differential revised rates, applicable as per the 7th biennial revision, would be prepared and submitted to Government, for sanction and payment. PD, R&R, KIP, stated that necessary clarification would be obtained and a revised matrix would be prepared, for disbursement of assistance to the affected persons. SLA&RRO, TMIP, stated that it could not adopt the revised rates, as the R&R estimates had been approved by the Water Resources Department, prior to issue of notification of 7th biennial revision. The reply is not acceptable, since the upward revision was effective retrospectively, from 1 April 2020, while the estimates had been approved in March 2021.

Recommendation 5.1: R&R benefits should be made available to all affected families, within six months from the date of award of compensation, as per the provisions of the RFCTLARR Act, 2013.

⁵⁸ Land acquisitions made during 2004-05 to 2010-11. R&R assistance for extended/ left-out displaced families of 13 villages, sanctioned during March 2021 to June 2022

5.2.6 *Non-correction of Record of Rights of lands, provided to the displaced families*

As per Clause 7 (viii) of the ORRP, 2006, the Record of Rights⁵⁹, of the land and houses allotted to the displaced persons, should be handed over to them, by the district administration, while resettling them in the resettlement habitat. As per the guidelines issued (June 2011) by the RDM Department, the Project Authority is to furnish a list of displaced families, with their plot numbers, to the Project Director (R&R), who is to approve the same and recommend it to the Tahasildar. Thereafter, the Tahasildar is to issue RoR in favour of the displaced families.

Audit noticed that 640 displaced families, of three projects⁶⁰, rehabilitated in R&R colonies, during FYs 2014-15 to 2021-22, had not been provided with RoR. In reply, SLA&RRO, TMIP and PD, R&R, KIP, assured that the matter would be addressed, by taking it up with the Tahasildars concerned. The LAO, Kalahandi, did not furnish any response.

5.2.7 *Absence of required infrastructure facilities and basic amenities, in the R&R colonies*

Paragraph 4 of the RDM Department's guidelines (June 2011) provides that schools, anganwadies, nurseries, health institutions, burial/ funeral grounds, play grounds, *etc.*, constructed in the resettlement area shall be maintained by the project authorities, for a period of at least 15 years, or until their transfer to a Government department/ agency/ Local Body. Until transfer of the asset to another agency, the project authorities are required to continue to maintain the asset at their cost.

As per Section 32 of the RFCTLARR Act, 2013, in every resettlement area, as defined under the Act, the Collector is to ensure the provision of all infrastructural facilities and basic minimum amenities, like roads, drainages, electricity, *etc.*⁶¹, as specified in the Third Schedule of the Act.

In order to verify the actual availability of required infrastructural facilities and basic amenities, Audit, accompanied by Departmental officials, conducted surveys of 112 beneficiary families, at 17 R&R colonies, of five projects⁶², during October to December 2022. A summary of the results of the survey is shown in **Table 5.4**.

⁵⁹ A legal document, which contains ownership of land, details of Khata No., Plot No., area, category of land and rent/ water charges payable for the land

⁶⁰ TMIP, Koraput: 470; Kanpur Irrigation Project: 47; Vedanta Aluminium Limited: 123

⁶¹ Road, drainage system, drinking water facility, grazing land, fair price shops, Gram Panchayat Ghar, post office, basic irrigation facility, transportation facility, burial ground, playground, electricity, school, anganwadi centre, public health centre, community centre, places of worship, veterinary centre *etc.*

⁶² TMIP: Boriput, Malikarchi, Bispani, Kendar, Majhipadar VII, Birfulguma, Dakara & Majhipadar; NTPC: Darlipali; KIP: Angulia, Basudevpur, Birikala & Dhobulabeda; SIP: Bijaya Krushna Chandra (BKC) Pur, Rangmatia and Sunaposi; VAL, Kalahandi: Rengopali, Bandhaguda, Kothaduar (RBK)

Table 5.4: Availability of infrastructure facilities in R&R colonies

Infrastructure facilities and basic amenities required in R&R colonies	No. of colonies, where facilities were not available	Names of colonies, found lacking in infrastructure facilities and basic amenities	Number/ names of colonies where facilities available, but were damaged/ defunct
All weather connectivity	3	1. Dhobulabeda of KIP, Keonjhar 2. Rangamatia, 3. Sunaposi of SIP, Mayurbhanj	1. Majhipadar, 2. Malikarchi of TMIP, Koraput
Drainage facility	8	1. Dhobulabeda of KIP, Keonjhar 2. Rangamatia, 3. Sunaposi, 4. BKC Pur of SIP, Mayurbhanj 5. Dakara, 6. Boriput of TMIP, Koraput 7. RBK of VAL, Kalahandi 8. Darlipali of NTPC, Sundargarh	1. Majhipadar, 2. Malikarchi of TMIP, Koraput
Drinking water facilities/ piped water supply	4	1. Majhipadar, 2. Dakara, 3. Bispani, 4. Bifulguma of TMIP, Koraput	1. Angulia, 2. Basudevpur of KIP, Keonjhar 3. Majhipadar, 4. Malikarchi, 5. Kendar of TMIP, Koraput
Primary School	5	1. Angulia, 2. Dhobulabeda of KIP, Keonjhar 3. Sunaposi of SIP, Mayurbhanj 4. Majhipadar-VII of TMIP, Koraput 5. RBK of VAL, Kalahandi	1. Birikela of KIP, Keonjhar 2. Malikarchi, 3. Boriput, 4. Bispani of TMIP, Koraput
Individual toilet facilities	13	1. Angulia, 2. Birikela, 3. Dhobulabeda of KIP, Keonjhar 4. Rangamatia, 5. Sunaposi of SIP, Mayurbhanj 6. Majhipadar, 7. Malikarchi, 8. Dakara, 9. Boriput, 10. Bispani, 11. Bifulguma,	-

Infrastructure facilities and basic amenities required in R&R colonies	No. of colonies, where facilities were not available	Names of colonies, found lacking in infrastructure facilities and basic amenities	Number/ names of colonies where facilities available, but were damaged/ defunct
		12. Kendar, 13. Majhipadar-VII of TMIP, Koraput	
Anganwadi Center	3	1. Birikela of KIP, Keonjhar 2. Bispani of TMIP, Koraput 3. RBK of VAL, Kalahandi	-
Public lighting system	0	-	1. Dakara, 2. Boriput, 3. Bispani, 4. Bifulguma, 5. Majhipadar, 6. Malikarchi of TMIP, Koraput 7. Darlipali of NTPC, Sundargarh

(Source: Records of the Offices of the test-checked LAOs/ SLAOs and Joint Beneficiary Survey of R&R colonies)

Image 5.2 : Incomplete Primary School Building at the Angulia R&R Colony, relating to the Kanpur Irrigation Project, Keonjhar



Image 5.3: Defunct Piped Water Supply System at the Rangamatia R&R Colony, relating to Subarnarekha Irrigation Project, Mayurbhanj



In case of Angulia R&R Colony, the displaced families had been rehabilitated in the Colony, since 2016.

Thus, the required infrastructural facilities, as well as basic minimum amenities, were not provided to the displaced families, in the R&R colonies.

Recommendation 5.2: Basic civic amenities, as provided under Section 32 of the RFCTLARR Act, 2013, should be provided in the R&R Colonies, for the socio-economic upliftment of the displaced families.

**Safeguarding land rights of
Scheduled Tribes**

CHAPTER 6

Safeguarding land rights of Scheduled Tribes

Maintaining the rights of the ST population over their landed properties in Scheduled areas, is one of the primary responsibilities of the Government, under Article 244 of the Constitution. In this regard, the State Government had enacted the Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation, 1956, which was subsequently amended in 2000. The regulation prohibits transfer of land belonging to ST persons to non-ST persons, with effect from 4 September 2002. Audit analysed the actions of the authorities, designated to adjudicate matters, relating to conflicts on property rights of the ST population and noticed certain deficiencies, as mentioned below:

- *In the absence of fixation of a time limit for disposing of cases, filed under the OSATIP Regulation, out of the total 2,134 pending cases, 1,347 cases had remained pending for more than 10 years and 391 cases had been pending for 6 to 10 years.*
- *In the 20 test-checked cases, involving 66.57 acres of land, despite receipt of enquiry reports from the Tahasildars between July 2008 and September 2021, the cases had not been disposed of by the Sub-Collectors concerned.*
- *In the eight sampled Sub-Collectorates, 90 out of 104 warrants, issued for restoration of 46.141 acres of land, in the names of the STs, had not been executed by the Tahasildars.*

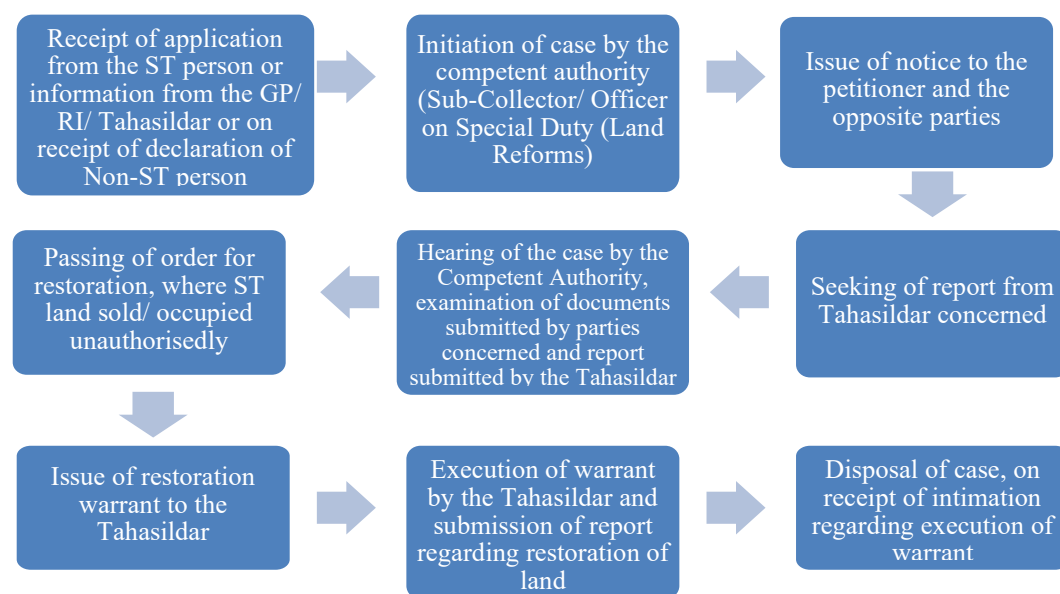
6.1 Regulatory framework

The Orissa Scheduled Areas Transfer of Immovable Property (OSATIP) (by Scheduled Tribes) Regulation, 1956, read with Amendment Regulation, 2000, prohibits transfer of land, belonging to ST persons, to non-ST persons, with effect from 4 September 2002. Clause 3(A) of the OSATIP (Amendment) Regulation 2000, provides that where any person found to be in unauthorised occupation of ST land, the competent authority, may, either on application by the owner, or any person interested therein, or on receipt of information from the Gram Panchayat, or on his own motion, and after giving the parties concerned an opportunity of being heard, order for restoration of possession to member of ST or to his heirs. Further, Clause 3 (B) of the OSATIP (Amendment) Regulation, 2000, also provides that non-ST persons, in possession of agricultural land, acquired from ST persons, between 4 October 1956 and 4 September 2002, shall notify to the Competent Authority, mentioning the circumstances and manner of possession of the land. The information is to be furnished within two years from 4 September 2002. In case, the information is found to be unsatisfactory or the possessor fails to furnish the

information, the agricultural land shall be reverted back to the original ST owner.

The State Government appointed (October 1995 and September 2015) Sub-Collectors⁶³ and Officers on Special Duty (Land Reforms)⁶⁴, to perform the functions of the Competent Authority in this regard, for the respective Sub-divisions, within the Scheduled areas, located in different districts of the State. On receipt of petitions from ST persons or on *suo motu* investigations by the Competent Authority, the instances which appear to be in conflict with the OSATIP Regulation, are investigated, adopting the procedure depicted in **Chart 6.1**.

Chart 6.1: Process of disposal of OSATIP cases



6.2 Inordinate delay in disposal of OSATIP cases

On scrutiny of information and records, made available to Audit, by the eight test-checked Sub-Collectorates⁶⁵, it was noticed that 2,134 cases, involving 1,932.4258 acres of land, as detailed in **Table 6.1**, were pending for disposal, with the Sub-Collectors, as of March 2022.

⁶³ Nilgiri: Balasore District; Ghusmur and Berhampur: Ganjam District; Bhawanipatna: Kalahandi District; Keonjhar and Champua: Keonjhar District; Koraput and Jeypore: Koraput District; Gunpur: Rayagada District; Nabarangpur: Nabarangpur District; Malkanagiri: Malkanagiri District; Baripada, Bamanghati, Kaptipada and Panchpir: Mayurbhanj District; Kandhamal: Kandhamal District; Kuchinda: Sambalpur District and Bonai: Sundargarh District

⁶⁴ Paralakhemundi: Gajapati District; Rayagada: Rayagada District; Baliguda: Kandhamal District; Sundargarh & Panposh: Sundargarh District

⁶⁵ In respect of the Panposh and Sundargarh Sub-Divisions, Officers on Special Duty (Land Reforms) were appointed, but the posts remained vacant and the Sub-Collectors concerned were performing the functions of the Competent Authority

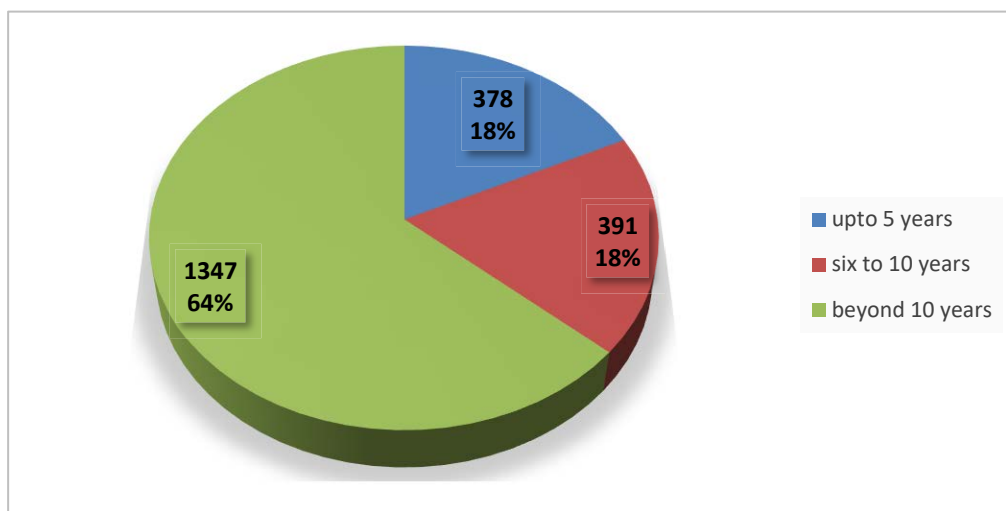
Table 6.1: Pendency of OSATIP cases

Sub-Collectorate	Pendency, as of March 2022		Period of pendency			
	No. of cases	Area in acres	Up to five years	Six to ten years	Beyond 10 years	Could not be ascertained ⁶⁶
Baripada	20	15.09	20	0	0	0
Champua	65	113.843	44	1	2	18
Kalahandi	40	83.7	14	3	23	0
Kaptipada	9	3.58	0	0	9	0
Koraput	1,553	1,211.194	134	269	1,150	0
Nabarangpur	150	265.56	32	16	102	0
Panposh	177	139.8388	68	62	47	0
Sundargarh	120	99.62	66	40	14	0
Total	2,134	1,932.4258	378	391	1,347	18

(Source: Records of the Offices of the test-checked Sub-Collectors)

Audit examined the pendency of 2,116 out of the 2,134 cases, and noticed that 1,347 (64 per cent) cases had remained pending for disposal, for more than 10 years, while 391 (18 per cent) cases had been pending for six to 10 years. The Competent Authorities had not taken effective steps for disposal of these cases, in a time-bound manner. The year-wise pendency of cases is depicted in Chart 6.2.

Chart 6.2: Year-wise pendency of cases



Audit scrutinised 221⁶⁷ out of 2,116 pending cases, involving 501.379 acres of land and noticed that:

- No time limits had been fixed in regard to the maximum number of time-petitions⁶⁸ to be allowed, the maximum time by which the cases were to be settled, etc.
- The posts of Officer on Special Duty (Land Reforms), i.e., the Competent Authority, in regard to the Panposh and Sundargarh Sub-divisions, had been lying vacant, during FYs 2017-18 to 2021-22.

⁶⁶ Due to improper maintenance of records

⁶⁷ Baripada: 20, Champua: 05, Kalahandi: 40, Kaptipada: 09, Koraput: 46, Nabarangpur: 75, Panposh: 07, Sundargarh: 19

⁶⁸ Application seeking extension of time for hearing of the case

- The main reasons for pendency of cases were: (i) non-hearing by the Competent Authority, (ii) non-receipt of inquiry reports from the concerned Tahasildars, (iii) seeking of time petitions by the parties, (iv) absence of parties, *etc.* An instance came to the notice of Audit, where the petitioner, failing to get his grievances addressed by the Competent Authority under the OSATIP Regulation, moved the Hon'ble High Court, Odisha, seeking redressal of his grievance, as discussed in **Paragraph 6.5**.
- In 21 test-checked cases, despite receipt of enquiry reports from the concerned RIs/ Tahasildars, stating that the ST land had been under unauthorised possession, the cases had not been settled by the Competent Authorities, as discussed in **Paragraph 6.3**.
- In three test-checked cases, Audit noticed, from the documents available in the case records, that ST lands had been transferred/ occupied unauthorisedly by one Government organisation and two non-ST persons. However, the cases had remained unsettled, as detailed in **Table 6.2**.

Table 6.2: Cases of unauthorised occupation

Sub-Collectorate	Case No.	Date of registration of the case	Area (in acres)	Alleged unauthorised occupant	Date of last hearing by the Competent Authority
Koraput	37/ 09	24.04.2010	0.14	BDO, Pottangi	20 September 2011
Koraput	01/ 22	10.01.2022	2.28	Non-ST person	09 June 2022
Sundargarh	01/ 18	20.03.2018	0.06	Non-ST person	10 August 2018
Total			2.48		

(Source: Records of the Offices of the sampled Sub-Collectors)

- In one case, it was found that the authorities concerned, had failed to address the grievance of an ST person, who had filed a case under OSATIP, as discussed in **Case Study 6.1**

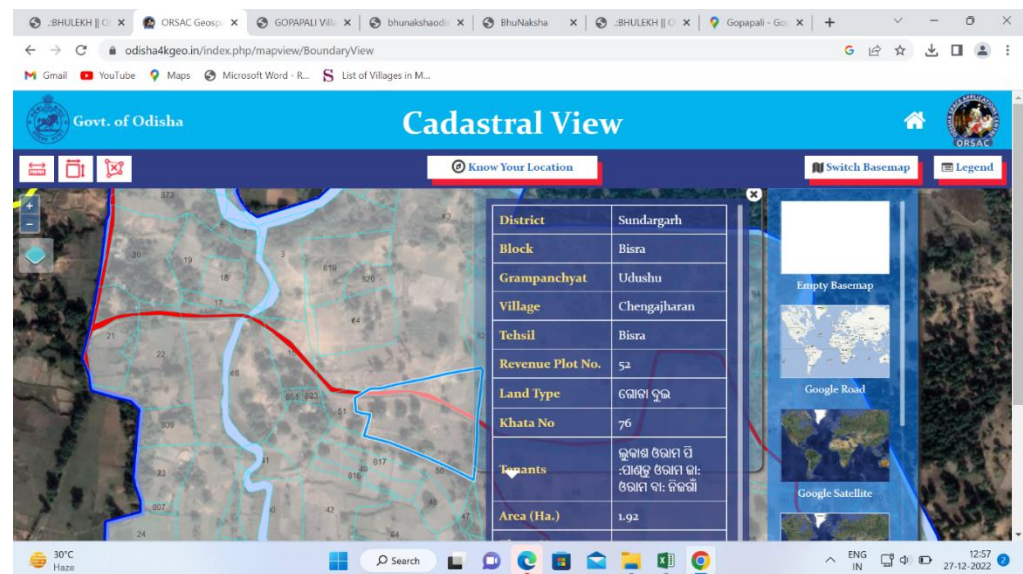
Case Study 6.1

An individual, belonging to the ST community, lodged an FIR (July 2015) in Bisra PS, alleging unauthorised construction of a road on his land, by the Junior Engineer, Public Works Department, Bisra and Sarpanch, Udsu GP. The complainant also approached (November 2015) the Tahasildar, Bisra, for demarcation of his land and deposited the requisite fees. The Tahasildar was to instruct the Revenue Inspector (RI)/ Assistant Revenue Inspector (ARI)/ Amin concerned for demarcation of the boundary with accuracy. The RI/ ARI/ Amin was to prepare a trace map, memorandum of demarcation, obtain signature of witnesses present during demarcation, and submit the report to the Tahasildar. The records made available to Audit, did not indicate any demarcation of the land. The cause of the complainant, not being addressed, the complainant filed (March 2016) a civil suit in the court of Senior Civil Judge, Rourkela, praying for

grant of protection, under the OSATIP Regulation, on the matter of unauthorised occupation of the ST land. The Block Development Officer (BDO), Bisra, submitted before the court, that the petitioner, being a member of the ST community and the civil suit being barred by the provisions of Section 7(E)⁶⁹ of the OSATIP Regulation, the Civil Court had no jurisdiction over the suit. The BDO also submitted before the Court, that the matter would be dealt under the provisions of the OSATIP Regulation. The Court dismissed (December 2019) the petition on the grounds put forth by the BDO.

The complainant again submitted (March 2020) a petition under the OSATIP Regulation, before the Sub-Collector, Panposh. A case, bearing number 02/20, was registered. The Sub-Collector instructed (April 2022) the Tahasildar, Bisra, for submission of the demarcation report and, at the same time, instructed the BDO, Bisra, to submit an enquiry report on the alleged construction of road on the land of the petitioner. The Tahasildar and BDO, instead of submitting reports, as called for, submitted (August 2022) a report, stating that the petitioner did not belong to the ST community. Audit found from the Cadastral view of the plot that a road had been constructed on the petitioner's land. No steps had been taken by the Sub-Collector thereafter, up to September 2022.

Image 6.1: Cadastral view showing construction of road on private land



Audit observed that neither had the Tahasildar responded in demarcating the land of the petitioner, nor had the BDO, Bisra, taken a consistent view over the ST status of the petitioner. The fact, however, remained that the petitioner was in possession of caste certificate, issued by the Tahasildar, Rourkela, in 2009, indicating his category as ST.

Thus, due to the non-responsive approach of the Tahasildar, the BDO and the Sub-Collector, Bisra, over the last seven years, an ST land owner could not get his grievance addressed and the legal protection, available to him,

⁶⁹ Regulation 7 (E): No Civil Court shall have any jurisdiction to try and decide any suit or proceedings, so far as it relates to any manner, which any officer or other Competent Authority, is empowered by or under the Regulation, to decide

as an ST person, became ineffective, due to lack of action by the functionaries responsible for enforcement of the OSATIP Regulation.

In reply, the Sub-Collector, Panposh assured (December 2022) that the case would be disposed of. However, action taken in the matter is awaited (October 2023).

Thus, due to inordinate delay in the disposal of cases, the land rights of the ST members, could not be safeguarded, as per the provisions of the OSATIP Regulation, 1956.

Audit further observed that the RoRs of land owned by ST persons did not contain any endorsement/ mention, declaring restrictions on sale of land to non-ST persons, as per the OSATIP Regulations, which could have curbed occurrence of illegal transactions of land, belonging to ST people. Further, there existed no rules/ guidelines, specifying the manner of maintenance of records of ST lands.

In reply, the Sub-Collector, Koraput, assured that the pending cases would be disposed of, in a time-bound manner. He further stated that the cases were pending due to vacancy of the post of Officer on Special Duty (Land Reforms), since 2015. The Sub-Collectors of Sundargarh, Panposh, Kaptipada and Kalahandi, assured that effective steps would be taken for disposal of the pending cases, while the Sub-Collector, Baripada, attributed the reasons of pendency, to entrustment of the charge of Executive Officer, Municipality, to the Sub-Collector and the Covid-19 pandemic. The Sub-Collectors of Champua and Nabarangpur did not furnish any response (as of October 2023).

The reply furnished by the Sub Collector, Koraput, was not convincing, as the RDM Department had appointed (September 2015) Sub-Collector, Koraput, to perform the functions of the Competent Authority under the OSATIP Regulation, 1956. Further, the replies furnished by the Sub-Collectors were not acceptable, as these were general in nature and without any justified reason.

6.3 Non-disposal of cases, despite receipt of enquiry reports

In 20 test-checked cases, involving alleged unauthorised occupation of 66.57 acres of ST land, the concerned RIs/ Tahasildars had submitted enquiry reports, confirming unauthorised occupation of ST land, between July 2008 and September 2021, as detailed in *Appendix 6.1*. The unauthorised occupants included Government institutions, private companies, private educational institutions, religious institutions and individuals, as shown in **Table 6.3**.

Table 6.3: Categories of unauthorised occupants and manner of utilisation of occupied land

Unauthorised occupants	Land area (in acres)	Manner of utilisation of land
Government organisations (10)	13.44	Construction of School, Medical College, Hospital, Check Dam, Electric sub-station and road
Private organisations (7)	52.12	Mining and allied activities, religious institution, roads and schools
Individuals (3)	1.01	Cultivation
Total	66.57	

(Source: Records of the Offices of the sampled Sub-Collectors and Tahasildars)

Audit observed that, despite the enquiry reports of the concerned RIs/ Tahasildars, having been received between July 2008 and September 2021, they had not been examined by the adjudicating authorities, for their eventual settlement.

Case Study 6.2

Some ST land owners of the Sirijoda village of the Barbil Tahasil, filed (December 2016) a petition before the Secretary, Birsa Munda Co-operative Society Limited, alleging unauthorised occupation of their land, measuring 34.05 acres, by a private company, viz. M.L. Rungta Limited. The Society forwarded (January 2017) the grievance petition to the District Welfare Officer, Keonjhar, with copies to the: (i) Collector, Keonjhar, (ii) Superintendent of Police, Keonjhar, (iii) Sub-Collector, Champua and (iv) Ministry of Tribal Affairs, Government of India. The Collector, Keonjhar, called for (January 2017) an enquiry report from the Sub-Collector, Champua. However, no action was taken on the petition. The Society again submitted (June 2020) a grievance to the Ministry of Tribal Affairs. Subsequently, the Tahasildar, Barbil, reported (November 2020) to the Sub-Collector, Champua, that M.L Rungta Limited had occupied 34.05 acres of ST land forcibly, prior to 1983, for conducting its mining operations and had utilised the same for constructing offices, colony, guest house and hospital. After expiry of the lease period of the mines on 31 March 2020, the said land was occupied by a new lessee of mines. The Sub-Collector, Champua, registered a case in November 2020, but no action was taken. Despite appeals to various authorities, as well as receipt of enquiry report from the Tahasildar, the case had not been settled, as of December 2022.

Thus, due to the inaction of the adjudicating authorities, the legal protection, made available to the STs, as envisaged under the OSATIP Regulation, 1956, was not provided to them, defeating the purpose of the said regulation.

In reply, the Sub-Collectors of Koraput, Panposh, Kaptipada, Sundargarh, Bhawanipatna and Tahasildar, Barbil, assured that steps, for disposal of the ST cases, would be taken.

6.4 Non-execution of warrants and non-correction of RoRs

The Competent Authority, after hearing the parties and examining the inquiry reports submitted by the RI/ Tahasildars concerned, along with the documents submitted by the parties, and upon being satisfied about the allegations made in the petition, is to issue a warrant⁷⁰, for restoration of land in the name of the rightful ST claimant. The restoration warrant is to be executed by the Tahasildar concerned, within the time prescribed in the warrant. After execution of the warrant, the Tahasildar is to return the warrant to the Competent Authority, reporting the fact of execution of the warrant.

6.4.1 Non-execution of warrants

Audit noticed that no register/ consolidated statement, showing details of the restoration warrants issued, executed and returned by the Tahasildars, was being maintained by the Competent Authority/ Tahasildars. Audit scrutinised 104

⁷⁰ Under order 21 Rule 35 of the Civil Procedure Code for restoration of possession

restoration warrants, issued during January 2003 to August 2022, for restoration of 57.506 acres of ST land, in the sampled Sub-Collector/ Tahasildar offices. Of these, 90 warrants had not been executed, five warrants were *sub-judice* and only nine warrants (9 per cent) had been executed.

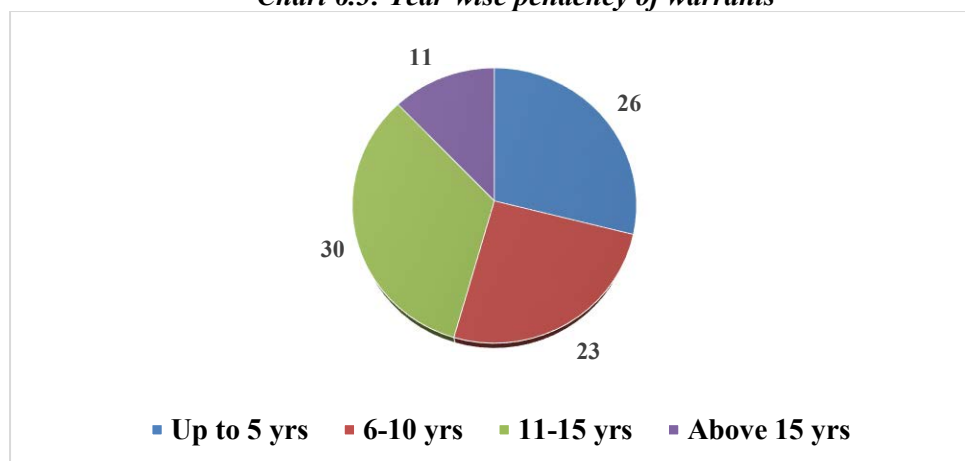
Table 6.4: Overview of warrants issued/ executed

Sub-Collectorate	Area (in acres)	No. of warrants issued	No. of warrants executed	No. of sub-judice warrants	No. of warrants, not executed	Period of pendency
Sub-Collector, Baripada	1.60	7	0	0	7	1 to 12 years
Sub-Collector, Bhawanipatna	4.850	8	3	0	5	4 to 12 years
Sub-Collector, Champua	25.59	12	0	0	12	5 years
Sub-Collector, Kaptipada	13.13	24	0	0	24	4 to 12 years
Sub-Collector, Koraput	0.505	11	0	0	11	1 to 15 years
Sub-Collector, Nabarangpur	1.741	5	0	0	5	4 to 10 years
Sub-Collector, Panposh	9.310	36	6	5	25	1 to 19 years
Sub-Collector, Sundargarh	0.78	1	0	0	1	4 months
Total	57.506	104	9	5	90	

(Source: Records of the Offices of the sampled Sub-Collectorates)

Audit observed that the stipulated time for execution, fixed in the respective warrants (one month), had expired, in case of all the 90 warrants pending for execution (46.141 acres). Periods of pendency of these cases are depicted in Chart 6.3.

Chart 6.3: Year-wise pendency of warrants



Audit further observed that there was no mechanism to seek reasons for non-execution of warrants, from the Tahasildars concerned. Only in the case of Sub-Collector, Panposh, Audit noticed that the Sub-Collector had twice reminded the Tahasildar, Birsa, to execute the pending warrants. Issue of such reminders, in other Sub-Collectorates, was not noticed in Audit. The Sub-Collectors, despite having been designated as the Competent Authorities for adjudication

of cases filed under the OSATIP Regulations, failed, both in the timely disposal of the cases, as also in securing execution of the warrants that had been issued by them.

While the OSATIP Regulations aimed at protecting the landed property rights of STs, non-execution of warrants, by the Tahasildars, defeated the purpose of the regulation. However, no responsibility had been fixed on the Competent Authorities, for non-execution of the restoration warrants.

In reply, the Sub-Collectors of Koraput, Sundargarh, Kaptipada, Bhawanipatna and Tahasildars of Semiliguda and Bisra, assured that steps for execution of warrants, would be taken. Responses of the Sub-Collectors of Nabarangpur, Champua and Tahasildar, Lanjigarh were not furnished to Audit (as of July 2023).

6.4.2 Non-correction of records in executed warrants

Audit examined all the nine warrants, executed between June 2010 and February 2013, involving restoration of 8.40 acres of land, and noticed that, in six cases, RoRs of 3.82 acres of land, had not been updated, and they stood recorded either in the names of non-ST persons or were showing as having been transferred to other non-ST persons, even after restoration of land, as shown in **Table 6.5**.

Table 6.5: Restoration of ST land, without correction of RoRs

Case No.	Name of the Tahasil	Land details	Date of execution of warrant
17/06	Bisra	Village: RTU 29, Khata No. 319/738, Plot No. 385/1069, Area: 0.07 acre	Possession was restored on 10 December 2010, but RoR stood recorded in the name of a non-ST person.
42/06	Bisra	Village: RTU 29, Khata No. 319/414, Plot No. 385/1205, Area: 0.05 acre	Possession was restored on 28 September 2010, but RoR had not been corrected in favour of the ST person. Subsequently, the said plot was transferred in favour of a non-ST person and the Tahasildar mutated (17.07.2013) the land, vide case No. 459/2010 (new Khata No. 319/1641). Subsequently, the plot was again transferred, in favour of another non-ST person, vide mutation case No. 174/2016 (Khata No. 319/1784).
100/07	Bisra	Village: RTU 29, Khata: No. 319/1258, Plot No. 385/1627, Area: 0.03 acre	Possession was restored on 28 September 2010, but the plot stood recorded in the name of a non-ST person.
01/10	Lanjigarh	Village: Kashibadi, Khata No. 112/08, Plot Nos. 69 & 70 Area: 1.50 acres	Possession was restored on 30 November 2012, but the land stood recorded in the name of a non-ST person.
48/09	Lanjigarh	Village: Umer, Khata No. 10, Plots No.: 162&166, area 1.44 acre	Possession was restored on 25 February 2013, but the land stood recorded in the name of a non-ST person.

Case No.	Name of the Tahasil	Land details	Date of execution of warrant
46/09	Lanjigarh	Village: Irkuli, Khata No. 25/04, Plot Nos. 10/412, 84/413 & 89, Area: 0.73 acre	Possession was restored on 22 June 2010, but the land stood recorded in the name of a non-ST person.

(Source: Records of the Offices of the test-checked Sub-Collectors and Tahasildars)

In one case (Case No. 42/06), due to non-updation of the RoR, a non-ST person transferred the ownership of land to another non-ST person. Such instances of non-correction of RoRs were fraught with the risk of fraudulent sale of land.

In reply, the Tahasildar, Bisra, assured that the RIs concerned and Record Keepers would be instructed to verify the status of execution of warrants and to submit a detailed report, regarding non-correction of RoRs, in cases where land had been restored to ST person/ mutation of land had been restored with the ST persons. Response of Tahasildar, Lanjigarh, was not furnished to Audit (as of October 2023).

Recommendation 6.1: Responsibility may be fixed on the Tahasildars for default in submitting enquiry reports, as well as for non-execution of warrants, issued by the Competent Authorities, for restoration of land, in favour of the legally entitled ST persons.

6.5 Non-restoration of possession/ non-payment of compensation, for unauthorised occupation of ST land

An area of 2.38 acres of land, under Khata No. 35, Plot No. 215, of village Kunduli, under Semiliguda Tahasil, stood recorded in the name of an ST person. A Community Health Centre (CHC), Kunduli, was constructed during 1966 on the said land, without ownership of land.

One of the legal heirs of the recorded tenant, belonging to the ST community, filed (February 2013) a petition before the Sub-Collector, Koraput, praying for restoration of possession of his land, measuring 2.38 acres⁷¹ at village Kunduli, under the Semiliguda Tahasil of Koraput district. It was mentioned in the petition that the CHC at Kunduli had been constructed unauthorisedly, over his land. A case was registered (May 2013) under the OSATIP Regulation. Due to non-settlement of the case by the Sub-Collector, the petitioner filed (2015) a writ petition before the Hon'ble Orissa High Court, praying for restoration of the land. The Hon'ble High Court directed (24 March 2017) to obtain instructions, regarding disposal of application, by the end of April 2017. The Sub-Collector, Koraput, instructed (February 2020) the Medical Officer (MO), CHC, Kunduli, for compliance. The MO, CHC, Kunduli, intimated (April 2021) that the legal heirs of the recorded tenant were demanding permanent job, which was not under his control. The MO also requested that a Government building be provided for shifting the hospital and handing over of the land to the claimant, without any interruption to public services. The Sub-Collector, Koraput, instructed (December 2021) the Tahasildar, Semiliguda, to take necessary steps immediately, regarding payment of compensation to the ST land

⁷¹ Khata No. 35, Plot No. 215

owner, or shifting of CHC, and to submit the action taken report in this regard, for disposal of the case. In response, the Tahasildar instructed (29 January 2022) the Revenue Inspector, Kunduli, to conduct an enquiry into the matter and submit a report within seven days, for taking further action. However, no report was submitted by the RI concerned. The Tahasildar had also not followed up the matter, for complying with the orders of the Hon'ble Court.

Thus, neither had compensation been paid, nor had possession of the ST land been restored, despite the orders of the Competent Authority.

In reply, the Tahasildar, Semiliguda, assured that appropriate steps would be taken for payment of compensation or shifting of CHC, Kunduli.

6.6 Non-restoration of ST land, unauthorisedly occupied by CHC, Nandahandi

The Sub-Collector, Nabarangpur, disposed of one OSATIP case (34/2013), without further processing, on grounds of having no merit. The case was regarding restoration of 1.12 acres of land (Village: Dangarbheja, Khata No. 245, Plot Nos. 908 & 909, under Nandahandi Tahasil) in favour of an ST land owner. The petitioner again filed (September 2021) a grievance with the Sub-Collector, for restoration of the said land. As per the report submitted (April 2022) by the Tahasildar, Nandahandi, the land stood recorded in the names of three individuals of village Dangarbheja. The CHC, Nandahandi, had also been constructed over the private land, during 1976-77. CHC authorities failed to submit any document in support of their legal occupation of the land. However, no action, regarding restoration of land/ payment of due compensation, to the ST land owner, had been taken by the Sub-Collector.

6.7 Short award of compensation of ₹ 2.27 crore, 'to ST land owners', on transfer of their land to non-ST persons

As per Regulation 3 B (3) of the OSATIP Regulations, 1956, on receipt of the declarations/ information regarding possession of ST land, during 4 October 1956 and ending on the date of commencement of the Amendment Regulation 2000 (4 September 2002), the Sub-Collector is to make necessary enquiry about all such transactions of transfer and if he/ she finds that the member of ST had been defrauded of his legitimate right, he/ she shall declare the transaction null and void. However, as per Regulation 3B(3)(b), where any building or structure has been erected on the agricultural land, prior to such finding, the Competent Authority shall fix the price of such land, in accordance with the principles laid down for fixation of price of land, in the Land Acquisition Act, 1894.

The Supreme Court of India decreed⁷² (November 2003) that payment of compensation under Section 3 B 3(b) to the ST owner of the encroached land was also applicable to cases under Sections 3 (2) and 3-A of OSATIP Regulation 2 of 1956, to determine the quantum of compensation and settlement of land in favour of Non-ST encroachers. In pursuance of the decree, the RDM Department issued (February 2007) a clarification stating that payment of compensation to the ST owner of the encroached land, fixed under Regulation

⁷² Case No. Appeal (Civil) 11483 of 1996, Amrendra Pratap Singh vs Tej Bahadur Prajapati & Others

3 B (3)(b), was also applicable to cases under Sections 3 (2)⁷³ & 3-A⁷⁴ of Regulation 2 of 1956, to determine the quantum of compensation and settlement of land, in favour of non-ST encroachers. The Officer on Special Duty (LR), acting as Competent Authority, could exercise powers, under Section 3 (2) and 3(A) of the OSATIP Regulation 2 of 1956, to entertain cases and to determine the quantum of compensation and settlement of land, with non-ST persons, in accordance with the Orissa Government Land Settlement Act. The modality and procedure for making award for payment of compensation to the transferor (ST person), as provided under Section 3 B 3(b) of Regulation 2 of 1956, was *mutatis mutandis* applicable to the cases under Sections 3 (2) and 3(A) of the said Regulation.

Audit scrutinised 10 finalised cases and noticed that 9.889 acres of ST land had been occupied unauthorisedly by non-ST persons, by construction of dwelling houses/ roads/ buildings. On the basis of mutual consent of the parties, the Competent Authorities (Sub-Collectors of Sundargarh and Panposh) had awarded compensation of ₹2.32 crore, payable to the ST land owners, towards sale of land to the non-ST persons. The Competent Authority had also directed the Tahasildars to mutate the RoRs in favour of the non-ST occupiers.

Further scrutiny revealed that, in regard to one case (Case No. 03/20), the Competent Authority (Sub-Collector, Sundargarh) had passed award of compensation of ₹4.80 lakh, which included ₹2.40 lakh towards BMV of 2.40 acres of land and ₹2.40 lakh towards 100 *per cent* solatium. No amount had however, been paid towards the multiplying factor,⁷⁵ as the land was within 10 kilometers from the urban area. However, in regard to the other nine cases, involving 7.499 acres of land, only the land value of ₹2.27 crore, as per the BMV, had been awarded. Other components of the award, *i.e.*, Solatium of ₹2.27 crore and multiplying factor, had not been paid, due to which there had been short award of compensation of ₹2.27 crore (excluding the amount payable towards multiplying factor).

In reply, the Sub-Collector, Sundargarh, stated that the awarded amount had already been received by the ST land owner, without any objection. The Sub-Collector, Panposh, noted the Audit observation for future guidance.

The reply of the Sub Collector, Sundargarh, is not acceptable, since the award amount should have been paid to the ST land owner, as per the provisions of the RFCTLARR Act, 2013.

Recommendation 6.2: The timeframe for disposal of cases, filed under the OSATIP Regulations, 1956, may be fixed and measures may be taken to ensure that the Competent Authorities dispose of the pending cases, within the specified timeframe.

⁷³ Transfer of immovable property belonging to ST, in contravention to OSATIP Regulation, 2000

⁷⁴ Unauthorised occupation of any immovable property of a member of the ST by way of trespass or otherwise

⁷⁵ The market value of land, fixed under Section 26 of the RFCTLARR Act, 2013, is multiplied by a factor, one to two, based on the distance of the project from urban area

Recognition
And
Vesting of Forest Rights

CHAPTER 7

Recognition and vesting of Forest Rights

Enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, (FR Act) constituted an important milestone for the socio-economic welfare of the forest dwelling tribal population. Audit reviewed the implementation of various provisions of the FR Act, in the six sampled districts and the significant audit observations thereon, are as follows:

- *The pace of disposal of cases for forest claims, was found to be tardy in the Baripada Tahasil, where 1,154 claims had been pending for disposal, since 2017-18.*
- *Of the 2,20,494 Individual Forest Right titles, issued in the six sampled districts, in 59 per cent cases, the Records of Rights had not been corrected and, in 15 per cent cases, demarcation of allotted lands had not been made.*
- *217 (92 per cent) out of 236 forest villages, in the sampled districts, had not been converted into revenue villages.*
- *In the Sundargarh and Koraput districts, certificates under the FR Act (FRA certificates) had been issued for diversion of 1,409 Ha of forest land, for non-forest use, either without obtaining the consent of Gram Sabha, or by disregarding the views of the Gram Sabha.*

7.1 Salient features of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

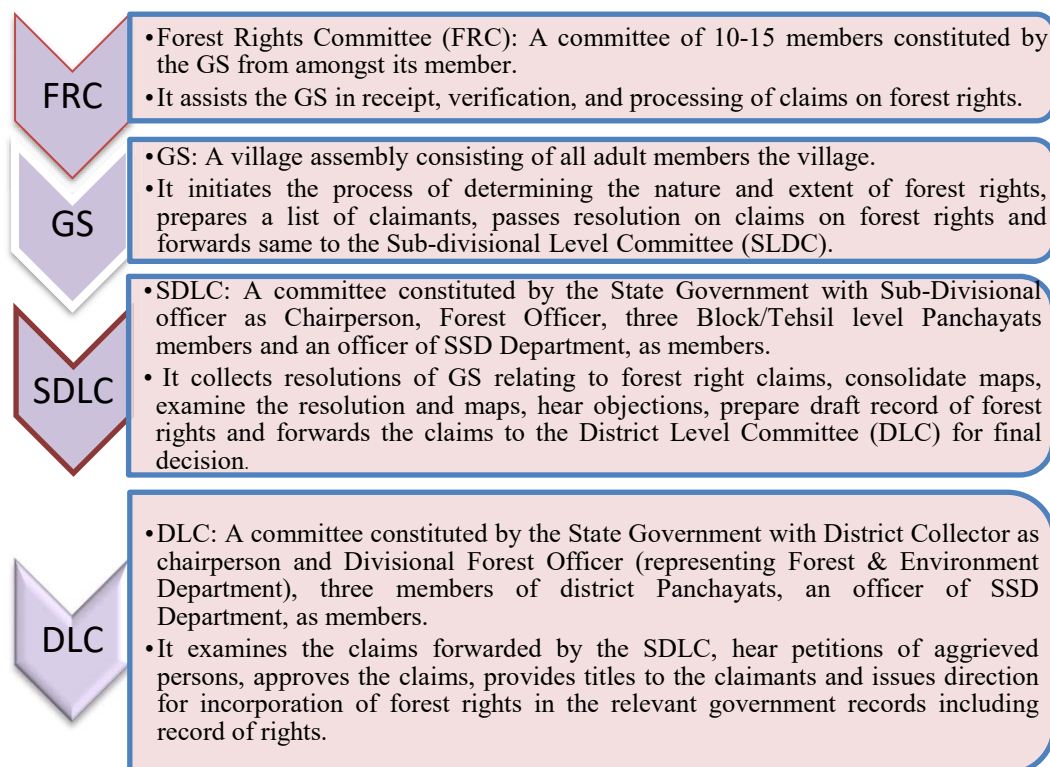
GoI enacted the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, termed as the Forest Rights Act (FR Act), creating a mandate on the State Governments, to recognise and vest forest rights to the forest dwelling Scheduled Tribes and Other Traditional forest Dwellers(OTFDs), who had occupied forest land, before 13 December 2005. As per Section 3 (1) of the Act, forest rights, *inter alia* include: (a) right to hold and live in forest land, under individual or common occupation, for habitation or for self-cultivation for livelihood; right to ownership; and access to collect, use and dispose of minor forest produce⁷⁶, (b) community rights, (c) habitat rights for primitive tribal groups and pre-agricultural communities and (d) right to protect, regenerate or conserve or manage any community forest resource, which they have been traditionally protecting and conserving for sustainable use. The Act

⁷⁶ "minor forest produce" includes all non-timber forest produce of plant origin, including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like

laid down a framework for recognition and vesting of individual forest rights⁷⁷ (IFR), community rights⁷⁸ (CR) and community forest resource rights⁷⁹ (CFR). GoI framed rules⁸⁰ in 2008, for carrying out provisions of the FR Act, outlining the procedure and evidence required for conferring forest rights.

The SSD Department, is responsible for enforcement of the FR Act in the State. The various stages of the claim recognition process and documentation, required under the Act and Rules, are given in **Chart 7.1**.

Chart 7.1: Process of recognition of forest rights



After completion of the process of settlement of rights and issue of titles, the RDM Department and the Forest and Environment Department, are required to prepare a final map of the forest land⁸¹ so vested and the concerned authorities are to incorporate the forest rights, so vested, in the revenue and forest records,

⁷⁷ Rights on forest land for habitation or self-cultivation and allied activities ancillary to cultivation

⁷⁸ Right to ownership, access to collect, use and dispose of minor forest produce, which has been traditionally collected within or outside village boundaries and uses or entitlements fish and other products of water bodies, grazing and traditional seasonal resource access

⁷⁹ "Community forest resource", means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape, in the case of pastoral communities, including reserved forests, protected forests and protected areas, such as Sanctuaries and National Parks, to which the community had traditional access

⁸⁰ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, subsequently amended in 2012

⁸¹ Forest land means land of any description, falling within any forest area and includes unclassified forests, undemarcated forests, existing deemed forests, protected forests, reserved forests, Sanctuaries and National parks

as the case may be, within the specified period of record updation, under the relevant State laws or within a period of three months, whichever is earlier.

7.2 Pendency of Individual Forest Rights claims

In pursuance of the order (February 2019) of the Hon'ble Supreme Court, to review all rejected IFR claims, the SSD Department instructed (March 2019) all the District Collectors to review the same and submit compliance by 30 June 2019. Audit noticed that:

- From the records of the Sub-Collector, Baripada, it was found that 3,025 claims had been rejected by the SDLCs, during FY 2017-18. In pursuance of the instructions of the SSD Department, the rejected cases were referred to the concerned Tahasils, for re-verification. On re-verification, 1,869 claims (62 *per cent*) were rejected and 1,156 claims (38 *per cent*) were accepted for reconsideration, in six Tahasils⁸². Of the 1,156 claims accepted for reconsideration, the Tahasildars submitted their recommendations only on two claims, to the SDLC. The remaining 1,154 claims remained pending at the Tahasils (December 2022).

In reply, the Sub-Collector, Baripada, stated that the Tahasildars had assured that they would submit their recommendations on the IFR claims, at the earliest.

- The DLC, Mayurbhanj, returned (November 2019) 296 IFR claims, to SDLC, Baripada, on grounds of non-availability of GS resolution, geo-tagged maps, *etc.* However, the same had not been resubmitted by the SDLC, as of December 2022, due to which, the titles could not be conferred.

In reply, the Sub-Collector, Baripada, stated that the 296 IFR claims had been sent (December 2019) to the Divisional Forest Officer (DFO), Baripada Sub-Division, for signature of the Assistant Conservator of Forest, as the cases related to the Reserve Forest⁸³ category, with a request to return the cases to the SDLC, at an early date, for onward transmission to the DLC, for its approval. However, the cases were pending with the DFO, Baripada.

The reply furnished by the Sub-Collector, Baripada, was not correct, as the DFO, Baripada, had returned (February 2020) the cases to the SDLC and they were pending at the SDLC level.

- Subsequent to the review of 3,021 claims, rejected earlier in 2017-18, pertaining to two SDLCs, *viz.* Kaptipada (1,282) and Champua (1,739), all these claims had been rejected again. Audit examined 48 of these rejected claims and noticed that, in 32 claims, the grounds for rejections were occupation of non-forest land, non-eligibility of claimants, *etc.* In case of the remaining 16 claims, the claims had been rejected on grounds of occupation of non-forest land by the claimants. Audit ascertained the

⁸² Baripada, Bangiriposi, Suliapada, Shamakhunta, Saraskana and Kuliana

⁸³ A most restricted forest area, notified under the provisions of the Orissa Forest Act, 1972, having full degree of protection

category of land from the ‘Bhulekh’⁸⁴ portal and found that the category of land, occupied and claimed for conferment of rights by the claimants, was ‘Gramya Jungle’ (Village forest). Hence, rejection of claims on the grounds of occupation of non-forest land was incorrect and irregular, due to which the displaced persons were deprived of getting forest rights.

The Sub-Collector, Kaptipada, assured that appropriate action would be taken in the matter, while the Sub-Collector, Champua, did not furnish any reply.

7.3 Grant of Forest Rights

In the six sampled districts, 2,22,683 IFRs and 1,820 CFRs/ CRs, had been approved by the DLCs, since the implementation of the Act (2006), till the end of March 2022. Of the total 2,24,503 rights approved by the DLCs, 2,21,737 rights (99 per cent), comprising 2,20,494 IFRs and 1,243 CFRs/ CRs, had been issued, as of March 2022. The status of approval and issue of rights, in the six sampled districts, as of March 2022, is shown in **Table 7.1**.

Table 7.1: IFRs/ CFRs issued in the sampled districts

District	No. of claims approved by DLC		No. of claims rejected	No. of titles issued		Balance to be issued	
	IFRs	CFRs/ CRs		IFRs	CFRs/ CRs	IFRs	CFRs / CRs
Kalahandi	10,934	321	658	10,925	185	9	136
Keonjhar	59,881	511	15,297	59,881	331	0	180
Koraput	29,492	137	2,587	29,492	137	0	0
Mayurbhanj	53,305	595	8,799	52,881	536	424	59
Nabarangpur	44,564	54	0	44,564	54	0	0
Sundargarh	24,507	202	16,864	22,751	0	1,756	202
Total	2,22,683	1,820	44,205	2,20,494	1,243	2,189	577

(Source: Records of the Offices of the test-checked Collectors and Sub-Collectors)

7.3.1 Non-correction of RoRs and non-demarcation of land in regard to titles issued under the FR Act

In Annexure II of Rule 8 (h) of the FR (Amendment) Rules, 2012, it was provided that the title of the forest land shall bear, *inter alia*, the area, *khata* and Plot No., along with a description of the boundaries, by prominent landmarks. The RDM Department instructed (December 2018) that the Tahasildar, on receipt of copies of titles of forest rights, shall pass necessary orders for correction of RoR and map, in favour of the forest right holder and upload the same in the Bhulekh and Bhunaksha⁸⁵ portals. A free copy of the RoR and sketch map, so prepared, is to be provided to the FR holder. The concerned RI is to demarcate the land, as per the sketch map.

⁸⁴ Website of RDM Department, Odisha, to check the Khata, Plot and Tenant details of land parcels, present in the State.

⁸⁵ A web based application software, developed by National Informatics Centre, on behalf of RDM Department, for correction of digitised cadastral maps, which has been integrated with Bhulekh.

Audit examined the updation of RoRs, maps and demarcation of land rights, issued under the FR Act. Out of the 2,20,494 IFR titles issued to the beneficiaries, RoRs and maps in regard to 1,29,205 IFRs (58.60 *per cent*), had not been corrected, while demarcation of land in 33,471 IFRs, as detailed in **Table 7.2**, had not been done.

Table 7.2: Cases of Non-updation of RoRs and demarcation not having been done, in IFR titles (as of March 2022)

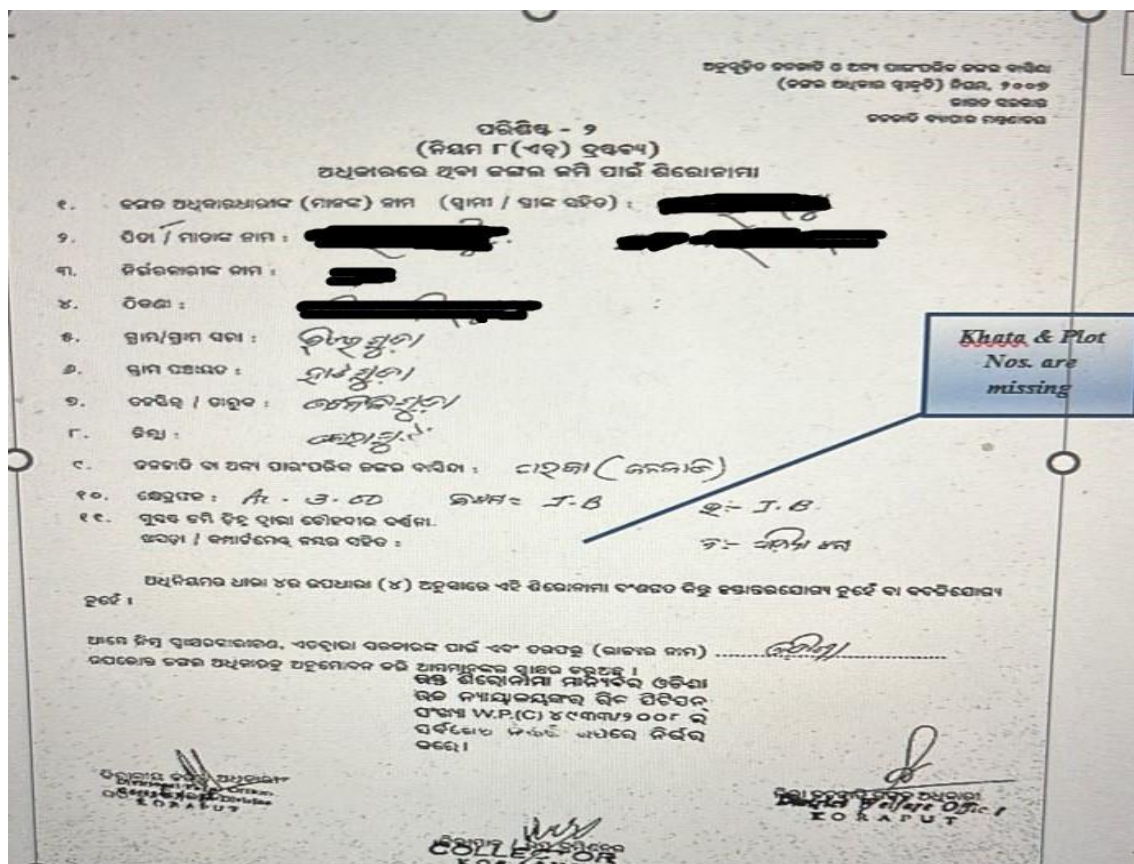
District	No. of IFR titles issued	RoRs, not corrected		Demarcation not done	
		No.	Percentage	No.	Percentage
Kalahandi	10,925	4,113	37.65	311	2.85
Keonjhar	59,881	43,950	73.40	18,394	30.72
Koraput	29,492	21,352	72.40	8,020	27.19
Mayurbhanj	52,881	28,042	53.03	702	1.33
Nabarangpur	44,564	22,016	49.40	4,772	10.71
Sundargarh	22,751	9,732	42.78	1,272	5.59
Total	2,20,494	1,29,205	58.60	33,471	15.18

(Source: Records of the Offices of the test-checked Collectors and Sub-Collectors)

While the RoRs had not been corrected in 58.60 *per cent* cases, demarcation had not been done in 15.18 *per cent* cases. On further examination, Audit noticed the following:

- In case of the Koraput district, the District Collector-cum-Chairman, DLC, had issued 29,492 IFR titles. Of these, 16,265 titles (55.15 *per cent*) had been issued without mentioning the *Khata*/ Plot numbers, which was in violation of Rule 8(h) of the FR Rules. Consequentially, the related RoRs and maps, could not be corrected/ drawn by the RIs. Later, in September 2018, June 2020 and September 2020, the Collector-cum-Chairman, DLC, of the same district, conveying the difficulty in correcting the RoRs, in the absence of *Khata* and Plot numbers of the lands issued as IFRs, requested the RDM Department to issue necessary clarifications, for correction of the RoRs. The Director, SSD Department, had also requested (October 2020) the same, from the RDM Department. No response had been received from the RDM Department, as of September 2022. A sample copy of the titles issued by DLC, Koraput, which did not contain *Khata*/ Plot numbers, is shown in **Image 7.1**.

Image 7.1: FRA title sheet without Khata and plot numbers



- In the Rasgobindpur Tahasil of Mayurbhanj district, an IFR, over 1.25 acres⁸⁶, had been issued, in favour of a tribal forest-dwelling family, in 2009. The Tahasildar, Rasgobindpur, however, did not correct the related RoR. For construction of the Katuni Minor Irrigation System⁸⁷, the EE, Jambhira Canal Division, Department of Water Resources, Morada, while acquiring (September 2019) land for the project, also acquired 0.55 acre, out of the 1.25 acres that had been granted as IFR. Since the allotted land had not been recorded in the names of the beneficiary family and was still in the name of the Government, no amount, towards compensation for land acquired, was paid to the beneficiary family. As such, the beneficiary family lost the land, received as IFR, without any consideration. Audit also noted from the records of the RDM Department that, due to non-correction of the RoR, the beneficiaries faced problems in selling paddy at the minimum support price and were deprived of getting benefits under PM Kisan Scheme.

Similarly, RoRs and maps in regard to 1,243 CFR/CR titles issued, had not been corrected. Demarcation of land in regard to 667 CFRs/ CRs⁸⁸ had not been done.

⁸⁶ Village: Musamari, Khata No. 167, Plot No. 225/1
⁸⁷ A part of the Subarnarekha Minor Irrigation System
⁸⁸ Kalahandi: 185, Keonjhar: 331, Koraput: 97 and Nabarangpur: 54

In reply, the Deputy Collector (Revenue), Collectorate, Kalahandi, stated (January 2023) that, after receiving the reply from the District Welfare Officer, Kalahandi, the same would be intimated to Audit. The PA, ITDA, Baripada, Mayurbhanj, stated that, since FRA was an ongoing process, demarcation and correction of RoRs were under process and were about to be completed. Collectors of Koraput and Sundargarh districts, replied that instructions had already been issued to the Tahasildars and Divisional Forest Officers in this regard. The reply is not tenable, as IFRs had been issued, without mentioning the *Khata* and Plot numbers, in violation of the provisions in the FR Act.

Recommendation 7.1: Pending Forest Rights Claims, may be settled, expeditiously.

Recommendation 7.2: In regard to Individual Forest Rights (IFRs) issued, the corresponding RoRs should be corrected in the names of the IFR holders and the allotted forest lands should be demarcated.

7.3.2 Non-conversion of forest villages into revenue villages

A village/ habitation earns the legal status of a village, upon grant of ‘revenue village’ status. Financial assistance, under various schemes/ programmes of Central/ State Governments, is allocated on the basis of the revenue villages. Thus, getting recognition as a revenue village, facilitates the development of the village, as well as the villagers therein. Settlement and conversion of all forest villages⁸⁹, old habitations and un-surveyed villages, *etc.*, into revenue villages, was recognised as one of forest rights, under Section 3(1) (h) of the FR Act, 2006. The RDM Department issued (February 2017) guidelines for conversion of all forest villages, old habitations, un-surveyed villages and other villages in forests, whether recorded/ notified or not, into revenue villages.

There were 236 forest villages, in the six sampled districts (as of February 2017). Subsequently, out of these, only 19 (8 *per cent*) had been converted into revenue villages, as of March 2022, while the remaining 217 forest villages (92 *per cent*), as detailed in **Table 7.3**, had not been converted into revenue villages, as of March 2022.

Table 7.3: Conversion of forest villages into revenue villages

District	No. of forest villages identified	No. of forest villages, converted into revenue village	Forest villages, not converted into revenue villages	
			No.	Percentage
Kalahandi	10	0	10	100
Keonjhar	38	0	38	100
Koraput	87	11	76	87
Mayurbhanj	24	0	24	100
Nabarangpur	09	8	01	11
Sundargarh	68	0	68	100
Total	236	19	217	92

(Source: Records of the Offices of the test-checked Collectors and Sub Collectors)

⁸⁹ Settlements, which have been established inside the forests for forestry operations and include land for cultivation and other uses permitted by the Government

Audit noticed that:

- In regard to the Koraput district, out of 76 villages not converted into revenue villages, all processes for the conversion of four forest villages, had been completed. Further, the conversion process was underway in regard to 18 forest villages. The process had not started for the remaining 54 forest villages.
- In the Sundargarh district, survey, demarcation of land, *etc.*, had been completed in case of 32 villages, while the process had not started in regard to the remaining 36 villages.

Thus, forest rights, insofar as conversion of forest villages into revenue villages was concerned, had substantially not been given. As a result, the dwellers of these forest villages were deprived of getting the benefits of government welfare schemes.

In reply, the Collectors of Koraput and Sundargarh districts, assured that all forest villages would be converted into revenue villages. The Collectors of the Nabarangpur, Kalahandi, Mayurbhanj and Keonjhar districts, did not furnish any response (January 2023).

7.4 Diversion of forest land, without complying with the provisions of the FR Act, 2006

The Ministry of Environment and Forests, Government of India, issued (August 2009) guidelines for the diversion of forest land, for non-forest use. As per the said guidelines, the State Government was to certify (termed as the FRA certificate) that: (i) the complete process for identification and settlement of rights under the FR Act, had been carried out for the entire forest area proposed for diversion, (ii) the diversion proposal had been placed before each concerned GS of forest dwellers, who were eligible under the FR Act and (iii) a letter from each of the concerned GSs had been received, indicating that all formalities under FR Act, had been carried out and they had given their consent to the proposed diversion. A letter from the State Government, certifying that discussions and decisions on such proposals, had taken place in the meetings of the GSs, in the presence of minimum 50 *per cent* of members of the GSs, was also required.

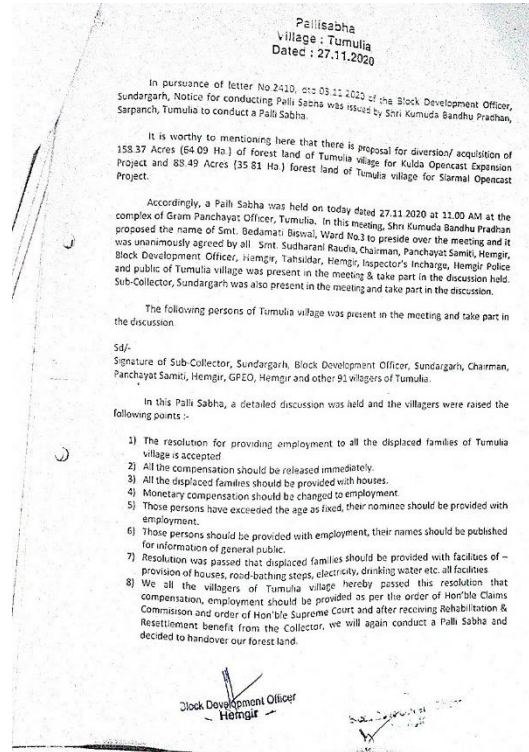
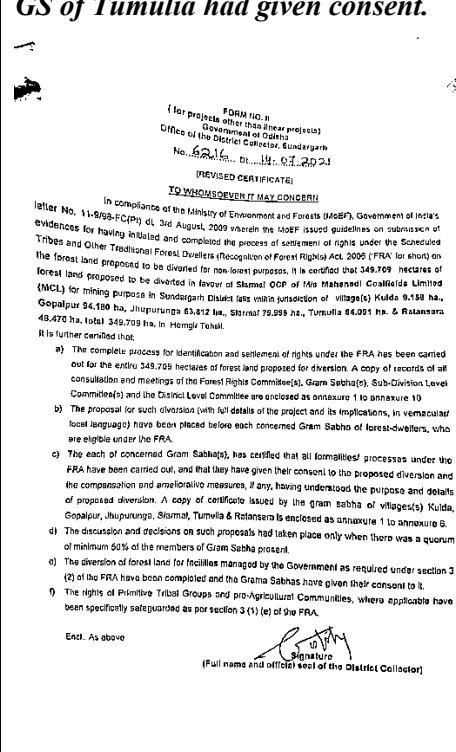
Audit scrutiny revealed that the Collectors of Sundargarh and Koraput districts had issued (2017-18 to 2021-22) FRA certificates for diversion of 1,973.5171 hectares of forest land, for different projects. Audit test-checked the FRA certificates, issued (June to November 2021) for diversion of 1,409.998 hectares of forest land, in favour of M/s Mahanadi Coalfields Limited (712.019 Ha) and M/s NALCO (697.979 Ha).

As per the certificates issued by the Collectors, the complete process, for identification and settlement of rights under FR Act, had been carried out for the entire 1,409.998 hectares of forest area, proposed for diversion, the proposals for diversion had been placed before each concerned GS, each GS had certified that all the formalities under the FRA had been carried out, all the GSs had given their consent to the proposed diversion and the discussions and decisions on the diversion proposals had taken place, only when there was a quorum of minimum 50 *per cent* of the members of GS present, *etc.* On the

basis of the certificate issued by the Collector, Sundargarh, 349.709 hectares of land had been approved (Stage-II) in November 2022 for diversion, by the Government of India.

Audit scrutinised the proceedings of the GSs, conducted during August 2015 to November 2020, in the Sundargarh district, and observed the following:

- Issue of FRA Certificate for diversion of forest land, disregarding the views of GSs:** The GSs of five villages⁹⁰ had agreed conditionally to the proposal of diversion of forest land, measuring 423.498 hectares. There was no consensus on the diversion of forest land of 99.320 hectares, in two villages (Gopalpur and Bankibahal). In case of the Tumulia village, no consent had been given for diversion of 99.901 hectares. However, the Collector had issued FRA certificate for diversion of forest land, disregarding the views of GSs.

<p>Image 7.2: GS proceedings of village Tumulia</p>	<p>Image 7.3: FRA certificate issued by the Collector</p>
<p>The GS of Tumulia had resolved to conduct another meeting of the GS, to decide over the diversion of forest land.</p> 	<p>In the FRA certificate issued by the Collector, Sundargarh, it had, however, been mentioned that the GS of Tumulia had given consent.</p> 

- Issue of FRA, without holding meeting of GS:** In regard to diversion of 89.300 hectares of land in the Lalma (83.240 hectares) and Jamkani (6.060 hectares) Reserve Forests of the Sundargarh district, meetings of the GS/ Pally Sabha (PS) had not been held. However, the FRA certificate had been issued, stating that the consent of the GS/ PS had been obtained.

⁹⁰ Kulda, Jhupurunga, Simal, Ratansara and Telendihi

- ***Obtaining consent of GS/ PS, without the required quorum:*** In two villages (Pottangi and Sisaguda) of the Koraput district, the percentages of participants, in the GS meetings, were 18.33 and 20.11, respectively, and the GSs were stated to have given consent for diversion of forest land, despite the fact that, in the absence of the required quorum, the proceedings of the GSs were not valid.

As such, FRA certificates, for diversion of 1,409.998 hectares of forest land had been issued, without ensuring compliance to the provisions of the FR Act, which was irregular.

In reply, the Project Administrator, Integrated Tribal Development Agency, Koraput, stated (March 2023) that the voters were out of station for seasonal work, due to which, the required quorum could not be ensured. The reply was not convincing, since the presence of a minimum of 50 *per cent* of members of the GS was mandatory for obtaining consent of GS. Collector, Sundargarh, did not furnish any reply.

Recommendation 7.3: Responsibility may be fixed on the Collectors concerned, for issue of FRA certificates, disregarding views of Gram Sabhas.

Land Reforms

CHAPTER 8

Land Reforms

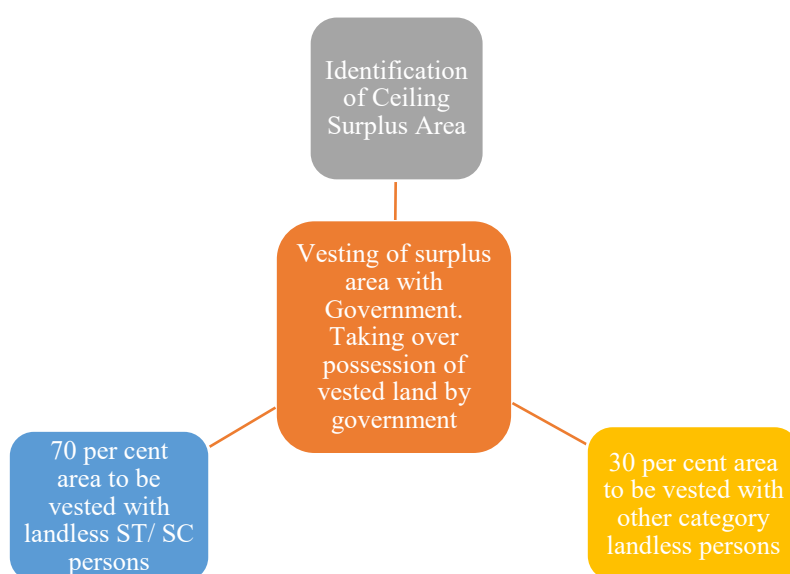
The Orissa Land Reforms (OLR) Act, 1960, aims at equitable distribution of land, by taking over of ceiling surplus land, for eventual distribution among landless households, as well as regulation of the sale of SC land. Audit scrutinised the disposal of cases of Ceiling Surplus area and the following significant audit observations emerged:

- *As many as 50 cases, involving 1,220.16 acres, were pending for disposal, in five of the sampled districts. Four of these cases had been pending since 1973-74.*
- *Out of 44,251.943 acres of Ceiling Surplus land, vested with the Government, possession of 1,462.622 acres had not been taken by the RDM Department, as of December 2022.*
- *Government had taken possession of Ceiling Surplus land measuring 42,789.321 acres. Of this, 3,460.678 acres had not been distributed among the landless households.*
- *In the eight sampled Sub-Collectorates, out of 2,626 applications received during 2017-22, from SC land owners, seeking permission for disposal of their land, 635 applications were still pending, as of March 2022.*
- *During 2017-22, 249 cases had been instituted in the eight sampled Sub-Collectorates, for restoration of SC land. Of these, 142 cases were pending for disposal, as of March 2022.*
- *In the six sampled districts, 898, out of 21,659 identified landless households, had not been provided with homestead land, under the Vasundhara Scheme. Moreover, a survey, for identification of landless households, had been last done in 2018, although the same was required to be done in each quarter, as mandated by the RDM Department. This was despite the fact that there were 7,462 landless households in the Permanent Waiting List of PMAY-G.*

In order to: (i) confer better rights on agriculturists, (ii) ensure increase in food production, by equitable distribution of land and (iii) safeguard the property rights of the SC/ ST population, the State Government enacted the Orissa Land Reforms (OLR) Act, 1960. The Act, *inter alia*, provides for regulation on the sale of SC land and distribution of ceiling surplus land.

As per Section 37A of the OLR Act, 1960, land holdings, in excess of 10 standard acres⁹¹, possessed by a person having five family members, or in excess of 18 standard acres⁹², in case the members of the family exceed five, are to be considered as ‘Ceiling Surplus area’. Upon identification of the ceiling surplus area, the authorized Revenue Officer, *i.e.* the Tahasildar concerned, is to institute a case and dispose of the same, after due examination. The Ceiling Surplus area, if any, is to be published, vested upon the Government and the surplus land parcels are to be taken into possession. As per Section 51 of the OLR Act, 70 per cent of the surplus land, vested with the Government, should be settled with landless persons, belonging to the STs or SCs, in proportion to their respective populations in the villages concerned. The remaining land is to be settled with landless persons of other categories, as depicted in **Chart 8.1**.

Chart 8.1: Process of identification and distribution of ceiling surplus land



Audit scrutinised the disposal of cases instituted for identifying and taking over Ceiling Surplus area, as also the area taken over and distributed, in five of the sampled districts (the District Collector, Koraput, did not furnish information regarding vesting and distribution of ceiling surplus area).

8.1 Disposal of Ceiling Surplus land cases

The cases instituted, disposed and pending for disposal, as well as the area involved in the pending cases, in the five out of six⁹³ sampled districts, are tabulated in **Table 8.1**.

⁹¹ ‘Standard acre’ means the unit of measurement of land equivalent to one acre of Class I land (irrigated land in which two or more crops can be grown in a year), one and one half acres of Class II land (irrigated land, in which not more than one crop can be grown in a year), three acres of Class III land (other than irrigated land, in which paddy can be grown in a year) or four and one half acres of Class IV land (any other land).

⁹² To be increased by two standard acres for each member in excess of five. However, the ceiling area shall not exceed eighteen standard acres.

⁹³ The Collector, Koraput did not furnish the information on institution and disposal of ceiling surplus cases.

Table 8.1: Pendency of Ceiling Surplus cases

District	No. of cases instituted	No. of cases disposed of	No. of cases pending for disposal	Area involved in pending cases (in acres)
Kalahandi	5,448	5,414	34	449.39
Keonjhar	1,522	1,519	3	269.57
Mayurbhanj	1,035	1,031	4	305.47
Nabarangpur	850	843	7	130.01
Sundargarh	2,717	2,715	2	65.72
Total	11,572	11,522	50	1,220.16

(Source: Records of the Offices of the sampled Collectors and Tahasildars)

The Tahasildars of the sampled districts, had not maintained data on the age-wise pendency of cases. Audit, however, noticed that four of the pending cases had been lying pending⁹⁴ since 1973-74.

In reply, the Collectors, Sundargarh and Kalahandi districts, assured that steps would be taken for disposal of the pending cases. Responses of the Collectors of Mayurbhanj, Keonjhar and Nabarangpur districts, had, however, not been received (as of October 2023).

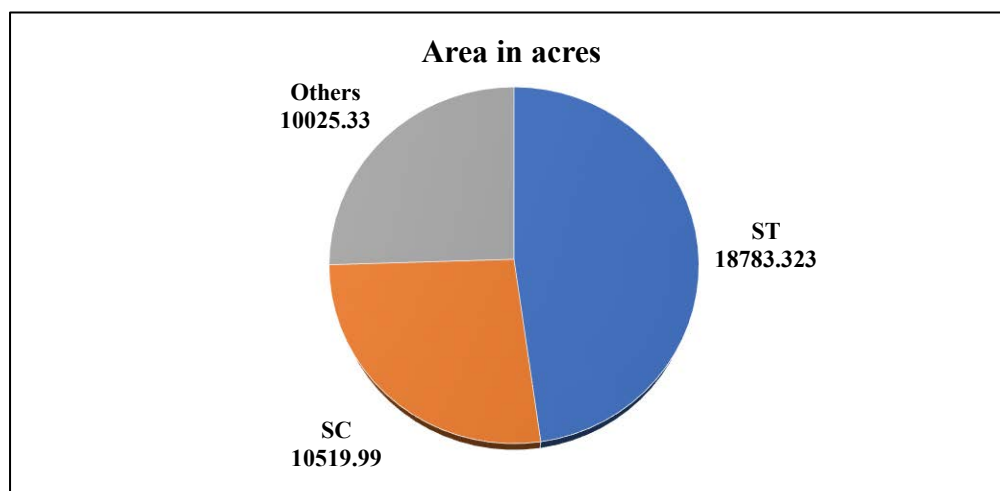
8.2 Taking over possession and distribution of ceiling surplus land

In the five sampled districts, surplus land, measuring 44,251.943 acres, was vested with the Government. Of this, the RDM Department had taken possession of 42,789.321 acres (96.69 per cent), leaving 1,462.622 acres (3.31 per cent), which had not been taken possession of. Of the 42,789.321 acres that had been taken possession of, 39,328.643 acres (91 per cent) had been distributed among 30,487 landless persons⁹⁵, as of March 2022 and 3,460.678 acres were still lying with the Government, as of December 2022. On the other hand, as per the information furnished (August 2021) by the Panchayati Raj and Drinking Water Department, in the five sampled districts, 7,462 landless households were included in the Permanent Waiting List for housing assistance, under the Prime Minister Awaas Yojana – Gramin, due to non-availability of land in their names. The share of land, distributed among the landless persons of different categories, is depicted in **Chart 8.2**.

⁹⁴ Sundargarh:2 and Nabarangpur: 2

⁹⁵ ST: 14,584, SC: 7,706 and other categories: 8,197

Chart 8.2: Distribution of Ceiling Surplus land among different groups



8.2.1 Non-taking over possession of 1,462.622 acres of Ceiling Surplus land

As per Section 45-A of the OLR Act, 1960, the persons in possession of the surplus land are to deliver possession thereof, to the Revenue Officer, within fifteen days, from the date of vesting of the land with the Government. In case, there is any standing crop on the land, on the said date, possession is to be taken within fifteen days, from the harvesting of such crop.

Audit noticed, in five sampled districts, that possession of surplus land, to the extent of 1,462.622 acres, had not been taken, despite the land having been vested with the Government. The reasons noted in this regard, in the records, are as given in **Table 8.2**:

Table 8.2: Reasons for non-taking over possession of vested Ceiling Surplus land

Reasons	Area in acres
Locked-up in litigation	1,345.30
Validity transferred	15.68
Other reasons	94.532
Reasons, not recorded	7.11
Total	1,462.622

(Source: Records of the Offices of the sampled Collectors and Tahasildars)

The meaning of the term ‘validity transferred,’ was not on record. The officials of the District Collectorate could not elaborate the reasons for pendency of cases recorded under ‘Other reasons’.

8.2.2 Non-distribution of 3,460.678 acres of Ceiling Surplus land

Audit noticed, in the five sampled districts that, 3,460.678 acres of Ceiling Surplus land, vested with the Government, had not been distributed to the eligible families. District-wise areas taken over and distributed, as of December 2022, are shown in **Table 8.3**.

Table 8.3: District-wise position of non-distribution of Ceiling Surplus land

District	Area taken over (in acres)	Area distributed (in acres)	Balance with the Government (in acres)
Kalahandi	25,372.66	23,842.58	1,530.08
Keonjhar	1,419.015	1,306.945	112.07

District	Area taken over (in acres)	Area distributed (in acres)	Balance with the Government (in acres)
Mayurbhanj	4,059.19	2,841.37	1,217.82
Nabarangpur	2,880.356	2,832.368	47.988
Sundargarh	9,058.10	8,505.38	552.72
Total	42,789.321	39,328.643	3,460.678

(Source: Records of the Offices of the sampled Collectors and Tahasildars)

Audit noticed that:

- In the Baripada Tahasil of Mayurbhanj district, possession of 900.7 acres of Ceiling Surplus land, had been taken by Government, in September 2019. However, the said land had not been distributed among the eligible landless families.
- Land measuring 204.482 acres⁹⁶ had not been distributed, recording the reason as ‘Other miscellaneous reasons’, without elaboration of the exact reasons.
- The land, remaining with the Government, had not been distributed and there were no recorded reasons for the same.

8.2.3 Non-demarcation and non-correction of RoRs of allotted Ceiling Surplus land

After settlement of Ceiling Surplus land, RoRs were to be corrected, to reflect the name of the persons/ families, to whom the said land had been distributed and demarcation of settled land, was to be carried on. In this regard, Audit noticed that:

- In three sampled districts, RoRs in regard to 2,818.24 acres⁹⁷ of Ceiling Surplus land, were not corrected in favour of the persons/ families, to whom these were distributed.
- In Sundargarh Tahasil, 16.64 acres⁹⁸ of Ceiling Surplus land had been distributed, during 1977 to 1983, but RoRs had not been corrected in favour of the allottee families and the land remained under ‘bebandobasta’, i.e., the ‘unsettled’ category. In the absence of RoRs in the names of the allottees, the Tahasildar vested (September 2020) the land with the Government. Thus, the land that had been distributed to the landless population, was reverted back to the Government, due to non-correction of records.
- As per the information furnished by the Collector, Keonjhar, RoRs in regard to all Ceiling Surplus land, distributed in the Champua Tahasil, had been corrected. Audit, however, noticed that RoRs, in regard to 5.60 acres of land, given to four landless persons (ST: 3 and SC: 1) of villages Parbatipur and Singamajuni (presently coming under the Jhumpura Tahasil), had not been corrected. The RoRs stood recorded in the name

⁹⁶ Sundargarh: 69.20 acres, Keonjhar: 95.71 acres, Mayurbhanj: 25 acres and Nabarangpur: 14.572 acre

⁹⁷ Kalahandi: 1358.61 acre, Mayurbhanj: 536.67 acre and Sundargarh: 922.96 acre

⁹⁸ Village Birbira: 6.26 acres and Village Dhaulakhaman: 10.38 acres

of the Ceiling Land holder⁹⁹ (5.19 acres) and two other individuals (0.41 acre), having been transferred to them during 1992 and 2005, by the ceiling land holder.

- Demarcation of 1,736.61 acres (Kalahandi: 1437.61 acres, Mayurbhanj: 205.08 acres, Sundargarh: 93.92 acres) of Ceiling Surplus land, had not been done, though the said land had been distributed among landless families.

Recommendation 8.1: Cases instituted for taking over of the Ceiling Surplus land, should be disposed of at the earliest. Government should take possession of the Ceiling Surplus land, settled in its favour and ensure its distribution, among the eligible population, at the earliest.

8.3 Restoration of land belonging to Scheduled Caste

As per Sections 22 and 23 of the OLR Act, 1960, any transfer of land belonging to a SC, shall be treated as void, unless it is in favour of a person belonging to a Scheduled Caste or a person not belonging to a SC, when such transfer is made with previous permission, in writing, of a Revenue Officer.

As per Sections 23-A of the OLR Act, 1960, where a person is found to be in unauthorised occupation of land, belonging to an SC, by way of trespass or otherwise, the Revenue Officer may order eviction of the person, in unauthorised occupation and shall restore the property to the said *raiyat*¹⁰⁰ or to his/ her heir. The RDM Department instructed (January 2021) all Collectors/ Sub Collectors, to dispose of the cases filed under Sections 23 and 23-A of the OLR Act, 1960, within a period of 12 months from the date of institution of such cases, unfailingly, except for legal reasons, if any.

8.3.1 Delay in disposal of cases, relating to permission for sale of SC land

Scrutiny of records of eight sampled Sub-Collectorates revealed that 2,626 applications, seeking permission for sale of SC land, were available for disposal, during FYs 2017-18 to 2021-22. Of these, 1,991 cases had been disposed of, leaving a balance of 635 cases pending, as of March 2022, as detailed in **Table 8.4**.

Table 8.4: Sub-Collectorate-wise pendency of cases

Sub-Collectorate	No. of cases				
	Available for settlement	Disposed of	Pending, as of March 2022	Test-checked in Audit	Period of pendency (in months)
Baripada	170	145	25	0	-
Bhawanipatna	1,772	1,392	380	10	5 to 38
Champua	55	43	12	12	4 to 26
Kaptipada	67	42	25	20	3 to 51
Koraput	192	144	48	10	18 to 34
Nabarangapur	148	48	100	10	24 to 51
Panposh	45	42	3	0	-

⁹⁹ The original land owner, from whom the Ceiling Surplus land had been vested to the Government

¹⁰⁰ A person, who has acquired a right to hold land for the purpose of cultivating it

Sub-Collectorate	No. of cases				
	Available for settlement	Disposed of	Pending, as of March 2022	Test-checked in Audit	Period of pendency (in months)
Sundargarh	177	135	42	10	6 to 33
Total	2,626	1,991	635	72	

(Source: Records of the Offices of the test-checked Sub-Collectors and Tahasildars)

Audit test-checked 72 pending cases, in six of the sampled Sub-Collectorates¹⁰¹ and noticed that:

- Five Sub-Collectors¹⁰² had not disposed of 10 pending cases, despite having received the required reports, from the concerned Tahasildars and other concerned functionaries.
- In regard to the remaining 62 cases, pending with six Sub-Collectors¹⁰³, reports from the concerned Tahasildars and other concerned functionaries, had not been received.
- The concerned applicants had sought permission to sell their land for various purposes, like medical treatment, marriage of their children, legal necessities, construction of houses, etc. Despite such compelling reasons, these cases had not been settled, for periods ranging from 3 to 51 months.

Due to these delays in the disposal of cases, the SC applicants had been deprived of the intended benefits extended under the Act.

8.3.2 Pendency of cases, instituted for restoration of land belonging to SC persons

The status of cases, instituted for restoration of land belonging to SC persons, in the eight sampled Sub-Collectorates, including their disposal and pendency, as of March 2022, are shown in **Table 8.5**.

Table 8.5: District-wise status of institution, disposal and pendency of cases

Sub-Collectorate	No. of cases for restoration of land belonging to SC persons		
	Instituted	Disposed of	Pending, as of March 2022
Baripada	53	36	17
Bhawanipatna	49	16	33
Champua	48	42	6
Kaptipada	7	4	3
Koraput	15	0	15
Nabarangapur	21	0	21
Panposh	11	4	7
Sundargarh	45	5	40
Total	249	107	142

(Source: Records of the Offices of the sampled Sub-Collectors and Tahasildars)

¹⁰¹ Sundargarh: 10; Kaptipada: 20; Koraput: 10; Champua: 12; Bhawanipatna: 10; Nabarangapur: 10

¹⁰² Bhawanipatna: 03; Champua: 02; Kaptipada: 01; Koraput: 03; Sundargarh: 01

¹⁰³ Bhawanipatna: 07; Champua: 10; Kaptipada: 19; Koraput: 07; Nabarangpur: 10; Sundargarh: 09

Audit test-checked 72 pending case¹⁰⁴ records and noticed the following:

- In 21 cases, instituted in six of the sampled Sub-Collectorates, during June 2003 to November 2021, the Sub-Collectors had not asked the Tahasildars, for submission of their enquiry reports.
- In 35 cases, the Tahasildars had not submitted their enquiry reports, even after lapses of 4 to 90 months, from the dates of instructions being given for submission of such report.
- In regard to the remaining 16 cases, despite submission of reports (August 2017 to August 2022) by the Tahasildars, the cases had not been disposed of by the Sub-Collectors. Audit examined 16 cases, where the Tahasildars had submitted enquiry reports and found, in five cases, that the Tahasildars had indicated unauthorised occupation of 3.70 acres of land belonging to SC persons. An instance is cited below:

Case study: 8.1

In Case No. 03/15, instituted at Sub-Collectorate, Koraput, the petitioner (an SC person) had filed (October 2015) a petition, alleging unauthorised occupation of his three acres of land,¹⁰⁵ by a Government office, i.e. the Assistant Surgeon, Veterinary, Nandapur. The Tahasildar, Nandapur, reported (August 2017) that the land stood recorded in the name of the petitioner, but the Block Veterinary Office had constructed a dispensary building, along with staff quarters and road, on 1.70 acres and the remaining 1.30 acres of land was in its possession, without construction of any structure. It was also reported that the entire land area of 3 acres had been donated by the recorded tenants, through an unregistered gift deed, in the year 1960, without valid permission of competent authority and there was no record of payment of compensation to the land owner, in lieu of such land donated. Despite the report of the Tahasildar, no action had been taken by the Sub-collector on the petition, even after a lapse of about five years.

8.3.3 Non-restoration of SC land, despite issue of delivery warrants

In two districts (Mayurbhanj and Keonjhar), 265 delivery warrants, involving 107.533 acres of land, were pending for execution, as of March 2022. Audit test-checked 12 pending warrants, involving 2.343 acres of land and noticed that they had been pending for execution by the Tahasildars, for periods ranging from three to seven years. The Sub-Collectors had not taken steps for execution of these warrants. Due to this, the SC land owners had continued to remain deprived of their land.

8.4 Allotment of homestead land, to homestead less families, under the ‘Vasundhara’ Scheme

The RDM Department launched (1974-75) a flagship programme, named “Vasundhara”, with the objective of providing homestead government land, up

¹⁰⁴ Baripada: 17; Sundargarh: 7; Kaptipada: 3; Koraput: 10; Champua: 6; Bhawanipatna: 12; Nabarangapur: 10; Panposh: 7

¹⁰⁵ Village Nandapur, Khata No. 13, Plot No. 108, under Nandapur Tahasil

to 0.04 acre, to eligible homesteadless persons¹⁰⁶, free of premium, in rural areas of the State. The Department clarified (December 2017) that allotment of homestead land would be a continuous process, in view of the fact, that families keep getting divided as the population increases, with persons getting married and setting up new families. The Department also instructed that applications be invited from the deserving families, homestead land be provided to eligible families and the list of homesteadless families be updated, on a quarterly basis.

8.4.1 Non-conduct of regular surveys, to identify families without homestead land

The last survey, to identify homesteadless families, had been conducted in 2018, although the same was to be conducted in each quarter, as per the instructions of the RDM Department. Audit noticed, in this regard, that:

- During the joint beneficiary survey (September 2022 to January 2023), by Audit, with the RIs concerned, in four villages of three Tahasils, 78 families¹⁰⁷ intimated that they were homesteadless and had been staying on Government land, for a long time. They had applied for allotment of homestead land, but no land had been provided to them (as of December 2022).
- As per the data furnished by the Panchayati Raj and Drinking Water Department, there were 46,949 landless households in the State, as of February 2021, who were in the Permanent Waiting List (PWL), for sanction of houses under the Pradhan Mantri Awaas Yojana (Gramin). In the six sampled districts, the landless households included in the PWL, stood at 7,462, as detailed in **Table 8.6**.

Table 8.6: Sampled District-wise status of landless households included in the PWL

Sampled District	No. of landless households included in the PWL
Kalahandi	533
Koraput	0
Keonjhar	842
Mayurbhanj	4,988
Nabarangpur	813
Sundargarh	286
Total	7,462

(Source: Records of the Department of Panchayati Raj and Drinking Water)

Audit observed that, although the Vasundhara Scheme had been in operation since 1974-75, identification of landless households, on a periodic basis, had not been ensured, due to which, these landless households had not been provided homestead land, to enable them to construct their dwelling units, with financial assistance from PMAY. This is indicative of the lackadaisical attitude of the authorities concerned, in achieving the mission objective of 'Housing for All'.

¹⁰⁶ Homesteadless families are those families who hold no other land in any capacity, whatsoever and include the heirs of the person and whose annual income does not exceed the amount fixed by government from time to time

¹⁰⁷ Kundekela and Deuli Villages under the Sundargarh Tahasil: 38 families; Lakhaput village, under the Koraput Tahasil: 37 families; Jareikela Village, under the Bisra Tahasil: 03 families

Thus, due to non-conduct of regular surveys, eligible beneficiaries were deprived of getting homestead land, under the 'Vasundhara' Scheme.

In reply, the Collector, Sundargarh and the Tahasildars of Barbil, Bisra, Champua, Koraput and Sundargarh, assured that steps would be taken, for conducting regular surveys, to identify homestead-less families.

8.4.2 Allotment of homestead land to homesteadless families

The progress in identification of homesteadless persons and allotment of homestead land, in the six sampled districts, as of March 2022, is tabulated in **Table 8.7**.

Table 8.7: Sampled District-wise position of homestead land provided

District Name	No. of families identified	No. of families provided homestead land	No. of families not provided homestead land	Percentage of families not provided homestead land
Kalahandi	3,777	3,777	0	0
Keonjhar	2,165	2,000	165	7.62
Koraput	5,150	4,736	414	8.00
Mayurbhanj	1,335	1,263	72	5.39
Nabarangpur	5,354	5,354	0	0
Sundargarh	3,878	3,631	247	6.37
Total	21,659	20,761	898	4.15

(Source: Records of the Offices of the sampled Collectors and Tahasildars)

As can be seen from **Table 8.7** only two districts, viz. Kalahandi and Nabarangapur, had provided homestead land to all the identified homestead less families. In the other districts, 5.39 to 8 per cent identified families, were still to be provided homestead land.

Audit observed that, in the Koraput district, five Tahasildars had rejected 414 eligible homesteadless persons, on the ground of non-availability of Government land. Further scrutiny revealed that the RDM Department had placed (November 2013) ₹ 26.52 lakh, with the Collector, Koraput, for purchase of private land, for providing homestead land to homesteadless families. The Collector had placed this fund with the Tahasildar, Narayanpatna, for purchase of private land, for providing homestead land to 202 families. The Tahasildar had, however, refunded the amount, in 2020. Reasons for refund of the amount were not shared with Audit. Thus, despite placement of funds for purchase of private land, for providing homestead land to homesteadless families, the claims of 414 eligible beneficiaries had been rejected on the ground of non-availability of government land.

Responses of the Collectors had not been received(as of October 2023).

8.4.3 Non-demarcation of land allotted under the Vasundhara scheme

Audit examination revealed that the Collector, Sundargarh, had provided (in 1983 and 1985) homestead land, to 140 homesteadless persons, in the Garjan village (40), under the Lathikata Tahasil and the Gariamunda village (100), under the Rajgangpur Tahasil under Vasundhara scheme. Demarcation of the land so allotted had, however, not been carried out. These villagers submitted (December 2020 and February 2021) their grievance before the Collector,

Sundargarh, for demarcation of the allotted land. The Additional District Magistrate, Sundargarh, instructed (December 2020 and February 2021) the Tahasildars to take necessary action in the matter. In response, the Tahasildar, Lathikata, intimated that four persons had encroached upon the allotted land and were opposing demarcation. The Tahasildar, despite being the empowered authority to institute and adjudicate encroachment cases, had not taken any action in this regard. No action was taken thereafter, either at the Tahasil or District levels, for demarcation of the said lands, due to which, the people of these villages, had not been able to construct houses on the allotted land.

Audit also conducted surveys of 108 beneficiaries, allotted with homestead land, under the Vasundhara Scheme, in the 12 sampled Tahasils. Audit noticed that demarcation of 1.54 acres of land, allotted in favour of 37 beneficiaries¹⁰⁸ had not been made. Audit further noticed that four beneficiaries of Barbil Tahasil had not been able to construct houses out of financial assistance provided under PMAY, owing to non-demarcation of allotted land. Consequently, the beneficiaries were not able to construct houses, and thus, remained deprived of availing the benefits of various social welfare schemes.

In reply, the Collector, Sundargarh and Tahasildars, Barbil and Bisra assured that demarcation of land, allotted under the Vasundhara scheme would be carried out, while the Tahasildars of Baripada, Koraput and Thuamul Rampur, did not furnish any reply.

8.5 Non-settlement of *Gramakantha Paramboke* (GKP) Land

As per OGLS (Amendment) Rules, 2010, a person who is in possession of GKP¹⁰⁹ land, in exercise of customary right or usage, or having acquired possession of such land, by way of transfer, through a registered deed of conveyance, from a person who was in lawful possession of such land for a period of at least three years prior to the appointed date, *i.e.*, 26th February 2009, shall be eligible for settlement of land in his/ her favour, for homestead purpose.

Scrutiny of records of the Office of the Tahasildar, Similiguda, revealed that 26 SC/ ST persons had applied for settlement of 0.44 acres of GKP land, in Kaki *mouza*, during 2018. The RIs concerned had reported (January 2019) that the lands had been under the actual possession of the applicants, since their forefathers' times and they were, thus, eligible for settlement of these lands in their favour. The Tahasildar had also approved (February 2019) settlement of the land, in favour of the applicants. As the land related to an urban area, the case records were sent (November 2019) to the Sub-collector, Koraput, for approval. The case records were returned (November 2019) with the instruction for resubmission, after complying with certain defects¹¹⁰. However, the Tahasildar had not rectified these defects, even after a lapse of more than two years. As a result, these GKP lands had not been settled in favour of the above SC/ ST persons (as of September 2022).

¹⁰⁸ Baripada: 6; Bisra: 4; Koraput: 11; Thuamul Rampur: 12; Barbil: 4

¹⁰⁹ A type of government land

¹¹⁰ Non-enclosing of combined title page, non-publication of general proclamation, non-availability of signature of witness, non-deposit of *salami*, absence of page numbering in file, non-attestation of enclosed documents *etc.*

In reply, the Tahasildar stated that, after receipt of report from the RI concerned, further compliance would be submitted.

Recommendation 8.2: Surveys of landless households should be carried out periodically and the identified landless households should be provided with homestead land, for construction of dwelling units.

**Monitoring
And
Enforcement**

CHAPTER 9

Monitoring and Enforcement

Significant audit observations, on Monitoring and Enforcement by the RDM Department, are as follows:

- *Out of 12,982.381 acres of land, acquired between 1963-64 and 2018, for public purposes, 9,864.231 acres had remained unutilised, as of December 2022. Though the unutilised land should have been restored back in the names of the persons from whom it had been acquired, the same had not been done.*
- *There were 31,730 land encroachment cases, involving encroachment of 12,013.90 acres of Government land, pending in the six sampled districts, as of March 2022.*
- *As many as 14,71,998 land records were pending for digitisation, in the six sampled districts, as of December 2022.*

Land is a precious natural resource, that needs to be utilised optimally. It is, therefore, important to ensure that land is used for the purposes for which it was acquired/ earmarked.

9.1 Utilisation of acquired/ allotted land for the intended purposes

The provisions in various acts and rules, for resumption/ return of allotted land, within the prescribed period, are as under:

Table 9.1: Different regulatory provisions for utilisation of acquired/ allotted land

Sl. No.	Reference to the Acts/ Rules	Provision
1	Clause 6 of the ORRP, 2006	Land not utilised by a project, for the required purposes, within the prescribed time limit, was to be resumed.
2.	Clause (b) of Section 3B of the OGLS (Amendment) Act, 2013	Resumption of land that had been settled, if it was not utilised for a period exceeding three years from the date of settlement.
3.	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 of 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.

Sl. No.	Reference to the Acts/ Rules	Provision
4.	Rule 42 of the ORFCTLARR Rules, 2016	Formation of a Land Bank ¹¹¹ by the State Government, to ensure productive use of government owned waste land, vacant/ abandoned/ unutilised acquired lands, tax-delinquent properties and acquisition of minimum amount of land.
5.	Rule 43 of the ORFCTLARR Rules, 2016	Automatic reverting back of the land, to the Land Bank, in case the land had been acquired and possession had also been taken over, but the land had not been utilised within a period of five years from the date of possession. The Requiring Body is to deliver possession of the land to the Tahasildar and, on failure to so deliver the possession and occupation by the Requiring Body, the same is to be treated as unauthorised and the Requiring Body is to be evicted, in due course of law. The Land Acquisition Officers are to furnish this information, to the local Tahasildars, at the end of every six months in a calendar year and the Tahasildars are required to update the database of the Land Bank.

(Source: Records of the RDM Department and the Offices of the sampled Collectors)

9.1.1 Non-utilisation of 9,864.231 acres of land, allotted for three projects

Audit scrutiny revealed that 12,982.381 acres of land, as detailed in **Table 9.2**, were allotted for the establishment of three projects, in two out of the six sampled districts, during 1963-2018, which had remained unutilised, as of December 2022.

Table 9.2: Non-utilisation of acquired/ allotted land

Project	Land allotted (in acres)			Year of allotment	Land lying unutilised as of December 2022 (in acres)
	Private land	Government land	Total		
4000 MW Ultra Mega Power Project (UMMP), Sundargarh	2,731.431	446.01	3,177.441	2013-18	3,177.441
Aditya Aluminium Refinery Plant by Hindalco Industries Limited (HIL), Koraput	431.34	478.30	909.64	2007-08	909.64

¹¹¹ 'Land bank' is under the charge of local Tahasildar, who shall maintain a village-wise Land Bank of all Government wasteland, unutilized acquired land and land to be deposited by the Requiring Body, in case of acquired irrigated double-cropped land, which shall be made available to the SIA team and expert group, as per their requirement

Project	Land allotted (in acres)			Year of allotment	Land lying unutilised as of December 2022 (in acres)
	Private land	Government land	Total		
HAL, Koraput	7,666.93	1,228.37	8,895.30	1963-64	5,777.15
Total	10,829.701	2,152.68	12,982.381		9,864.231

(Source: Records of the Offices of the test-checked LAOs/SLAOs)

As may be seen from the above table, 9,864.231 acres of land had not been utilised for the intended purposes, even after lapse of 5 to 60 years from the dates of allotment. Further scrutiny revealed that:

- In case of UMPP, Sundargarh, the SLAO-cum-Sub-Collector, Sundargarh, had passed (August 2013) land acquisition compensation awards of ₹713.29 crore, for 2,731.431 acres of private land and handed over the possession of the acquired land, to IDCO, during November 2014 to February 2015. The Collector, Sundargarh, had also sanctioned (2013-18) lease of 446.01 acres of government land, in favour of IDCO. The Government land, leased out in favour of IDCO, for UMPP, lay within the compact patch of private land and, as such, remained under the possession of IDCO, but had remained unutilised (as of January 2023).
- In case of HIL, no industrial work had been taken up on the allotted land. As per the report (September 2022) of RI, Laxmipur, identification of the allotted land was under progress. Thus, the land allotted during FY 2007-08, had remained unutilised (as of January 2023).
- In case of HAL, 8,895.30 acres of land (acquired private land 7,666.93 acres and government land 1,228.37 acres), covering 13 villages of the Koraput District, had been alienated, in favour of HAL, during the year 1963-64. The land acquired, was mostly agricultural land. The cost of acquisition was borne by the State Government and the entire land was given to HAL, free of cost. Out of this, 3,121.15 acre (Private: 2,315.72 acre and Government: 805.43 acre) had been retained by HAL and the remaining 5,777.15 acres of land, had been surrendered to the Government. The surrendered land stood recorded in the name of the RDM Department. The Collector had alienated same portion of the surrendered land to different agencies/ departments, details of which had not been maintained.

In this context, Audit observed that the 5,354.21 acres of land, surrendered by HAL, had mainly been acquired, from ST/ SC land owners. In regard to eight villages, the entire acquired land, of 2,609.99 acres, had been surrendered. However, the surrendered land had remained unutilised for about sixty years, due to which the social/ financial benefits of land acquisition, that could have accrued to the State/ public/ the land owners of the scheduled area, had not been achieved. Further, due to acquisition of private land, agricultural production had also been hampered, as the land had remained unutilised for about sixty years. Thus, management of land was ineffective, due to

which 5,777.15 acres of acquired land had remained unutilised for about sixty years and consequentially, the respective land owners, who were mostly ST/ SC farmers had lost their livelihood.

Audit observed that the State Cabinet, in its 50th meeting, held on 21 October 2022, had approved return of 206.685 acres of land, which had been acquired in the Kalipali village of Ganjam district, for establishment of industries by Tata Steel Limited, but had remained unutilised for the last two decades, to the original land owners or to the legal heirs, as per the provisions of the Odisha RFCTLARR (Compensation, Rehabilitation and Resettlement and Development), Rules, 2015.

However, the Collectors of Sundargarh, Koraput and Tahasildar, Semiliguda, had not taken effective steps, either for utilisation of the land for the intended purposes, or for return of the land to the original land owners/ to the land bank, as provided for in the RFCTLARR Act, 2013, ORFACTLARR Rules, 2016 and ORRP, 2006, as had been done in the Ganjam District.

In reply, the Sub-Collector-*cum*-LAO, Sundargarh, assured that the facts would be intimated to higher authorities, for early utilisation of acquired land for the intended purpose, further stating that, in case there was no prospect of utilisation of the acquired land, the same would be resumed.

LAO, Koraput, assured that effective steps would be taken for utilisation of the land, in a time-bound manner, failing which, the land would be resumed.

The Tahasildar, Semiliguda, assured that steps would be taken for return of the acquired land, to the land owners/ legal heirs, after receipt of instructions from higher authorities.

9.1.2 Non-formation of Land Bank

Rule 42 of the Odisha RFCTLARR Rules, 2016, provides that the State Government may, form a Land Bank, under the charge of local Tahasildar, that focuses on the conversion of the Government owned wasteland, vacant, abandoned, unutilised acquired lands and tax-delinquent properties, into productive use. The Tahasildar shall maintain a village-wise Land Bank of all Government waste land, unutilised acquired land and land to be deposited by the Requiring Body, in case of acquired irrigated double-cropped land, to ensure acquisition of minimum area of land and to facilitate utilisation of unutilised public lands, including land acquired earlier and not utilised.

In 11 out of the 12 sampled Tahasils¹¹², 4,26,696.565 acres of non-forest Government land, was available. However, no village-wise land bank had been formed, to ensure productive use of government owned wasteland, vacant/ abandoned/ unutilised acquired lands, tax-delinquent properties and acquisition of the minimum area of land. There was also no mechanism to watch the utilisation of allotted land for the intended purposes and reversion of same to the land bank.

¹¹² Tahasildar Koraput did not furnish information on availability of land in the Tahasil

Recommendation 9.1: *Unutilised acquired land should be returned to the previous land owners, as per the statutory provisions and the regulations, framed thereunder.*

Recommendation 9.2: *Village-wise Land Bank, as envisaged under Rule 42 of the Odisha RFCTLARR Rules, 2016, may be formed to ensure minimum acquisition and to facilitate utilisation of unutilised public land.*

9.2 Encroachment of government land

The Odisha Prevention of Land Encroachment (OPLE) Act, 1972, and Rules made thereunder (1985), authorised the Tahasildars to prevent Government land from encroachment by unauthorised persons or organisations. Section 7 of the OPLE Act, 1972, stipulates that persons, unauthorisedly occupying Government land, are liable to pay penalty, rent and cess, as assessed under Section 4 of the Act and to be summarily evicted by the Tahasildar, after giving reasonable notice to remove the unauthorised construction, crops raised on the land, etc. However, encroached land can be settled in favour of landless or homestead-less persons.

9.2.1 Disposal of encroachment cases

Details of encroachment cases during 2017-22, in the six sampled districts, as of March 2022 are given in **Table 9.3**.

Table 9.3: District-wise status of disposal of encroachment cases

Sl. No.	Districts	Total cases	Disposed	Pending, as of March 2022	Area of pending cases (in acres)
1	Kalahandi	48,272	45,820	2,452	738.52
2	Keonjhar	46,042	44,127	1,915	301.27
3	Koraput	87,160	83,779	3,381	806.24
4	Mayurbhanj	61,340	51,835	9,505	3,197.61
5	Nabarangpur	56,895	50,039	6,856	4,186.69
6	Sundargarh	39,698	32,077	7,621	2,783.57
	Total	3,39,407	3,07,677	31,730	12,013.90

(Source: Records of the Offices of the sampled Collectors and Tahasildars)

Audit test-checked 69 pending and 207 finalised encroachment cases, in the 12 sampled Tahasils and noticed the following:

- **Pendency of cases:** The RDM Department instructed (November 2005) that all encroachment cases should normally be disposed of within a time frame of 90 days, except for the contested cases, or cases, where there was a stay order, imposed by a Court of Law. The 69 pending encroachment cases¹¹³ had been pending for periods ranging from 2 to 51 years¹¹⁴. The encroachers had constructed dwelling houses on the encroached land. Though, the Tahasildars had issued eviction orders for vacation of encroachment, same were not followed up. However, the Tahasildars had not taken effective steps for disposal of these cases,

¹¹³ Koraput - 8, Nandahandi - 16, Umerkote - 19, Lanjigarh - 16 and Thuamul Rampur - 10 cases

¹¹⁴ Up to five years: 18, 15 to 25 years: 16 and beyond 25 years: 35

either by eviction or by settlement, in favour of eligible homestead-less/land-less encroachers.

- ***Non-settlement of land in favour of homestead-less encroachers:*** In 24¹¹⁵ out of the 207 finalised test-checked cases, the encroachers were landless/ homestead-less persons. As such, the Tahasildars were required to consider settling the encroached land in their favour, as per Section 7 of the OPLE Act, 1972. They had, however, not settled any land in favour of eligible homestead-less/ land-less persons.
- ***Excess collection of penalty:*** Section 6 of the OPLE Act, provided for levy of penalty, not exceeding one hundred rupees per acre of land, for each year of unauthorised occupation. In 198 out of 207 test-checked cases, the 12 sampled Tahasildars¹¹⁶ had levied/ collected penalty at higher rates, ranging from ₹ 109 (Koraput) to ₹ 5,79,800 (Semiliguda) per acre, in violation of the provisions of the Act.
- ***Non-reduction/ remission of penalty:*** The OPLE Rules, 1985, provide for reduction/ remission of penalty or fine, in case the encroacher belongs to the SC or ST categories. In 70¹¹⁷ out of the total 207 test-checked cases, the encroachers belonged to the SC/ ST categories. However, the Tahasildars concerned had not extended any benefit of reduction/ remission to the SC/ST encroachers.

Thus, the cases had been disposed of, without ensuring the safeguards provided for homestead-less/ landless encroachers, belonging to the ST and SC categories.

The Tahasildars of the sampled districts have noted the audit observation for future guidance. Response of the department is awaited (February 2024).

Recommendation 9.3: Cases of encroachment of Government land should be disposed of within the prescribed time frame.

¹¹⁵ Koraput-10, Bisra-1, Baripada-2, Kaptipada-4, Nandahandi-3, Sundargarh-1 and Thuamul Rampur-3

¹¹⁶ Baripada: ₹1381 to ₹ 11,960; Semiliguda: ₹ 112 to 5,79,800; Koraput: ₹109 to 1,196; Bisra: ₹ 198 to 1,81,818; Sundargarh: ₹ 702 to 20,000, Kaptipada: ₹ 5,926 to 40,000, Champua: ₹ 1,343 to 12,463, Barbil: ₹ 1,238 to 7,425; Umerkote: ₹ 675 to 1,163, Lanjigarh: ₹ 566 to 1,424; Nandahandi: ₹ 1,657 to ₹ 9,990 and Thuamul Rampur: ₹ 632 to 4,750

¹¹⁷ Baripada: 07; Kaptipada: 01; Koraput: 11; Semiliguda: 18; Bisra: 13; Nandahandi: 10; Sundargarh:02 and Thuamul Rampur: 08

9.3 Lease/alienation of Government land

Audit test-checked 179 lease¹¹⁸/ alienation¹¹⁹ cases, involving 6,614.301 acres of land, in six sampled districts¹²⁰ and 12 sampled Tahasils and observed the following deficiencies:

9.3.1 Inaction on encroachment by applicants for lease of land

RDM Department instructions (November 2010) provide that, in cases where land has been occupied, without prior approval of the competent authority, the act of occupation should be treated as encroachment and the encroachers would be liable for eviction. However, in exceptional cases, due to good and sufficient reasons, Government may consider settling the land with the occupier. Further, the benefits of concessional rates of premium, if any, available under any policy of Government, for the specified purpose, will not be applicable in cases where the land has been occupied unauthorisedly, prior to sanction of lease. The occupier has to pay premium, calculated at the market value of the land, as on the date of occupation and interest thereon, for the entire period of occupation, or the present market value, whichever is higher; an amount equal to penalty, as payable under the provisions of the OPLE Rules, 1985; and arrears of ground rent and cess, with interest, based on the market value prevailing during the relevant period.

On scrutiny of pending lease case files, it was noticed that 25 private/ Government institutions/ organisations/ trustees had remained in unauthorised occupation of 599.98 acres of Government land, as detailed in **Table 9.4**.

Table 9.4: Unauthorised occupation of Government land

Tahasil	No. of cases	Area under occupation (in acres)	Value of land (₹ in lakh)	Period of occupation, as of March 2022
Baripada	1	0.10	27.00	Nine years
Bishra	4	0.98	68.88	11-12 years
Kaptipada	2	1.55	5.79	3-32 years
Koraput	3	2.64	732.80	28-30 years
Similiguda	6	582.13	2,155.22	34-58 years
Sundargarh	7	10.83	317.38	6-22 years
Umarkote	2	1.75	638.75	20-22 years
Total	25	599.98	3,945.82	

(Source: Records of the Offices of the sampled Tahasildars and Collectors)

The occupants had filed applications with the concerned Tahasildars, for settlement of land under the OGLS Act, 1962, which were pending for sanction (as of December 2022). It was noticed, from the enquiry reports of the concerned RIs/ cadastral view of plots/ declarations by the applicants, that the land had been under occupation of the applicants for the last 3 to 58 years, pending sanction of lease. As per the RDM Department's instructions, they should have been evicted, or regularised by realisation of premium and other

¹¹⁸ Lease: Letting of government land for a certain period in favour of individuals, institutions, corporations and other non-government organisations

¹¹⁹ Alienation: Transfer of government land in favour of different departments of government

¹²⁰ Collectors of Koraput, Nabarangpur and Kalahandi could not furnish information on sanction of lease/ alienation of Government land of 3,901.807 acres in 1,538 cases, sanctioned during 2017-22

Government dues. The Tahasildars had, however, not taken any effective steps for eviction/ referring the matter to Government, for consideration of settlement of the land. Due to inaction of the Tahasildars, 599.98 acres of Government land, valuing ₹39.45 crore¹²¹ (as per the BMV of the plots), had remained under the unauthorised occupation of the institutions (as of December 2022).

In reply, the Tahasildars assured that appropriate steps would be taken for sanction of lease, with realisation of applicable Government dues or for booking encroachment cases for the unauthorised occupation.

9.4 Digitisation of land records

The GoI launched (August 2008) the Digital India Land Records Modernisation Programme (DILRMP) with the objective of developing a modern, comprehensive and transparent land records management system in the country and to implement conclusive land-titling system with title guarantee. Paragraph 5.1.1 of the DILRMP guidelines, issued (January 2019) by GoI, provides that all textual data, including the RoRs, mutation orders and other land attributes, was to be updated and computerised. All spatial data (cadastral maps) was also to be updated and digitised.

The RDM Department instructed (March 2017) the Collectors to upload the scanned records to Document Management System (DMS) software, and complete the work by July 2017.

Audit scrutiny revealed that 31,82,563 land records (textual data) were available for scanning, in the six sampled districts, of which 28,02,084 records had been scanned, as of March 2022. Out of the scanned land records, 13,30,086 had been uploaded through the DMS software and the remaining 14,71,998 case records, as detailed in **Table 9.5**, were yet to be uploaded (as of December 2022).

Table 9.5: Scanning and uploading of land records in the DMS software

District	Land records available for scanning			Scanned land records, uploaded in the DMS software	Balance pending for uploading
	Available	Scanned	Balance to be scanned		
Kalahandi	4,65,632	3,74,515	91,117	9,47,23	2,79,792
Keonjhar	4,91,904	4,80,642	11,262	3,46,352	1,34,290
Koraput	4,92,022	3,83,762	1,08,260	2,15,306	1,68,456
Mayurbhanj	6,20,640	4,50,800	1,69,840	2,76,332	1,74,468
Nabarangpur	5,66,137	5,66,137	0	3,52,744	2,13,393
Sundargarh	5,46,228	5,46,228	0	44,629	5,01,599
Total	31,82,563	28,02,084	3,80,479	13,30,086	14,71,998

(Source: Records of the Offices of the test-checked Collectors)

Audit observed the following deficiencies in the digitisation of land records:

- **Shortfall in uploading of scanned land records:** The authorised officers had not taken adequate steps for scanning of 3.80 lakh (12 per cent) land records and uploading of 14.72 lakh (53 per cent) land records, due to which, the purpose of digitisation of land records had been defeated,

¹²¹ Except 526.12 acres of land, occupied by OUAT, where the BMV could not be ascertained

depriving the land owners of getting a modern, comprehensive and transparent land records management system.

In reply, the Board of Revenue stated (July 2023) that scanning was a continuous process and assured to take steps for updation of scanning work.

- **Non-issue of corrected maps after mutation of land:** In order to improve the delivery of services to the citizens, the RDM Department instructed (12 September 2018) the Tahasildars to dispatch the RoRs through speed post, along with the corrected maps, after finalisation of mutation cases. A printout of the updated map, corrected through *Bhu-Naksha*, was to be given to the applicant, along with the RoR. Audit scrutinised 182 mutation cases, in the 12 sampled Tahasils and noticed that, after finalisation of the mutation cases, the corrected RoRs were being sent through speed post, in all Tahasils. However, in contravention of the Government instruction, the maps, as corrected through *Bhu-naksha*, were not being sent along with the RoRs.
- **Maps corrected in *Bhu-naksha*, not up to scale:** Paragraph 11 under Chapter I of the technical manual contained in DILRMP guidelines (January 2019) provides that every digitised map needs to be updated every time when classification of a portion of the plot changes or ownership of a portion changes. Such plot divisions are effected on the digital map, based on field measurements data. The RDM Department had implemented (July 2018) web based *Bhu-naksha* application for correction of cadastral map. Audit examined the *Bhu-naksha* software in regard to 182 mutation cases and noticed that the maps corrected in the software, were not based on field measurements data. They did not represent the actual sizes of the plots. Instead, they only identified that the corrected plot, existing within the main plot. It was also seen that the RDM Department had given a disclaimer to the effect that "the maps and related data, shown in this website, are for the purpose of viewing only. The data displayed here is not meant for use in any legal purpose or any such activities. Neither National Informatics Centre nor Revenue & Disaster Management Department, Government of Odisha is responsible".

As such, the entire exercise done for correction of maps, had been rendered wasteful and the intended objectives, *i.e.*, updation of digitised maps as per field requirement, could not be achieved.

Recommendation 9.4: The land records, pending for digitisation, should be digitised at the earliest.

9.5 Ineffective redressal of Public Grievance

Redressal of public grievances is one of the important instruments of good governance. Audit noticed that, in the six test-checked districts, 54,348 grievance/ complaint cases had been received during FYs 2017-18 to 2021-22. Out of these, 39,407 (72.50 *per cent*) had been disposed of, while the remaining

14,941¹²² cases were pending with different District/ Sub-divisional/ field level authorities, for redressal, as of December 2022. Periodicity of the pending cases could not be ascertained, due to non/ improper maintenance of grievance registers.

Due to pendency of grievances, people of the Scheduled areas of the sampled districts were deprived from getting timely justice. In reply, the Collector, Koraput, assured that steps would be taken for disposal of the pending grievances, while the Collectors of Mayurbhanj, Keonjhar and Nabarangpur districts, did not furnish any reply.

9.6 Ineffective monitoring

As per Sections 53 and 54 of the OLR Act, 1960, Government shall constitute a Land Commission, consisting of seven members, to review the progress of land reforms from time to time and to publish a report in this regard, at least once in a year. The Land Reforms Commissioner (LRC) shall be the *ex-officio* secretary of the Land Commission. Sections 55 and 56 of the Act provide that the Government may constitute the District Executive Committee (DEC), under the chairmanship of the Collector, for review of the progress of land reforms in the district. Government of Odisha appointed an LRC, in the year 1961, to monitor and supervise land reform works, including distribution of ceiling surplus land among landless persons, safeguarding the interests of the Scheduled Tribes community, disposal of *Bebandobasta* cases and conversion of agricultural land for non-agriculture purposes, by the Tahasildars. In this regard, Audit noticed that:

- The RDM Department had constituted (February 2015) the Land Commission and the last meeting of the Commission had been held in November 2015. The tenure of the Land Commission had expired in February 2018, but the Commission had not been reconstituted (as of March 2022). Similarly, DEC's had not been formed, in any of the six sampled districts, to review the progress of land reform works. Further, no review meetings had been conducted by the LRC, to monitor the progress of land reform measures and to achieve the desired objectives.
- Though 3,460.678 acres of Ceiling Surplus land was available with the Government, no land had been distributed among landless persons. 2,134 cases, as discussed at **Paragraph 6.2** of this Report, were pending under Regulation 2 of 1956. 635 cases, as discussed at **Paragraph 8.3.1** of this Report, were pending for disposal under Section 23 A of the OLR Act. 172.51 acres of land remained under *bebandobasta* and 3,589 cases, relating to conversion of agricultural land, were pending for disposal.

¹²² Mayurbhanj: 750; Keonjhar: 519; Koraput: 5,069; Sundargarh: 27; Nabarangpur: 8,131 and Kalahandi: 445

Non-constitution of the Land Commission, after its expiry, non-formation of DEC's at the district level and lack of inspection, monitoring and review of progress of land reform measures by the LRC, led to ineffective monitoring, which led to significant pendency of land revenue cases and lack of implementation of land reform measures.

Recommendation 9.5: Land Commission may be reconstituted, District Executive Committees may be formed and monitoring mechanism may be strengthened for disposal of pending land revenue cases and implementation of land reform measures.

Bhubaneswar
The 3 JUN 2024

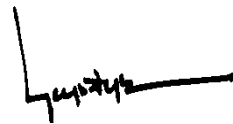


(RAJ KUMAR)

**Principal Accountant General (Audit-I)
Odisha**

Countersigned

New Delhi
The 7 JUN 2024



(GIRISH CHANDRA MURMU)

Comptroller and Auditor General of India

Appendices

Appendix 3.1

(Refer Paragraph 3.4.2)

Land Acquisition cases, where Gram Sabha meetings were conducted without the required quorum

Sl. No.	Village	Area (in acres)	Date of SIA notification	Date of preliminary notifications under Section 11 of the RFCTLARR Act, 2013	Date of conducting GS meeting	Total members of the GS	No. of members, who attended the GS meetings	Percentage
1	Ambaguda	27.682	05-06-2020	18-06-2022	27-05-2022	1,227	26	2.12
2	Badakaudi	24.421	05-06-2020	18-06-2022	26-05-2022	375	33	8.80
3	Ekamba	24.723	05-06-2020	18-06-2022	28-03-2022	1,038	17	1.64
4	Hadapa	6.206	05-06-2020	18-06-2022	27-05-2022	492	11	2.24
5	Jayantigiri	103.181	05-06-2020	27-07-2022	27-07-2022	657	16	2.44
6	Majurmunda	5.725	05-06-2020	18-06-2022	27-05-2022	1,315	4	0.30
7	Anchala	22.523	05-06-2020	18-06-2022	27-05-2022	890	21	2.36
8	Aunli	19.439	05-06-2020	18-06-2022	Not recorded	1,116	17	1.52
9	Kamara	14.690	05-06-2020	18-06-2022	Not recorded	580	16	2.76
10	Majhia	26.563	05-06-2020	18-06-2022	Not recorded	338	7	2.07
11	Parli	7.938	05-06-2020	18-06-2022	Not recorded	478	13	2.72
12	Barlahandi	56.480	24-06-2020	18-06-2022	28-05-2022	422	33	7.82
13	Ekamba	12.690	24-06-2020	18-06-2022	26-05-2022	1,038	14	1.35
14	Kakarahandi	51.656	24-06-2020	18-06-2022	28-05-2022	592	10	1.69
15	Phampuni	22.982	24-06-2020	18-06-2022	28-05-2022	2,257	32	1.42
16	Digapur	22.065	24-06-2020	11-05-2022	02-05-2022	628	8	1.27
17	Ghosharla	3.632	24-06-2020	11-05-2022	02-05-2022	495	2	0.40
18	Ghumar	30.466	24-06-2020	11-05-2022	14-04-2022	757	42	5.55
19	Khilaput	8.985	24-06-2020	11-05-2022	21-05-2022	495	9	1.82
20	Mundiguda	12.567	24-06-2020	11-05-2022	12-04-2022	112	9	8.04
21	Pradhaniput	9.923	24-06-2020	11-05-2022	02-05-2022	373	18	4.83
22	Bageraguda	5.681	24-06-2020	11-05-2022	25-04-2022	309	6	1.94
23	Goudaguda	28.084	24-06-2020	11-05-2022	25-04-2022	137	11	8.03
24	Mahantaput-I	2.417	24-06-2020	11-05-2022	Not recorded	534	26	4.87
	Total	550.719						

(Source: Compiled from the records maintained at the sampled units)

Appendix 3.2

(Refer Paragraph 3.4.3)

Land Acquisition cases, where preliminary notifications were issued, disregarding the views of Gram Sabhas

Sl. No.	LA case No./ Village	Area (in acres)	Date of preliminary notification under Sec 11 of the RFCTLARR Act, 2013	Date of passing of award	Date of GS meeting	Views of the GS
1.	41/18 Bhedabahal	26.15	10-05-2019	04-03-2020	24-07-2015	Opposed
2.	60/20 Kukuda	233	06-07-2021	23-12-2021	26-01-2020	Opposed
3.	61/20 Bihabandh	9.22	06-07-2021	05-01-2022	26-01-2020	Opposed
4.	62/20 Lanjiberna	27.26	06-07-2021	05-01-2022	26-01-2020	Opposed
5.	63/20 Kesharmal	293.25	21-12-2021	19 under process	26-01-2020	Opposed
6.	64/20 Raiberna	57.8	21-12-2021	19 under process	26-01-2020	Opposed
7.	65/20 Alanda	164.82	21-12-2021	19 under process	26-01-2020	Opposed
8.	66/20 Bihaband	29.79	21-12-2021	19 under process	26-01-2020	Opposed
9.	67/20 Kukuda	162.96	21-12-2021	19 under process	26-01-2020	Opposed
10.	68/20 Jhagarapur	8.48	21-12-2021	19 under process	26-01-2020	Opposed
11.	24/18 Sareikela	0.37	10-05-2019	19-05-2020	27-08-2015	No consensus
12.	25/18 Bandhpali	0.41	10-05-2019	01-10-2020	27-08-2015	No consensus
13.	36/18 Surda	16.17	10-05-2019	18-08-2020	28-08-2015	No consensus
14.	37/18 Nialipali	1.07	10-05-2019	20-08-2020	26-04-2018	No consensus
15.	38/18 Jhimermahul	17.14	10-05-2019	31-08-2020	09-09-2015	No consensus
16.	53/18 Chabiri	1.89	22-06-2020	09-03-2021	30-07-2018	No consensus
17.	02/17 Kalamegha	3.95	06-03-2018	25-02-2019	17-01-2018	Conditional support
18.	03/17	3.25	06-03-2018	25-02-2019	09-11-2016	Conditional support

Sl. No.	LA case No./ Village	Area (in acres)	Date of preliminary notification under Sec 11 of the RFCTLARR Act, 2013	Date of passing of award	Date of GS meeting	Views of the GS
	Laikera					
19.	04/17 Chuabahal	18.12	06-03-2018	25-02-2019	16-01-2018	Conditional support
20.	05/17 Kanaktora	20.17	06-03-2018	25-02-2019	16-01-2018	Conditional support
21.	26/18 Duduka	6.21	10-05-2019	20-11-2020	25-08-2015	Conditional support
22.	28/18 Barpali	2.91	10-05-2019	23-12-2020	03-05-2018	Conditional support
23.	29/18 Mahikani	3.15	10-05-2019	12-03-2020	23-07-2015	Conditional support
24.	30/18 Badbanga	5.48	10-05-2019	12-03-2020	27-04-2018	Conditional support
25.	31/18 Bijadihi	16.95	10-05-2019	18-08-2020	23-07-2015	Conditional support
26.	32/18 Aunlabahal	22.43	10-05-2019	04-09-2020	30-04-2018	Conditional support
27.	33/18 Sribhubanpur	1.77	10-05-2019	19-05-2020	28-04-2018	Conditional support
28.	34/18 Budelkani	7.63	10-05-2019	14-05-2020	20-05-2015	Conditional support
29.	40/18 Bramhanipali	3.47	10-05-2019	03-03-2020	15-08-2015	Conditional support
	Total	1165.27				

(Source: Compiled from the records maintained at the sampled units)

Appendix 6.1

(Refer to Paragraph 6.3)

Details of ST lands, remaining under unauthorised occupation, as per the enquiry reports of the RIs/ Tahasildars concerned

Sl. No.	Name of Audit Unit	Case No.	Village	Khata No.	Plot No.	Area (in acres)	Dates of submission of enquiry report by RI/ Tahasildar	Manner of utilisation of land	Unauthorised occupant
1.	Sub-Collector, Koraput	01/15	Balda	77	200	0.15	08-04-2013	Electric substation	Government organisation
2.		05/14	Dusura	20	264 & 269	2.56	08-06-2017	School	Government organisation
3.		01/19	Kumbhal	71	81 & 161	1.05	15-03-2019	Medical College	Government organisation
4.		02/19	Kumbhal	71	81 & 161	0.37	18-04-2019	Road	Government organisation
5.		12/16	Umuri	44 & 72/82	204 & 210	0.93	14-12-2018	Cultivation	Individual
6.	Sub-Collector, Sundargarh	18/10	Pander pali	235	893, 897/2269	0.1	24-09-2009	Road	Government organisation
7.		13/11	Dhelua	2	533/1, 640/p	0.11	13-09-2012	Hospital	Government organisation
8.		16/18	Kutra	316/456	94/4071	0.07	03-12-2018	Road	Private organisation
9.		18/20	Gyanpali	33 & 39	703 & 704	3.54	31-12-2020	Religious institution	Private organisation
10.		19/20	Gyanpali	138/21, 62 & 15	698/1512, 717/1513, 705, 698/1514, 699 & 693	9.02	19-03-2021	Religious institution	Private organisation
11.		20/20	Gyanpali	94	694	1.37	19-03-2021	School	Private organisation
12.		21/20	Bihabandha	107/3 & 107/4	35/1002 & 34	2.9	08-01-2021	School	Private organisation
13.		09/21	Talsankara	516/1174	802, 912/5350, 3718/5351, 3718/5351/6354 & 802/6353	1.17	17-09-2021	Religious institution	Private organisation
14.	Sub Collector Panposh	34/10	Kulen Bahal	29	419 p	0.74	24-11-2010	PHC	Government organisation
15.	Sub Collector Kaptipada	20/08	Potaladiha	252	1937	0.05	28-07-2008	Cultivation	Individual
16.		21/08	Potaladiha	252	1937	0.03	28-07-2008	Cultivation	Individual
17.	Sub Collector, Bhawanipatna	01/13	Gokalama	22	119, 122, 19, 20, 21, 22, 116, 117	4.78	29-08-2013	Check dam	Government organisation
18.		02/13	Khandla	3 & 6	16 & 14	0.99	29-08-2013	Check dam	Government organisation

Sl. No.	Name of Audit Unit	Case No.	Village	Khata No.	Plot No.	Area (in acres)	Dates of submission of enquiry report by RI/ Tahasildar	Manner of utilisation of land	Unauthorised occupant
19.		03/13	Kathaghar	30	531, 532, 462, 461/544	2.59	29-08-2013	Check dam	Government organisation
20.	Sub Collector Champua	13/20	Srijoda	15, 6, 13 & 3	160, 128, 134, 135, 136, 137, 138, 84, 120, 121, 127, 129, 130, 131, 132, 159 & 161	34.05	06-11-2020	Mining & allied activities	Private organisation
	Total					66.57			

(Source: Compiled from the records maintained at the sampled units)

GLOSSARY

Glossary of abbreviations

AMV	Additional Market Value
ARI	Assistant Revenue Inspector
BDO	Block Development Officer
BMV	Bench-Mark Value
CFRs	Community Forest Rights
CHC	Community Health Centre
CR	Community Rights
DBRLP	Daitari Bansapani Rail Link Project
DEC	District Executive Committee
DFO	Divisional Forest Officer
DILRMP	Digital India Land Records Modernisation Programme
DLC	District Level Committee
DMS	Document Management System
EE	Executive Engineer
EIA	Environment Impact Assessment
FRA	Forest Rights Act
FRC	Forest Rights Committee
GKP	Gramakantha Paramboke
GS	Gram Sabha
H&UD	Housing & Urban Development
HAL	Hindustan Aeronautics Limited
HIL	Hindalco Industries Limited
IDCO	Odisha Industrial Infrastructure Development Corporation
IFR	Individual Forest Right
KIP	Kanpur Irrigation Project
LA	Land Acquisition
LAO	Land Acquisition Officer
LRC	Land Rights Certificate
LRC	Land Reforms Commissioner
LRSD	Land Rights to Slum Dwellers
MIP	Minor Irrigation Project
MO	Medical Officer
NAC	Notified Area Council
NCDS	Nabakrushna Choudhury Centre for Development Studies
OGLS	Orissa Government Land Settlement
OLR	Orissa Land Reforms
OPL	Odisha Prevention of Land Encroachment
ORRP	The Odisha R&R Policy
OSATIP	Orissa Scheduled Areas Transfer of Immovable Property
OSD	Officer on Special Duty
OTFD	Other Traditional Forest Dwellers
PESA	Panchayats Extension to Scheduled Area
PMAY	Pradhan Mantri Awaas Yojana
PVTGs	Particularly Vulnerable Tribal Groups
PWL	Permanent Waiting List
R&R	Rehabilitation and Resettlement

RDM	Revenue and Disaster Management
RFCTLARR	Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement
RI	Revenue Inspector
RIP	Ret Irrigation Project
RO	Resettlement Officer
RoRs	Record of Rights
RPDAC	Rehabilitation and Periphery Development Advisory Committee
RW	Rural Works
SC	Scheduled Castes
SDLC	Sub-divisional Level Committee
SIA	Social Impact Assessment
SIP	Subarnarekha Irrigation Project
SLA&RRO	Special Land Acquisition and Rehabilitation & Resettlement Officer
SLAOs	Special Land Acquisition Officers
SSD	Scheduled Tribes and Scheduled Castes Development, Minorities and Backward Classes Welfare Department
ST	Scheduled Tribes
TBRLP	Talcher Bimalagarh Rail Link Project
TDS	Tax Deducted at Source
TMIP	Telengiri Medium Irrigation Project
UMPP	Ultra Mega Power Project
VAL	Vedanta Aluminium Limited

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