

CHAPTER VI: NON TAX RECEIPTS

Forest Receipts

6.1 Results of audit

Test check of the records of forest receipts conducted in audit during the year 2004-05, revealed losses/non recovery of revenue etc. of Rs 268.54 crore in 165 cases as indicated below:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Loss of revenue due to departmental lapses	2	184.93
2	Loss of revenue due to delay in initiation of certificate cases	32	5.02
3	Loss of revenue due to non registration of saw mills	21	1.82
4	Other cases	110	76.77
	Total	165	268.54

During the year 2004-05, the concerned Department accepted irregularities in three cases involving Rs 188.17 crore which had been pointed out in audit during 2004-05.

A few illustrative cases involving revenue effect of Rs 2.39 crore are discussed in the following paragraphs:

6.2 Violation of Forest (Conservation) Act

Forest (Conservation) Act, 1980 (Forest Act) read with Indian Forest Act, 1927 stipulate that no State Government shall make any order, by notification through official Gazette, for dereservation of any part of forest land for non forest purpose without prior approval of the Government of India (GOI). The Forest Act further provides for prosecution in cases of violation of the provisions of the Act and it is mandatory for the State Government to report each case of violation to GOI with complete details.

GOI also issued instructions in 1986 and 2001 prohibiting submission of proposal seeking ex post facto approval for a project taken up without prior approval under the Forest Act and directed that projects in which specific orders for dereservation of forest land were not issued prior to 1980 also required approval under the Forest Act.

In case of forest land notified as wild life sanctuary under the Wild Life (Protection) Act, 1972 (WLP Act) any alteration of its boundaries required prior approval of the State Legislature. Further, proposals involving diversion of forest land in sanctuary area also required approval of Hon'ble Supreme Court and Indian Board of Wild Life¹ (IBWL).

In Rohtas forest division, Sasaram it was noticed in March 2005 that Forest Department agreed to transfer 64.75 hectares of reserved forest land in Kaimur and Rohtas districts to Water Resources Department (WRD) in 1975 for construction of dam and spill way (part of Durgawati Reservoir Project requiring over 2,000 hectares of forest land in all its segments including main and distributory canals and submergence area). WRD, however, started dam construction in 1978-1979 on the said forest land though notification for its dereservation was not issued by the State Government. Subsequently 5.44 acres of the said forest land also became part of Kaimur wild life sanctuary established in 1978 and was notified as such in 1979.

Forest Department noticed in May 2001 that work was being done beyond area agreed for transfer to WRD. Repeated objections including filing of offence case with Chief Judicial Magistrate, Sasaram in April 2003, however, failed to stop the work. The Department took 31 months to report violation of provisions of the Forest Act and WLP Act to the State Government. It was in January 2004 that the Department reported the case of encroachment of 13.80 hectares of forest land in dam work and 3.75 acres of sanctuary area in spill way construction as found after physical verification of site of work in December 2003. The encroachment in sanctuary area was due to shifting of spillway from its original site.

State Government, however, instead of reporting the violation to GOI, forwarded a proposal for diversion of 2,030 hectares of forest land including 600.72 hectares of sanctuary area to GOI in September 2004 for prior approval under the Act. Compensation for use of forest land for non forest purpose was assessed at

¹ *Hon'ble Supreme Court order dated 13 November 2000 in I.A. No. 2 in WP No. 337/1995 and order dated 09 May 2002 in I.A. No. 18 in WP No. 337/1995*

Rs 184.62 crore² recoverable from WRD along with equivalent non forest land for regeneration of the lost forest. The WRD had paid Rs 59 lakh as cost of forest produce prior to enactment of the Forest Act.

The proposal seeking prior approval under the Forest Act was forwarded when the project was already complete to the extent of 92 *per cent* (dam) and 64 *per cent* (canals) as of March 2004. The proposal was also incomplete for want of approval of Hon'ble Supreme Court and IBWL and certain other information called for by GOI in November 2004. Instead of submitting the clarifications, State Government denotified 64.75 hectares of forest land including 5.44 acres of sanctuary area in November 2004 thereby regularising the encroachments reported by the Department.

Thus, failure on the part of the Department as well as the State Government not only resulted in violation of the Forest Act and WLP Act but also in depletion of forest cover and disruption to natural habitat of wild animals. Regularisation of encroachment was also in violation of the orders of the Hon'ble Supreme Court.

After this was pointed out in March 2005, Regional Chief Conservator of Forest, Patna (RCCF) while accepting the case of violation, stated in May 2005 that notification issued in November 2004 by the State Government for dereservation of forest land used in construction work by WRD also included sanctuary area.

The case was reported to the Government in April 2005; reply has not been received (September 2005).

6.3 Non realisation of cost of forest property illegally extracted from encroached forest land

The Indian Forest Act, read with Forest Act, prohibits clearing or breaking up of any forest land for any purpose other than reforestation. Encroachment of forest land is a cognizable and non bailable offence. Bihar Forest Rules provide for protection of forest land through prescribed inspection of its boundaries by forest officials duly monitored by the DFO. Besides, cost of forest property removed from Government forest land together with compensation for damages to the forest is recoverable through certificate cases as arrears of land revenue.

In Rohtas forest division, Sasaram, it was noticed in March 2005 that during inspection, DFO detected in August 2004 that in five cases, mining leaseholders illegally extracted 20 lakh cft stone materials from the reserved forest land beyond the leased area. The value of extracted material based on the size of quarry together with compensation as worked out by the Department was Rs. 2.29 crore.

Test check revealed that instead of initiating certificate cases for recovery of Government revenue, DFO requested the District Magistrate, Rohtas in August 2004 for filing money suit against the lease holders and for taking legal action including cancellation of mining leases. The cases were, however, not pursued as of March 2005 for realisation of Government revenue. Thus, non observance of

² *Net present value: Rs 150.76 crore, cost of compensatory afforestation: Rs 3.07 crore and cost of forest produce :Rs 30.79 crore.*

codal provisions for protection of forest resulted in extensive damage to the forest land together with loss of forest property valued at Rs 2.29 crore.

After this was pointed out in March 2005, the Department, while accepting the matter for initiation of certificate cases, stated in June 2005 that mining leases have since been cancelled by the Collector, Rohtas and stock of 1.19 lakh cft. of stone materials have been seized. Further reply has not been received (September 2005).

The matter was reported to Government in April 2005; reply has not been received (September 2005).

6.4 Delay in realisation of revenue due to non disposal of timber

Bihar Forest Produce (Regulation of Trade) Act,1984 provides that all forest produce collected or to be collected from the forests of the State shall be disposed by public auction every year preferably before the end of April.

In Nawada forest division, it was noticed in August 2004 that 71 cum of timber valued at Rs. 9.92 lakh collected during the year 1999-2004 remained undisposed till the date of audit. No action was taken for timely disposal to save it from deterioration due to prolonged storage by the concerned DFO. This resulted in delay in realisation of revenue of Rs 9.92 lakh.

After this was pointed out in August 2004, RCCF, Patna stated in June 2005 that all the timber would be sold by the end of current year. Further reply has not been received (September 2005).

The case was reported to Government in January 2005; reply has not been received (September 2005).