

CHAPTER-IV PERFORMANCE REVIEW AND AUDIT OF TRANSACTIONS URBAN LOCAL BODIES

This chapter contains one performance review on "Land Management in Urban Local Bodies" and three paragraphs related to transaction audit of Urban Local Bodies.

PERFORMANCE REVIEW

4.1 Land Management in Urban Local Bodies

Highlights

Land management in Urban Local Bodies (ULBs) includes allotment, sale, disposal and regulation of urban land. The Rajasthan Municipalities Act (RMA), 1959 empowers every municipality to acquire and hold movable/immovable property and to lease, regularise or otherwise transfer the property including municipal land and also any Government land¹ under the provisions of the Act ibid and rules made thereunder. For implementing the aforesaid provisions of the RMA, 1959, the State Government framed Rajasthan Municipalities (Disposal of Urban Land) Rules, 1974 and the Rajasthan Municipalities (Change of Land Use) Rules, 2000 and subsequently issued guidelines/instructions in this regard to the municipalities from time to time. During review of land management system in ULBs, various deficiencies in realisation of revenues, sale/ allotment, change of land use, levy and collection of land dues and lease money, regularisation and maintenance of records were noticed in the 21 out of test checked 27 ULBs. Significant points observed were as under:

- **Shortfall in realisation of projected revenue from sale and regularisation of land ranged between 51 and 64 per cent during 2002-07.**

(Paragraph 4.1.6.1)

- **Urban assessment/lease money aggregating Rs 24.76 crore received by ULBs were not credited into Government accounts even after lapse of two to nine years.**

(Paragraph 4.1.6.2)

1. Any land (i) which has been vested in the municipality, (ii) which is a *Nazul* land (Land received from ex-rulers of the princely states lying within the limits of municipality with title vesting in the Government) and (iii) which may be placed at the disposal of the municipality by the State Government.

- **Urban assessment of land amounting to Rs 5.73 crore was not/short assessed.**

(Paragraph 4.1.7)

- **Municipalities were deprived of revenue of Rs 3.17 crore due to non-regularisation of land.**

(Paragraph 4.1.8)

- **Conversion charges and lease money aggregating Rs 12.50 crore on change of land use from residential to commercial and other purposes were not/short levied.**

(Paragraphs 4.1.9.1 and 4.1.9.2)

- **Encroachments on land valuing Rs 46.34 crore were not cleared.**

(Paragraph 4.1.10)

- **Cases of short/non-recovery of land dues of Rs 1.89 crore on sale/disposal of land were noticed.**

(Paragraphs 4.1.11.1 to 4.1.11.5)

- **Irregular allotment/inaction to sell strips of land to the owners of adjoining plots resulted in loss of revenue of Rs 0.87 crore.**

(Paragraph 4.1.11.6)

4.1.1 Introduction

Rajasthan Municipalities (Disposal of Urban Land) Rules (RMRs), 1974 and Rajasthan Municipalities (Change of Land Use) Rules (RMRs), 2000 regulate allotment and disposal of urban land by way of lease, sale, transfer, change of land use and removal of encroachments. Rule 32 of RMRs, 1974 provides the powers to Government in any particular case or in public interest to relax the provisions of rules in respect of price and size of plot/strip of land to such extent as may be considered necessary. The RMA, 1959 also empowers the municipalities to remove any unauthorised obstruction or encroachment at the expenses of the persons causing the obstruction/encroachment and to get the unauthorised occupants evicted from Government/municipal land under the provisions of Rajasthan Public Premises (Eviction of Unauthorised Occupants) Act, 1964. The Local Self Government Department (LSGD) supervises and gives directions to ULBs in matter of handling of land. LSGD has powers to issue orders, guidelines and directions for implementation of rules made for land management. Municipalities are also authorised to permit the change of use of urban land in the public interest for the purposes other than that for which such land was originally allotted or sold to any person, on payment of certain charges at the rates and in the manner as prescribed.

4.1.2 Organisational set up

At the State level, Secretary, LSGD is the administrative head and the Director, Local Bodies (DLB) is responsible for monitoring and coordinating various activities of ULBs. At each region one Deputy Director coordinates the municipalities and at city/town level, Commissioner/Executive Officer is responsible for land management. The DLB and Deputy Director, Local Bodies also have powers of inspection and supervision of the ULBs for proper control.

4.1.3 Audit criteria

Performance audit was conducted with reference to departmental manuals, circulars, gazette notifications, RMA, 1959 and different rules framed for land management.

4.1.4 Audit objectives

The audit objectives were to ascertain whether:

- targets fixed for revenue realisation from disposal and regularisation of land were realistic and lease money/urban assessment was assessed, realised, accounted and credited to Government account;
- regularisation/conversion charges for change of land use were assessed and realised;
- timely action was taken to avoid unauthorised possession and for eviction of unauthorised occupants from encroachments and regularisation of unauthorised construction/possession in *kutchi bastis* used for residential/commercial purposes;
- cost of land was properly assessed and realised on sale/disposal of land and actual use of land ascertained before allotment at concessional rates and free of charge; and
- an effective mechanism of reporting, monitoring and evaluation of performance was in vogue.

4.1.5 Audit coverage

Three Municipal Corporations (M Cors), 11 Municipal Councils (MCs) and 169 Municipal Boards (MBs) were functioning in the State. Records pertaining to two M Cors², four MCs³ and 21 MBs⁴ selected keeping in view their expenditure and location in desert/tribal areas of the State for the period 2002-07 were test checked (May to July 2007). The important points noticed

2. Jodhpur and Kota.
3. Bhilwara, Pali, Sikar and Udaipur.
4. **Desert Area** : Barmer, Balotra, Bhinmal, Churu, Jalore, Jaisalmer, Jhunjhunu, Nawalgarh, Nokha, Ratangarh and Sujangarh, **Tribal Area** : Banswara, Dungarpur, Sirohi, Chittorgarh and Nimbahera, **Others** : Hanumangarh, Srikanpur, Kishangarh, Malpura and Nohar.

during performance review supplemented by Inspection Reports of three MCs⁵ and 39 MBs⁶ are discussed in the succeeding paragraphs. An entry conference was held on 08 May 2007 with DLB.

4.1.6 Receipts from sale/regularisation of land

Revenue realised from sale or regularisation of land is one of the sources of income apart from other sources of income of ULBs.

4.1.6.1 Shortfall in revenue realisation

Shortfall in realisation of revenue ranged between 51 and 64 per cent during 2002-07.

Rajasthan Municipalities (Budget) Rules, 1966 stipulate that the estimated budget figures should, as far as possible, be nearest to the actual figures. Position of the estimated targets of revenue realisation of 20 ULBs⁷ from sale and regularisation of land and actual receipts there against is depicted below:

(Rupees in crore)

Year	Estimated Receipts			Actual Receipts			Shortfall	Percentage of shortfall
	Sale of land	Regularisation	Total	Sale of land	Regularisation	Total		
2002-03	20.48	8.37	28.85	8.81	3.67	12.48	16.37	56.74
2003-04	27.09	9.45	36.54	9.81	3.41	13.22	23.32	63.82
2004-05	28.71	8.91	37.62	9.90	3.77	13.67	23.95	63.66
2005-06	27.19	10.35	37.54	13.33	5.22	18.55	18.99	50.59
2006-07	43.41	10.43	53.84	14.96	5.01	19.97	33.87	62.91
Total	146.88	47.51	194.39	56.81	21.08	77.89	116.50	

The shortfall ranging between 51 and 64 per cent indicated that the estimates for revenue realisation were not realistic. While fixing targets, actual achievements/receipts of the previous years were not considered. It was observed that there was a gradual increase in the estimated receipts without any proportionate increase in actual receipts. Further, 19 ULBs failed to achieve their targeted revenue while one ULB (Nohar) did not fix targets for the years 2002-03 and 2006-07. As such the financial position of ULBs did not improve. The reasons for failure in realisation of revenue as seen in audit have been discussed in succeeding paragraphs.

4.1.6.2 Irregular withholding of urban assessment/lease money collected

Non-crediting of urban assessment Rs 24.76 crore in Government account by ULBs during 1999-2007.

• RMRs, 1974 provide that urban assessment collected by the municipalities in case of land given on lease, shall be credited to the Consolidated Fund of the State after retaining 10 per cent of the collected amount as service charges. Two M Cors, four MCs and 34 MBs received Rs 21.09 crore (Appendix-XIV) as urban assessment during 1999-2007. Of this, only part amount Rs 0.42 crore (two per cent) was credited to the Consolidated Fund of the State by four

5. Ajmer, Beawar and Sriganganagar.
6. The names of these 39 MBs have been indicated in the respective paragraphs.
7. Municipal Corporation, Jodhpur; MCs, Bhilwara, Pali, Sikar and Udaipur; MBs, Balotra, Banswara, Bhinmal, Chittorgarh, Dungarpur, Hanumangarh, Jalore, Jhunjhunu, Kishangarh, Nawalgarh, Nimbahera, Nohar, Nokha, Sirohi and Sujangarh.

units⁸ and amount of Rs 18.56 crore (Rs 21.09 crore - Rs 2.11 crore⁹ - Rs 0.42 crore) remained to be credited to the Fund even after lapse of two to nine years (May 2009) of the collection. Interestingly, MB, Jaisalmer had deposited full lease money of Rs 0.93 crore in Government account during the same period (1999-2007).

- Revenue (Colonisation) Department of the State Government conveyed (February 2002) approval to transfer 16 *mandis* to eight MBs¹⁰ and seven *Gram Panchayats* with the specific condition that the revenue received from disposal/regularisation of land (developed, vacant or encroached) of these *mandis* would be distributed equally between the State Government and Local Bodies and the entire urban assessment (lease money) of land disposed would be credited to the Government account. It was observed that the *mandis* were transferred to respective MBs during May 2002 and total revenue of Rs 34.47 crore (sale/allotment of land: Rs 33.05 crore¹¹ and lease amount: Rs 1.42 crore¹²) was realised during 2002-07. As against State share of Rs 17.95 crore¹³, only Rs 11.75 crore¹⁴ was deposited in receipt head of the Government. Thus, Rs 6.20 crore was unauthorisedly retained by the MBs.

In both the cases 38 units out of 46 replied (May and June 2009) that due to their poor financial position lease money could not be credited to Government account.

4.1.7 Non/short realisation of urban assessment (lease money)

Urban assessment/ lease amount Rs 5.73 crore was not/short assessed and pending for realisation.

RMRs, 1974 envisage that land in municipal areas should be sold on lease hold basis for 99 years on realisation of premium and annual urban assessment from the lease holder. Further, as per Rule 7 *ibid*, urban assessment was recoverable annually on the basis of reserve price at two and half *per cent* in case of residential plots and five *per cent* in case of commercial and other purposes and urban assessment at half of the prescribed rate was to be recovered for first three years in all cases. As per LSGD order (November 1999), if ten times urban assessment was paid in lump sum by the lease holder, he could be exempted from further payment of urban assessment. Urban Development Department of the State Government also issued (May 1999-December 2000) guidelines for regularisation of the unauthorised constructions/possessions raised upto 15 August 1998 on Government/

8. Municipal Council, Bhilwara and MBs, Nawalgarh, Ratangarh and Sardarshahar.
9. Service charges.
10. Municipal Boards, Anoopgarh, Hanumangarh, Nohar, Pilibanga, Rawatsar, Sadulshahar, Sangaria and Suratgarh.
11. Municipal Boards, Anoopgarh : Rs 2.22 crore, Suratgarh : Rs 13.16 crore, Pilibanga : Rs 3.39 crore, Hanumangarh : Rs 4.34 crore, Nohar : Rs 0.90 crore, Rawatsar : Rs 5.52 crore, Sadulshahar : Rs 3.06 crore and Sangaria : Rs 0.46 crore.
12. Municipal Boards, Anoopgarh : Rs 0.12 crore, Suratgarh : Rs 0.22 crore, Pilibanga : Rs 0.05 crore, Hanumangarh : Rs 0.56 crore, Nohar : Rs 0.06 crore, Rawatsar : Rs 0.10 crore, Sadulshahar : Rs 0.25 crore and Sangaria : Rs 0.06 crore.
13. 50 *per cent* of Rs 33.05 crore + Rs 1.42 crore.
14. Municipal Boards, Anoopgarh : Rs 0.65 crore, Suratgarh : Rs 3.58 crore, Pilibanga : Rs 0.88 crore, Hanumangarh : Rs 2.01 crore, Nohar : Rs 0.48 crore, Rawatsar : Rs 2.81 crore, Sadulshahar : Rs 1.28 crore and Sangaria : Rs 0.06 crore.

municipal land in *kutchi bastis* by recovering prescribed regularisation fees¹⁵ alongwith urban assessment at one *per cent* of reserve price in lump sum from the occupants at the time of regularisation. It was observed that:

- As per Government Order (December 2001) land leased out on monthly rent basis for commercial purposes can be regularised by issuing lease deed for 99 years after recovery of the regularisation fees at commercial rate¹⁶.

Accordingly, MB, Baran regularised (January 2003-July 2005) 22 shops leased out earlier to 22 persons on monthly rent basis by issuing lease deeds to them for 99 years after recovering the regularisation fee at concessional rates. However, MB had recovered urban assessment of Rs 11.26 lakh in lump sum (i.e., 10 times) calculated on the basis of "regularisation fee" instead of urban assessment of Rs 30.15 lakh recoverable on the basis of actual "reserve price" of the land as per Rule 7 (i) of RMRs 1974, which resulted in short realisation of urban assessment of Rs 18.89 lakh (June 2009).

- In 788 cases¹⁷ of regularisation of unauthorised possession of 25 *Kutchi bastis* during 1999-2005, MBs of Banswara, Barmer and Bundi incorrectly recovered lump sum urban assessment of Rs 2.99 lakh from the occupants instead of Rs 49.31 lakh recoverable in lump sum on the basis of reserve price of the residential land. After this was pointed out in audit, MB, Banswara recovered Rs 1.30 lakh and stated (June 2009) that notices for recovery of urban assessment had been issued to allottees concerned. Short realisation of urban assessment resulted in loss amounting to Rs 45.02 lakh¹⁸.

- RMRs, 2000 permit change of land use on payment of appropriate charges for regularisation. On change, the lease money was to be recovered from land owner at five *per cent* of reserve price¹⁹ as per revised use of land. In M Cor, Kota it was observed that in 159 cases five *per cent* of regularisation fee²⁰ was realised as lease money, instead of five *per cent* of reserve price which resulted in short recovery due to wrong assessment to the tune of Rs 4.36 crore. The M Cor informed (May 2007) that matter was brought (January 2007) to the notice of DLB for guidance, but no progress in the matter was noticed (May 2009). Similarly, in M Cor, Jodhpur it was observed that in 20 cases of change of land use, the lease money demand of

15. Upto 50 square yard (sqy) : Rs 10 per sqy; 51 to 110 sqy : Rs 20 per sqy; 111 to 200 sqy : Rs 50 per sqy and 201 to 300 sqy at reserve price.

16. (i) 20 *per cent* of reserve price for shops leased out up to 25 January 1950, 30 *per cent* of reserve price for shops leased out from 26 January 1950 to 31 December 1983, 50 *per cent* of reserve price for shops leased out from 1 January 1984 to 31 December 1990 and (ii) 50 *per cent* of construction cost of shops.

17. Municipal Boards, Banswara : 271 cases (12 *kutchi bastis*); Barmer : 226 cases (three *kutchi bastis*) and Bundi : 291 cases (10 *kutchi bastis*).

18. Municipal Boards, Banswara : Rs 13.62 lakh; Barmer : Rs 11.35 lakh and Bundi : Rs 20.05 lakh.

19. Reserve Price : Minimum price decided by the committee comprising Government representative under rule 12 of RMRs, 1974 at which plots of land are proposed to be disposed by ULBs.

20. Regularisation Fee : Charges recovered by ULBs for land use change from existing activity to other activity.

Rs 16.58 lakh for the period 2001-07 was not raised. M Cor, Jodhpur stated (June 2009) that the revenue would be realised after reviewing all the cases.

- Test check of records of M Cor, Jodhpur revealed that Government accorded sanction (24 September 1991) for transfer of land measuring 16,400 square feet (sqft) for 99 years lease in the name of "A" for commercial purpose at existing market value subject to recovery of lease money²¹ at the rate of 2¹/₂ per cent in first three years and thereafter at five per cent of cost of land (reserve price) as per rules. The party filed a suit in Hon'ble High Court against the rate of land of Rs 12,000 per square metre (sqm) and the High Court decided (26 September 2002) that Rs 35 lakh be recovered as cost of land which was deposited in October 2003. It was, however, seen that the lease holder had deposited lease money from 2003-04 instead of October 1991 onwards. The M Cor, Jodhpur did not raise a demand for the same which resulted in non-recovery of Rs 17.51 lakh.²²

- As per RMRs, 1974 the urban assessment once fixed shall be revised after every 15 years and also on each transfer of land and shall be increased at each stage by 25 per cent of the urban assessment at the time of such revision or transfer. Test check of records of MBs, Jaisalmer and Ratangarh for the year 2005-06 revealed that these MBs had sold /allotted (1987-2000) 434 plots²³ on lease hold for residential/commercial use to various persons in four residential and two commercial schemes. The lease holders deposited annual urban assessment for one to four years and thereafter neither lease holders deposited urban assessment nor the MBs had taken any action to recover the urban assessment. This resulted in accumulation of dues of urban assessment of Rs 38.48 lakh as of March 2007 lying unrecovered from lease holders for one to 15 years and possibility of loss of revenue also cannot be ruled out. Both the MBs while accepting the facts stated (June 2009) that recovery of urban assessment would be made soon from the owners concerned of the plots.

Lease money was not properly assessed and demanded in due course by nine ULBs. As a result an amount of Rs 5.73 crore was not realised which reflects that internal control mechanism was not effective in ULBs.

4.1.8 Regularisation of land

Seven municipalities were deprived of the revenue of Rs 3.17 crore due to non-regularisation of land from short term to 99 years lease basis.

Non-regularisation of land allotted on short term lease/ license/rent

RMRs, 1974 stipulate that sale of lease hold rights in land shall be for a period of 99 years. Further, Rule 5 of RMRs, 1974 prohibits temporary let out or allotment of land on rent. However, for settlement of time extension cases of short term lease out properties which had already been let out before 1974,

21. Ground rent/lease money is a regular payment required from the owner of leasehold property, payable to the freeholder when a freehold piece of land or building is sold on a long term lease.
22. First three years (period October 1991 to September 1994) at 2¹/₂ per cent per year Rs 2.63 lakh and at five per cent per year for eight and half years (period October 1994 to March 2003) Rs 14.88 lakh (ground rent i.e., lease money calculated on Rs 35 lakh).
23. Jaisalmer: 328 plots (Rs 24.03 lakh) and Ratangarh : 106 plots (Rs 14.45 lakh).

LSGD issued (24 December 2001) directions for regularisation of these lands through a committee, the decision of which was mandatory. It was observed that:

- In six units²⁴ 16,274 sqy land (184 cases) allotted on short-term lease/rent was not yet (May 2009) regularised. Delay in regularisation²⁵ had resulted in non-realisation of revenue to the extent of Rs 2.99 crore. All the units replied (May-June 2009) that recovery would be made shortly.
- In MC, Udaipur a plot measuring 360 sqft in New Bapu Bazar, near meat market was given (June 1976) to a person on license fee of Rs 93.60 per month under *Tehbazari* By-Laws 1971, for commercial use. As per agreement executed (July 1976), monthly license fee was to be paid by 10th of every month failing which the license was to be cancelled and MC was to get the plot evicted. However, the person did not deposit monthly license fee since April 2000. Despite this, MC did not initiate any action to evict the defaulter and dispose-of the land. This had resulted in deprivation of revenue towards cost of the plot valued at Rs 18 lakh at District Level Committee (DLC) rate (Commercial).

Required action for regularisation of municipal land was not initiated timely by seven municipalities which resulted in non-realisation of revenue of Rs 3.17 crore.

4.1.9 Non/short realisation of conversion charges on change of land use from residential to commercial/institutional purposes

Conversion charges and lease money of Rs 12.50 crore on change of land use from residential to commercial/institutional purposes were not/short levied.

RMRs, 2000 permit a municipality to allow change in use of land by an owner/holder from residential to commercial and institutional purposes on payment of conversion charges respectively at the rate of 40 *per cent* and at the rate of 20 *per cent* of Residential Reserve Price (RRP) prevailing on the date of passing order for change of land use. In case where RRP is not fixed, conversion charges would be recovered for commercial and other purposes respectively at 20 *per cent* and 10 *per cent* of residential market rate (DLC rate fixed by the Sub-Registrar/District Collector). Besides, lease deed would be changed and urban assessment would also be recoverable at prescribed rates. In this regard following major irregularities were noticed.

4.1.9.1 In nine test checked units²⁶, Educational Institutions, Hospitals and Diagnostic centres were running on residential land without conversion of

24. Municipal Corporation, Jodhpur : Rs 11.87 lakh; MC, Bhilwara : Rs 190.82 lakh and MBs, Jaisalmer : Rs 87.13 lakh, Srikaranpur : Rs 2.22 lakh, Nohar : Rs 3.08 lakh and Rajgarh : Rs 4.04 lakh.
25. Regularisation means conversion of short term lease/let out to 99 years by recovering charges as per rates decided by LSGD.
26. Municipal Corporation /MCs/MBs, Balotra : Rs 0.02 crore, Barmer : Rs 0.01 crore, Jalore: Rs 0.01 crore, Kota: Rs 0.19 crore, Nimbahera: Rs 0.23 crore, Nokha : Rs 0.04 crore, Pali : Rs 2.18 crore, Sirohi : Rs 0.05 crore and Sujargarh : Rs 0.02 crore.

land use as detailed below:

(Rupees in crore)

Sl. No.	Residential land being used for	No. of cases	Area to be regularised (in sqft)	Amount deposited	Amount to be realised
1	Educational Institutions	142	1,44,587	-	2.41
2	Hospitals and Diagnostic Centres	176	59,779	0.003	0.34
	Total	318	2,04,366	0.003	2.75

Source: As per Information given by ULBs concerned.

Thus, about 99 *per cent* conversion charges amounting to Rs 2.75 crore were yet (May 2009) to be levied and realised in these cases. Similarly, in MC, Sriganganagar and nine MBs 2,067 holders of 1,13,820 sqy residential land were using land for commercial purposes while 93 holders of 36,877 sqy residential land were using it for other purposes (school, hospital etc.) without getting the land use changed. This resulted in non-levy of conversion charges of Rs 8.93 crore²⁷ worked out on the basis of prevailing RRP. All ULBs accepted the facts and stated (May and June 2009) that notices were being issued to defaulters.

4.1.9.2 In M Cor, Jodhpur and MC, Ajmer it was observed that:

- Fifteen residential plots (6,132.39 sqy) of Soni Colony, *Thok Teliyan*, Anasagar Circular Road, Ajmer were allotted/ transferred (November-December 2001 and February 2004) to four persons by Urban Improvement Trust, Ajmer on lease deed for 99 years. Subsequently, on request of allottees (July and December 2004), the land use committee of the MC, Ajmer permitted (January 2006) change of land use from residential to commercial purpose. MC had recovered conversion charges of Rs 47.46 lakh at 20 *per cent* of DLC rate of Rs 3,870 per sqy stating that reserve price was not fixed by *Nazul* Committee for the area. It was, however, observed from scrutiny of site plans and other documents that these plots reconstituted into four plots, were situated on the 120 feet wide main "Anasagar Circular Road" (carrying substantial commercial value as the area was shown as "commercial" in the master plan) for which residential and commercial reserve prices were distinctly fixed (June 2005) at Rs 3,380 and Rs 13,500 per sqy respectively by *Nazul* Committee of the MC. Therefore, conversion charges of Rs 82.91 lakh in these cases at 40 *per cent* of Rs 3,380 per sqy instead of at 20 *per cent* of Rs 3,870 per sqy was recoverable. This resulted into short realisation of conversion charges amounting to Rs 35.45 lakh. After change in land use, the "residential" lease deeds of these plots were also required to be converted into "commercial" ones and accordingly urban assessment of commercial plots worked out to Rs 41.39 lakh at five *per cent* of commercial reserve price of Rs 13,500 per sqy was also to be recovered. After adjusting Rs 1.09 lakh already recovered, urban assessment amounting to Rs 40.30 lakh was not

27. Bali: Rs 0.28 crore, Chittorgarh : Rs 0.19 crore, Malpura : Rs 0.09 crore, Niwai : Rs 0.05 crore, Padampur : Rs 0.06 crore, Rani : Rs 1.92 crore, Sadri : Rs 1.28 crore, Sriganganagar : Rs 4.70 crore, Sumerpur : Rs 0.22 crore and Suratgarh : Rs 0.14 crore .

recovered from the plot holders. Thus, application of inappropriate rate of residential reserve price led to short realisation of conversion charges Rs 35.45 lakh and urban assessment Rs 40.30 lakh. MC, Ajmer stated (May 2009 and February 2010) that conversion charges would be recovered shortly and decision of Government (referred in March 2009) was awaited for recovery of lease money. Reply was not tenable as rules are clear on change/conversion of land use.

- A resident of main road, Sardarpura, Jodhpur applied for conversion of his residential plot measuring 2,139 sqft into commercial and deposited Rs 2.00 lakh as conversion charges. The M Cor, Jodhpur issued (November 2006) a demand notice of remaining Rs 8.36 lakh. On applicant's appeal Corporation regularised (January 2007) the plot at Rs 440 per sqft instead of prevailing price of Rs 1,210 per sqft. As the plot was on main road of Sardarpura, the amount of Rs 6.59 lakh²⁸ was less recovered. M Cor, Jodhpur stated (May 2009) that amount would be recovered shortly.

Conversion charges and urban assessment aggregating Rs 12.50 crore on land use change were not assessed and realised as per provisions.

4.1.10 Encroachments on land

Non-eviction of encroachments on land valuing Rs 46.34 crore

Rajasthan Municipalities Act, 1959 empowers municipalities to remove unauthorised obstructions or encroachment of land at the expenses of the person causing them. Section 5 of Rajasthan Public Premises (Eviction of Unauthorised Occupants) Act, 1964 also empowers the estate officer of municipality for getting such land evicted and taking its possession forcibly. As per order (May 2000) of LSGD encroached land should be got vacated or got regularised by charging at 25 per cent of the reserve price. It was observed that:

- In 17 test checked units²⁹ 28.03 lakh sqy land valuing Rs 46.34 crore (calculated on DLC rate/reserve price) was under encroachments for the last two to 27 years.
- Urban Development Department of the State Government issued (May 1999 and January 2002) guidelines/instructions for regularisation of unauthorised constructions for residential and partly residential/commercial made up to 15 August 1998, on Government/municipal land not exceeding 300 sqy in *Kutchi Bastis* of the urban areas. In view of above directives unauthorised possession/construction on land solely for commercial purposes was not to be regularised and unauthorised occupants were to be evicted. It was observed that in MB, Sangod (District Kota) 476 occupants in 13 *Kutchi*

28. 2,139 sqft x Rs 770 per sqft x 0.40 = Rs 6.59 lakh.

29. Begun : Rs 0.35 crore, Bidasar : Rs 0.14 crore, Bhadra : Rs 4.75 crore, Bhinmal : Rs 2.37 crore, Deeg : Rs 0.56 crore, Jhalawar : Rs 7.79 crore, Jhalrapatan : Rs 0.54 crore, Kekri : Rs 2.10 crore, Kota : Rs 11.69 crore, Losal : Rs 0.13 crore, Nagar : Rs 0.71 crore, Pali : Rs 0.73 crore, Pilibanga : Rs 1.66 crore, Ratangarh : Rs 5.92 crore, Sikar : Rs 1.87 crore, Sujangarh : Rs 4.40 crore and Udaipur : Rs 0.63 crore.

*Bastis*³⁰, had unauthorised possession on pasture/road side/*waqf* land, etc., (1,17,924 sqy) belonging to the Government/municipality. However, no action was taken by the MB, Sangod to evict the unauthorised occupants. MB, Sangod stated (September 2005 and May 2009) that these cases had not been found fit for regularisation being the occupation of pasture/road side/*waqf* land but certificates of possessions were issued to the occupants as per the orders of the Government. However, action for eviction of unauthorised occupants would be taken as per instructions of the State Government. The reply was not tenable because as per the DLB circular (April 2005), such land was not to be regularised.

Thus, due to inaction of ULBs for eviction of unauthorised occupants from municipal land led to land valuing Rs 46.34 crore lying encroached.

4.1.11 Short/non-recovery of land dues on sale/disposal of land

4.1.11.1 Non-recovery of land dues

Short/non-recovery of land dues of Rs 1.89 crore by municipalities.

The Deputy Secretary, LSGD allotted (January 1993) 5,667 sqm land to Public Health Engineering Department (PHED), Ratangarh for office building, staff quarters and water tank under rule 18 (2) of the RMRs, 1974 on lease for 99 years and directed MB, Ratangarh to recover the lease money under rule 7 at five *per cent* of reserve price. The MB demanded (November 1993) Rs 35.60 lakh as cost of land from PHED ignoring the demand for lease money. Neither the cost of land nor the lease money amounting to Rs 19.87 lakh (up to 2007) was deposited by PHED (June 2009). Executive Officer, MB, Ratangarh replied (June 2009) that land dues would be recovered as per instructions of State Government.

4.1.11.2 Less recovery of cost of plots

The MB, Sangod (District Kota) allotted (August 1998) residential plots to 195 persons in Shastri Nagar Colony with the condition to deposit the cost of plots within 60 days. Of these 195 allottees, 147 did not deposit the cost of plots Rs 11.04 lakh owing to encroachments and lack of civic amenities in the colony. MB did not take effective action for realisation of above amount within stipulated period. MB, Sangod stated (May 2009) that the proposal for cancellation of allotments would be submitted to the Municipal Board. The reply was not tenable as the allotments stood automatically cancelled on allottees' failure to deposit the premium within the stipulated period of 60 days. However, no action was taken by MB to evict the unauthorised occupants.

30. Anta road : nine occupants (468 sqy), Bhagwanpur : 99 occupants (36,726 sqy), Dha Bhai ka Chowk : 18 occupants (4,666 sqy), Ganeshpura : 23 occupants (6,364 sqy), Harijan Basti : 28 occupants (2,291 sqy), Jolpa Road : 30 occupants (10,087 sqy), Keshria Khal : 22 occupants (7,274 sqy), Kodio Ka Chowk : 14 occupants (662 sqy), Rangas Pulia : five occupants (1,113 sqy), Regar Basti : 95 occupants (5,501 sqy), Sabzi Mandi : 15 occupants (5,266 sqy), Takha Ji Basti : 84 occupants (17,207 sqy), and Talri Pulia : 34 occupants (20,299 sqy).

4.1.11.3 Misutilisation of allotted land/default by institutions

- **Non-cancellation of allotment of land to defaulting institutions**

RMRs, 1974 provide that land shall be allotted at concessional rates to institution other than public and charitable institutions on specific terms and conditions that construction of the building for which land is allotted shall be completed within a period of two years from the date of its allotment and where construction is not completed within the prescribed time, the allotment shall be liable to be cancelled or such institution shall surrender the land immediately and the Board may refund $\frac{3}{4}$ th of the cost of such land paid by the allottee. In case of default the land shall be reverted to the Board. It was observed that 33,592 sqy land was allotted to such 16 institutions at concessional rate by three municipalities³¹ during the period ranging from three to 16 years. None of the institutions started the construction work within the prescribed period. Municipalities did not obtain back the title and possession of land (May 2009).

- **Misutilisation of allotted land by institutions and non-levy of commercial rates**

RMRs, 1974 provide that land to institutions other than charitable and public institutions shall be allotted on reserve price provided that land will not be put to any commercial use. In case of breach of conditions land together with the building constructed thereon shall be reverted to the Board with no claim of compensation.

Test check in three municipalities revealed that 7,756 sqy land allotted to institutions was used for commercial activities, but action for reversion or seizure of land or recovery of Rs 15.96 lakh³² was not initiated (May 2009) by the respective Board.

Commissioner, MC, Bhilwara stated (May 2009) that notices had been issued to close the commercial activities.

4.1.11.4 Short realisation of cost of land

The LSGD issued (December 2001) instructions that land/plots/shops let out between 26 January 1950 to 31 December 1983 would be disposed of on realising 30 per cent of prevailing reserve price of land. In case land/shop is sold or transferred by original licensee without consent of municipality, five per cent extra amount would be realised.

Test check of records of M Cor, Jodhpur for the years 2004-06, revealed that M Cor let out (1958-59) 1,435.50 sqft of land on rent to 'E'. 'E' sublet (1959) this land to 'K' who further applied (June 2005) for allotment of the land on lease. As per site inspection report (June 2005) of the M Cor, the applicant had occupied 3,602.11 sqft of land and thus, 2,166.61 sqft of land was possessed in

31. Municipal Council, Bhilwara and MBs, Jaisalmer and Srikaranpur.

32. Municipal Councils, Bhilwara : Rs 6.89 lakh and Pali : Rs 2.07 lakh and MB, Jaisalmer : Rs 7.00 lakh.

excess of original land (1,435.50 sqft) let out in 1958-59. The committee of M Cor had given (June 2005) its approval for allotment of land on lease for 99 years. As per decision of the committee 1,435.50 sqft of land was allotted at 30 *per cent* of reserve price (Rs 1,500 per sqft) of the land and excess (2,166.61 sqft) land occupied was sold at DLC rate (Rs 1,800 per sqft). However, the M Cor, Jodhpur incorrectly applied the reserve price (Rs 465 per sqft) and DLC rate (Rs 560 per sqft) of the area fixed for *Naval Harizan Basti* instead of the area of Fifth road circle to *Shanischar ka Than* near *Chopasani Road* where land is actually situated. The lease deed was issued (July 2005) to the applicant after depositing the amount determined by the M Cor, Jodhpur. This had resulted into short realisation of cost of land of Rs 32.89 lakh. Corporation replied (May 2009) that amount would be realised shortly.

4.1.11.5 Non-recovery of dues from defaulter

In terms of order (December 2001) of LSGD, Jaipur the Local Settlement Committee of MC, Bhilwara allotted a plot measuring 2,580 sqy (Approximate) in May 2006 on 99 years lease at commercial rate after obtaining (May 2005) prior approval of the Government. Lease deed of 2,445.50 sqy land was executed in favour of the party (August 2006) on payment of Rs 38.31 lakh. Party sold the plot in September 2006 for Rs 1.85 crore. As the land was sold within a period of 10 years from the date of execution of deed as per condition No. 4 (a) of perpetual lease deed agreement prescribed under rule 17 (6) of RMRs, 1974, 50 *per cent* of the profit amounting to Rs 73.35 lakh was to be deposited by the party in the MC account. However, the MC did not raise any demand (May 2009).

4.1.11.6 Irregularities in disposal of strips of land

Irregular allotment/inaction to sell the strips of land to the owners of adjoining plots resulted in loss of revenue of Rs 0.87 crore to ten MBs.

RMRs, 1974 provide that a strip of land (adjoining an existing plot) which is not fit to be disposed as a plot should be sold to the owner of the adjoining plot at double the reserve price. Test check of records revealed that:

- In Mahaveer Nagar scheme two corner plots/shops size 450 sqft each were allotted to a party by MB, Barmer whereas adjoining two commercial plots (Nos. 63 and 76) each of size 600 sqft (30 ft x 20 ft) were lying vacant. Instead of being sold by auction MB allotted these adjoining plots also as strips of land in piece meals (August 2005 : 660 sqft, September 2005 : 225 sqft and February 2006 : 315 sqft) which resulted in loss of revenue of Rs 11.91 lakh³³ besides providing undue benefit to individuals. Commissioner, MB, Barmer intimated (June 2009) that efforts were being made for recovery of Rs 11.91 lakh from the party.

33. 1,200 sqft x auction rate Rs 1,333.33 per sqft = Rs 15.99 lakh less recovered amount Rs 4.08 lakh.

- Test-check (July 2005-January 2006) of records of nine MBs for the year 2004-05 revealed that 9,068.17 sqy strips of land valuing Rs 74.79 lakh³⁴ (in 294 cases) calculated at double the rate of prevailing reserve price under Rule 23 (i) of RMRs, 1974 had been unauthorisedly occupied by the owners of the adjoining plots without land having been sold to them but the MBs concerned did not take any action to sell the land in question to the owners of adjoining plots or to evict the unauthorised occupants. This resulted in loss of revenue of Rs 74.79 lakh.

Thus, loss of revenue Rs 2.76 crore due to irregular/non-disposal of strips of land and allotment of land for specific purpose was not watched. Besides, action against defaulters was also not initiated.

4.1.12 Monitoring

Monitoring system for land management has not been defined in the rules. However, Rule 19 of Rajasthan Municipalities Accounts Rules, 1963 prescribes for maintaining a separate demand and collection register of lease money in Form 2. It was noticed that proper monitoring was not adhered to by the LSGD. Scrutiny revealed that in six units³⁵ demand and collection registers for lease money were not maintained. Therefore, arrears of lease money, actual demand for a year, shortfall in realisation, remissions and increase/decrease in outstanding balance at the end of the year, slackness in timely realisation of dues and possible revenue loss could not be ascertained in audit.

Further, DLFAD had been regularly raising the objections regarding sale, regularisation of land, encroachment and non-depositing the lease money in Government account. Similar types of irregularities were again pointed out in Inspection Reports and through this Performance Review by Accountant General also. Though the financial position of most of the ULBs was poor yet major land revenue was not realised. This reflects that there was no proper and effective internal control mechanism in ULBs.

There was no effective mechanism for evaluation and monitoring of land management system in existence.

4.1.13 Conclusion

The main functions of ULBs were to provide developed land and delivery of services like road, street light, water and sewerage system to public, mainly through revenue realised from sale, regularisation and conversion of land. In

34. Municipal Boards, Gajsinghpur : Rs 7.19 lakh, Malpura : Rs 6.77 lakh, Padampur : Rs 6.40 lakh, Raisingh Nagar : Rs 14.23 lakh, Sadari : Rs 8.36 lakh, Sangariya : Rs 6.83 lakh, Sumerpur : Rs 14.77 lakh, Srivijaynagar : Rs 6.32 lakh and Tadaraisingh : Rs 3.92 lakh.

35. Municipal Corporation, Jodhpur and MBs, Barmer, Jalore, Nawalgarh, Nimbahera and Sirohi.

order to enhance revenue the ULBs were to ascertain that cost of land and regularisation/conversion charges were properly assessed and realised. However, rules and regulations of Government regarding land management were not properly adhered to in selected/test checked 15 MBs, two M Cors and four MCs. Land dues on sale/disposal of land were not recovered by ULBs. The local bodies failed to evict unauthorised occupants due to which land valuing Rs 46.34 crore was lying encroached. The basic records such as demand and collection registers for lease money were not maintained by six MBs out of 27 ULBs which is indicative of weak accountability structure in ULBs.

Test check revealed non-observance of rules and lack of monitoring led to delay and shortfall in realisation and crediting of revenue in Government accounts to the tune of Rs 95.26 crore which adversely affected the basic infrastructural development works and financial capability of ULBs to provide services to public.

4.1.14 Recommendations

- Interpretation of various rules in proper perspectives for management of urban land and strict adherence to the rules may be ensured by ULBs.
- Timely action should be taken for eviction of encroached lands to discourage encroachments.
- Arrangements should be made to realise and safeguard the land revenue in due course of time.
- The basic records such as demand and collection registers for lease money should be maintained by all ULBs.
- An effective mechanism of reporting, monitoring and evaluation of performance of land management should be established.

The matter was brought to the notice of the State Government (December 2007) and the reply was awaited (March 2010).

AUDIT OF TRANSACTIONS

4.2 Loss of revenue

Loss of revenue due to non-realisation of fees

Municipal Council's failure to realise fees towards checking and granting permission for construction of buildings resulted in loss of revenue of Rs 14.48 lakh.

Municipal Council, Ajmer (Building) By-laws, 2001³⁶ besides envisaging that no building would be constructed without obtaining prior written permission from the competent authority, also *inter alia*, provide for recovery of 'checking fee' and 'building permission fee' at the rates prescribed therein for residential and commercial plots in proportion of their sizes. These fees were to be deposited by the applicants alongwith application forms.

Test check (November 2006) of the records of Municipal Council (MC), Ajmer revealed that during the period 2004-07 (upto October 2006) the MC, Ajmer had issued "No Dues Certificates" for granting building permission in respect of 1,652 buildings but failed to recover Rs 14.48 lakh³⁷ (on account of 'checking fee' and 'building permission fee') as detailed in *Appendix-XV* from the applicants which resulted in loss of revenue to that extent.

On this being referred (August 2007, May 2008 and August 2009), Secretary, Local Self Government Department while accepting the facts stated (October 2009) that demand notices were being issued to the persons concerned and seven Revenue Inspectors had been deployed for making recovery. However, the State Government did not intimate any recovery made in this regard (March 2010).

36. By-laws 3, 4, 12.3, 13.1, 13.2, 13.3, 13.11 and 13.12.

37. In case of residential plots amount of fee has been worked out on the basis of lowest applicable rate of 'checking fee' and 'building permission fee'.

4.3 Unfruitful expenditure

Unfruitful expenditure due to non-utilisation of fire stations for intended purpose

Failure of Municipal Council to ensure availability of requisite staff led to non-utilisation of fire stations for intended purpose for over five years which resulted in unfruitful expenditure of Rs 54.98 lakh on their construction.

Rajasthan Municipalities Accounts Rules, 1963 provide for ensuring proper maintenance/utilisation of immovable property in possession of the municipality. Director, Local Bodies, Rajasthan, Jaipur also issued (August 2002) instructions to all municipalities to ensure adequate maintenance and proper utilisation of their immovable properties including buildings.

Test check of records of Municipal Council (MC), Ajmer revealed that Rajasthan Urban Infrastructure Development Project (RUIDP) had proposed (November 2001) construction of two more fire stations at Longia-Delhi Gate and Sedariya for revamping the fire services at Ajmer by providing additional fire fighting services in the city. Funds were arranged from Government grant (21 per cent), own contribution of the MC (31 per cent) and loan at the rate of 13 per cent from Asian Development Bank (48 per cent). The construction of these fire stations was completed in October 2003 by RUIDP at a cost of Rs 54.98 lakh. The buildings were handed over to MC, Ajmer in June 2004. Since then, these fire stations were lying unused for intended purpose mainly due to shortage of fire fighting staff. This resulted in unfruitful expenditure of Rs 54.98 lakh.

MC, Ajmer while accepting the facts, stated (October 2005 and November 2006) that State Government had been requested to sanction/provide the additional staff.

The State Government stated (October 2009) that fire station at Delhi Gate can not be utilised as it is adjacent to narrow and thickly populated area and the same is being used by health branch and fire branch of MC, Ajmer as control room during religious festivals and VIP visits. Further, Sedariya fire station is being used by the sanitation contractor as store room for tools and vehicles. The reply of State Government confirmed that the MC, Ajmer had not ensured feasibility of fire stations and availability of the requisite staff while according concurrence to the proposals of RUIDP for construction of these fire stations.

Thus, due to improper planning an expenditure of Rs 54.98 lakh has remained unfruitful for more than five years.

4.4 Irregular payment

Irregular additional payment of pay and allowances to sanitary employees

Municipal Corporation, Jaipur made irregular payment of Rs 28.52 lakh towards pay and allowances of three days to sanitary employees against the order/ instructions of the State Government.

As per State Government order (January 1956) the compensatory leave is admissible to clerical staff in lieu of attending office/duties on Sundays and other gazetted holidays in pursuance of the compulsory call from the authorities. The applicability of this order was later (with effect from January 1964) extended to Class "IV" employees as well.

Test check (May-October 2006) of records of Municipal Corporation (M Cor), Jaipur for the years 2004-06 revealed that sanitary employees of the corporation who remained on strike for seven days (5-11 March 2005) were paid salary for the month of March 2005 after making deductions for the strike period. It was agreed between M Cor, Jaipur and the sanitary employees' union to get done the cleaning of the waste accumulated in the wards due to strike, during gazetted and weekly holidays on additional pay and allowances subject to approval of the Government. Accordingly, the Chief Executive Officer/Commissioner, M Cor, Jaipur requested (March, April and June 2005) the Secretary, Local Self Government Department to accord sanction for payment to those employees for the extra work done during holidays. In response, the Deputy Director, Directorate of Local Bodies while explicitly stating (May 2005) that there was no provision for payment of over time for additional work done during Government holidays and other days reiterated that compensatory leave alone could be sanctioned in lieu of work done during Government holidays.

However, in utter disregard of the clarification of the State Government, M Cor, Jaipur unjustifiably made (September 2005) a payment of Rs 28.52 lakh on account of additional pay and allowances to the sanitary employees of all the wards of six zones for the extra work done on three days (13, 20 and 27 March 2005). This resulted in irregular payment of pay and allowances amounting to Rs 28.52 lakh to these employees. M Cor, Jaipur did not furnish any reply.

Matter was referred to the State Government in January 2008 and August 2009; reply was awaited (March 2010).



JAIPUR,
The

(SUMAN SAXENA)
Principal Accountant General (Civil Audit), Rajasthan

Countersigned



NEW DELHI,
The

(VINOD RAI)
Comptroller and Auditor General of India