

Chapter 8 - Encroachment of Government land

8.1 Introduction

A substantial chunk of unassigned Government land was encroached upon by various people, some of who are real estate developers, by constructing dwelling houses and/or developing industrial townships and other infrastructure. Government has been issuing orders from time to time regularizing such encroachments and collecting the cost of the land from the allottees.

Government does not have any comprehensive data as to how much of its land is under encroachment. All that the Government had was the data relating to the applications received from 1.72 lakh encroachers from the year 2008 onwards, and the 14,878 encroachers, in respect of whom, it regularized 21 lakh sq. yards of land, after collecting ₹ 63.71 crore.

8.2 Compensation to illegal occupants of Government land

APIIC, in March 2004, requested the Government, for alienation of 622.10 acres of land in Nadurgal Village of Saroornagar mandal in Ranga Reddy district. Of this, 128.36 acres of land was under illegal cultivation by encroachers. Advance possession of land to an extent of 373.55 acres was handed over to APIIC in May 2007 and permission for advance possession of another piece of land admeasuring 103.21 acres was accorded by Government in January 2011, pending disposal of alienation proposals. The Tahsildar recommended (February 2011) that, before handing over the land to APIIC, compensation should be paid to encroachers, even though penalty had already been imposed on them during 1978-79 to 1980-81 in Jamabandi for illegal cultivation of Government land. The recommendation was based on the argument that even though there were no entries in favour of the encroachers in revenue records, the encroachers may still approach the Court. The encroachers of Government land were thus paid (February 2011) ex-gratia of ₹ 8.25 crore at ₹ 8 lakh per acre for vacating 103.21 acres of land held by them illegally since 1978. As such, instead of evicting the persons who were unauthorized occupants and were illegally benefitting by cultivating Government land, huge sums were paid to them as compensation. Such treatment of persons encroaching upon Government land would potentially encourage further encroachments elsewhere.

Similarly, as discussed in Para 4.13 Government regularized/alienated (March 2010) 25.72 acres of land in favour of M/s Aurobinda Pharma Limited, Hyderabad (APL) at a meagre amount of ₹ 5 lakh per acre as against ₹ 25 lakh per acre recommended by the District Collector despite the fact that 20.48 acres (out of 25.72 acres) was already under encroachment by APL since 2002.

8.3 Continued illegal occupation of Government land

For establishment of an important national facility for testing supersonic / hypersonic missiles / air craft system, Government land to an extent of 162.13 acres in Kurmaguda Village of Saroornagar mandal, Ranga Reddy district was handed over (2008-09) to the Director, Management Services of RCI (DRDO). Of this, an extent of 95.60 acres was under illegal occupation since 1975-76 as reported (February 2010) by the Deputy Collector & Tahsildar, Saroornagar mandal. Further, the Director of Management Services stated (June 2011) that despite directions from the State Government no action was taken by the district authorities to hand over physical possession of land under police protection. Allowing illegal occupation of Government land and allotting such a land to a sensitive national security organization without evicting the encroachers, impeded the implementation of the project for which the land was allotted.

8.4 Acquisition of Government land

- Executive Engineer, TLC Ring Main Division, Mint Compound requested (September 2007) District Collector, RR District to provide land admeasuring 11.04 acres situated at Bahadurguda village of Shamshabad mandal for diversion of 220 KV Mamidipally YDML line passing through the premises of International Airport. Although the land was identified as Government land, it was decided to acquire it under LA Act on the plea that evicting encroachments on the land would delay its restoration. Although the District Collector was not competent to acquire land for electricity department, the acquisition process was initiated and the award was passed in April 2008 for ₹ 1.09 crore. An amount of ₹ 96.97 lakh was also deposited (May 2008) in District Court for adjudication and compensation. Thus, instead of evicting the encroachers of Government land, an award under LA Act was passed in their favour.
- Reference is invited to Paragraph 7.2 wherein mention was made about allotment of 30 acres of land to IMT in Shamshabad mandal of Ranga Reddy district in July 2008. While land was allotted to IMT at ₹ 1.50 lakh per acre against the market value of ₹ 50 lakh recommended by the CCLA, Government also ordered payment of compensation to encroachers of the land (19.85 acres) at the rate of ₹ 1.10 lakh per acre plus 30 per cent solatium. Thus, while on one hand the Government had allowed a concessional rate to IMT by alienating land valued at ₹ 15 crore for ₹ 45 lakh, on the other hand, it ordered payment of ₹ 26.43 lakh to the encroachers for resuming its own land for the purpose of alienation. Also, Government, instead of evicting the encroachers, had rewarded them for illegally occupying its land.

8.5 Illegal constructions within the limits of protected monuments

As per the provisions of Archeological Monuments and Archeological Sites and Remains Act 1958, the areas up to 100 meters from the protected limits and further beyond it up to 200 meters near or adjoining the protected monuments are respectively, declared as prohibited and regulated areas for purposes of both constructions and mining operations. In YSR District, it was noticed that there were 10 illegal constructions near Sri Sowmyanadha Swamy Temple at Nandalur; and 29 illegal constructions near Sri Vigneswara and Agasteeswara Swamy Temple at Chilamkur. Besides, 15 land encroachment cases pertaining to the year 2007 to 2010 involving an extent of 146.25 acres of land (including lands of archeological importance, Government lands and lands of rivers/ponds) were also noticed in Audit. In Siddanakichchayapalli Village of Porumamilla Mandal, the pond admeasuring 60.08 acres was encroached and the soil of the pond was being sold. In Obulavaripalli Mandal, Government land to the extent of 50 acres was used for dumping mining waste.

8.6 GO 166 of February 2008 on regularization of encroachments

In February 2008, the State Government issued an order (GO 166 of 16 February 2008) for transfer of rights to occupants of unassigned Government lands (i.e. encroachers), purportedly in the context of *“longstanding occupation of smaller extents by members of the weaker sections, slum dwellers, low and middle income group people etc”*. The salient features of the GO were as follows:

- Applications for ‘transfer of rights’ to an extent of 250 square yards were to be decided at the level of the District Collector;
- Applications for ‘transfer of rights’ above 250 square yards were to be scrutinized by a Committee under the Chairmanship of the CCLA. Orders for transfer of rights upto 500 square yards were to be issued by the CCLA, while orders for transfer of rights above 500 square yards would be sanctioned by the Government. The maximum area for transfer of rights was set at 2000 square yards.
- Different slabs of amount payable for transfer of rights (including further alienation) were stipulated for APL and BPL applicants, with the amounts being identical for areas above 200 square yards. However, BPL households could be issued assignment patta (with prohibition of alienation) free of cost. Depreciation at 3 per cent per annum (subject to a maximum depreciation of 75 per cent) was allowed.

While the stated purpose of the GO of February 2008 was in the context of 'long standing occupation of smaller extents by members of the weaker sections, slum dwellers, low and middle income group people etc.', allowing regularization of encroachment for area upto 2000 square yards in cities like Hyderabad (and its surrounding areas), Visakhapatnam etc. was clearly contrary to the stated objective. Areas of this size (in fact, any areas exceeding 100 or at most 200 square yards) are clearly not inhabited by 'weaker sections, slum dwellers etc'. The GO thus enabled the Government to issue orders for transfer of rights above 500 square yards in respect of several wealthy encroachers. Besides, allowing depreciation upto 75 per cent on land, which is not tenable under any accepted commercial principles of accounting was not only absurd but also enabled regularization of encroachment of valuable public land at paltry rates. Clearly, the State Government has sent out wrong signals to the public as well as potential encroachers, implicitly encouraging violation of rules and infringement of Government's rights.

Special Chief Secretary & CCLA stated that a new initiative for protection of Government lands is under way and that, a comprehensive policy for protection of Government land at physical, legal and administrative levels has been submitted to Government for approval.