

## Chapter 4 – Review on 'Management of vacant land in Indian Railways'

### Executive Summary

Indian Railways (IR) owned 4.59 lakh hectares of land (March 2014) out of which, 0.46 lakh hectare land was vacant and 930.75 hectares, under encroachment. A proper system needs to be in place to watch safe custody of existing Railway land by ensuring clear title, prevention of encroachments and early removal of encroachments. Public Accounts Committee (PAC) had emphasised the need for setting up Land Management Cells (LMCs), to maintain accurate Land Records and to plan removal and prevention of encroachments.

Some of the important findings of this review are

- Out of 16 Zones, separate LMCs had not been set up in headquarters of three Zones and in 37 Divisions of 13 Zones. Only three Zones had LMCs in all of their Divisions.
- In most of the LMCs set up in the Divisions, staff posted was neither trained to deal with land issues nor exclusively deployed on the job. As such, maintenance of important land data was deficient.
- The LMCs were not properly monitoring the position of vacant land. Four per cent land plans were missing, 16 per cent of available land plans had not been authenticated by State Authorities and 20 per cent land plans had not been digitised.
- The records connected with land mutation were available in eight Zones only and only 48 per cent of these land plans were mutated.
- Land Record Registers were not being maintained in 37 out of 68 Divisions and maintenance/ verification of Land Boundary Verification Registers and Encroachment Inspection Registers over IR was not proper.
- Construction of boundary walls along vacant land to avoid encroachment of land was not well assessed and planned. Details of encroachments were not being maintained, the process for removal of encroachments was very slow and efforts made for removing encroachments, even under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 were inadequate as encroachment of Railway land was an ongoing process.
- The monitoring and joint inspections for encroachment management were not to the prescribed level.

### 4.1 Introduction

Indian Railways (IR) require land for laying of tracks, construction of yards, station buildings, platforms, setting up of workshops, repair and maintenance facilities and housing colonies for its staff. Land is also licensed for commercial purposes. Railway land has been defined under the Railway (Amendment) Act 2005 as “any land in which a Government Railway has any right, title or interest”. As per records maintained by the Land & Amenities Directorate of the Railway Board, Indian Railways owned 458588.16 hectares of land as on 31 March 2014.

Out of this, a significant quantum of Railway land, i.e. 47339.5 hectare (10.33 *per cent*) has not been put to any use as 46408.75 hectare land is vacant (10.12 *per cent*) and 930.75 hectare (0.21 *per cent*) under encroachment. It is, therefore, imperative that IR manages both the custody of land and its utilization to its best advantage by formulating a proper system to watch safe custody of its existing land by ensuring clear title, taking action to prevent encroachment and if encroached, taking suitable action to remove the encroachment. For management of IR land, there are provisions in Indian Railway Works Manual (IRWM)<sup>169</sup> for maintaining various land records, providing boundaries and periodical verification thereof, maintaining land plans and removal of encroachments etc..

The issue of land management on Indian Railways was taken up earlier by Audit in Chapter 2 of the Report of the C&AG of India (Railways) - No. PA 8 of 2008. Further, the issue of commercial utilization of surplus railway land was also covered in the Report of the C&AG of India (Railways) - No. 32 of 2012. The Public Accounts Committee (PAC) in its Sixteenth Report (Fifteenth Lok Sabha) on C&AG's Railway Audit Report No. PA 8 of 2008 recommended the following to strengthen the land management in Indian Railways:

- To set up separate land management cell to deal effectively with land related matters and to make necessary arrangements to staff the cell with those who possess adequate knowledge and skills;
- To correct the inaccuracies in the existing land records; and
- To formulate a comprehensive action plan for removal and prevention of encroachments.

Accordingly, the Ministry of Railways (MOR) issued detailed comprehensive instructions in April 2010<sup>170</sup> to ensure the following:

- Creation of land management cells in Zonal headquarters and Divisions;
- Regular monthly meetings of SAG level officers with appropriate revenue authorities in the State Governments;
- Maintenance and up-dation of registers connected with land management, provisions of which have been made in IRWM<sup>171</sup>;
- Formulation of action plan for prevention of encroachments; and
- Computerization of land plans.

#### 4.2 Audit objectives

Audit examined (2014) the issue of prevention and removal of encroachments on railway land with a view to assess whether the existing provisions of IRWM, PAC's recommendations and Railway Board's instructions of April 2010 were followed in ensuring that:

<sup>169</sup>Para 806 to 814

<sup>170</sup> 2007/LML/06/10 dated 1 April 2010

<sup>171</sup> Para 806, 807, 812, 813 and 814

- The Land Management Cells were set up at Zonal and Divisional levels and functioning effectively;
- Land Records have been properly maintained; and
- Whether a comprehensive action plan for prevention and early removal of encroachments was formulated and followed.

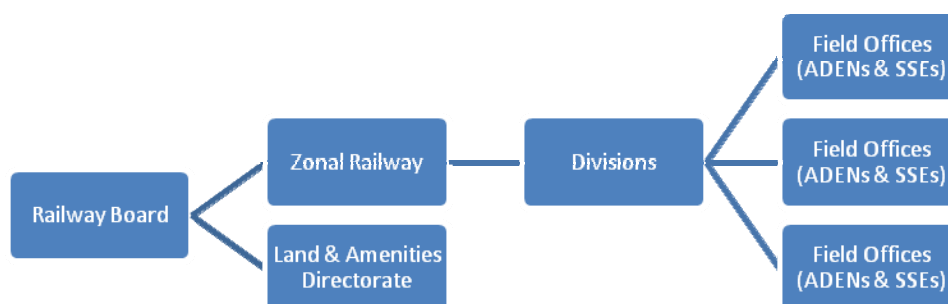
#### 4.3 Audit scope, methodology and sample

The methodology adopted by Audit included examination of land records at various levels (Railway Board, Zonal headquarter, Railway Division and Railway Division's Field units) and analysis & comparison of data collected for a period of three years (2011-14). At macro level the data regarding land holding etc. was collected for all the Railway Divisions and Zonal headquarters. However, for the review of specific issues, viz. land boundaries, encroachments etc. records of units selected were reviewed as per sample size shown in the table below –

**Table 4.1**

Activity Centers	Selection Criteria	Selected Sample Size
<b>Divisional level</b>	one division for zones having less than four divisions and two divisions for those having four or more divisions	26
<b>Sub-divisional level (Assistant Divisional Engineer - ADEN)</b>	25 per cent ADENs of selected divisions	70
<b>Field level (Sr. Section Engineer/Section Engineer – SSE/SE)</b>	All SSE/SE in selected ADENs	223

#### 4.4 Organizational structure



Land management at Railway Board is the responsibility of the Land & Amenities Directorate, which works under the overall direction of Member (Engineering). The primary responsibility of this Directorate is to lay down the policy in regard to land management and to ensure its implementation and monitoring at the Zonal headquarter and Railways' Divisional offices. At the Zonal headquarter the Principal Chief Engineer (PCE) under the General Manager (GM) is the

implementing and coordinating authority for the various policies and orders issued by the Railway Board. PCE is assisted by the Chief Engineer (CE) and Deputy Chief Engineer (Dy CE) or Land Controlling Officer (LCO). At Railway Division, the Sr. Divisional Engineer (Sr DEN) is responsible for implementation and execution of various instructions for regulating usage of land, prevention and removal of encroachments, execution of agreements for commercial licensing etc. In the field units of Railway Division, the Assistant Divisional Engineer (ADEN)/Senior Section Engineer (SSE) - Works/Permanent Way is responsible for maintaining the land records, demarcation of land boundaries and detection & prevention of encroachment etc.

#### 4.5 Audit criteria

The Audit Criteria were derived from the following sources:

- Section 147 of Indian Railway Act 1989 regarding trespass and refusal to desist from trespass.
- Provisions of Public Premises (Eviction of Unauthorized Occupation) Act, 1971.
- Rules and provisions contained in Chapter 10 of Indian Railway Code for Engineering Department regarding custody, management and disposal of land.
- Chapter 8 of Indian Railway Works Manual (IRWM) regarding acquisition, management and disposal of land.
- Action Taken Report on recommendations of the PAC in its Sixteenth Report (Fifteenth Lok Sabha) on Report No. PA 8 of 2008 on Land Management in Indian Railways.
- Guidelines and instructions issued by the Railway Board from time to time.

#### 4.6 Audit findings

##### 4.6.1 Land Management Cell

##### 4.6.1.1 Setting up and functioning of Land Management Cell

The Engineering Department deals with land management issues such as prevention and removal of encroachments, up-dation of land plans and authentication thereof with the State Revenue Authorities etc.

A review of the working of Land Management Cells (LMC) at Zonal headquarters and Railways' Divisions in compliance with the recommendations of the PAC and instructions of the Railway Board (April 2010) *ibid* revealed the following:

- Out of 16 Zonal Railways no separate LMC existed (March 2014) at Zonal headquarter of three Zones<sup>172</sup>.
- As of the end of March 2014, none of the 18 Divisions in four Zones<sup>173</sup> had a LMC. Only three Zonal Railways<sup>174</sup> had a separate LMC in each of their

<sup>172</sup> SR, SECR and SWR

<sup>173</sup> NER, NFR, SR and SER

<sup>174</sup> CR, NR and NCR

Divisions (total 13 Divisions). LMC were, however, not created in 19<sup>175</sup> out of 36 Divisions of remaining 9 Zones<sup>176</sup>.

- Even in 12 Zones where LMC existed in 32 Divisions out of 50 Divisions, the officials posted there were not deployed exclusively for land matters, except three Zones<sup>177</sup>.
- As on 31 March 2014, no staff (89 nos.) posted in LMC of 15 selected Divisions in 9 Zones<sup>178</sup> and Metro Railway, Kolkata was imparted training in land matters This indicates that due importance was not given to land matters as untrained staff was deputed for this work.
- The maintenance of important basic land data (viz. land holdings, vacant land, encroachments etc) in the LMC of Zonal headquarters and their Divisions was deficient. There were inconsistencies in facts and figures in basic data pertaining to land holdings (in all Zones except ECoR, NER, NWR, SECR and WCR), vacant land (in all Zones except ECoR, NWR, SECR and WCR) and encroachments (in all Zones except ECoR, NCR, NWR, SECR and WCR) at various levels. There were also differences in figures relating to land plans at various levels in all Zones except ECR and NWR.

#### (Annexure XI)

- As against the codal provisions<sup>179</sup>, LMC were not properly monitoring the position of vacant land and its area. The area of vacant land with each ADEN was not maintained in these cells. Position of vacant land was maintained in LMCs only in two Zones (NFR and WCR).

Thus, despite PAC's recommendation for creation of LMCs in all Zones and their Divisions, separate LMC had not been established in all Zonal headquarters and Railway Divisions. Detection of discrepancies in the maintenance of data in LMCs is also indicative of the fact that even where LMCs have been created, they were not functioning properly. The weaknesses in the working of LMCs resulted in several deficiencies in the management of land which have been brought out in the following paragraphs.

Railway Board stated (April 2015) that they have asked the Zonal Railways to setup and to strengthen LMCs and to furnish a time bound programme for the same.

#### 4.6.2 Maintenance of land records

The PAC had observed that the failure of Railways to maintain the requisite land records registers snowballed into a big problem for not only the Railways but also for other stakeholders for the simple reason that many of the disputes and the court

<sup>175</sup>Howrah, Asansol, Malda Town (ER), Dhanbad, Danapur, Samastipur, Sonpur (ECR), Khurda (ECoR), Jodhpur (NWR), Hyderabad, Guntur, Nanded (SCR), Nagpur, Raipur (SECR), Hubli, Mysore (SWR), Mumbai Central, Rajkot (WR) and Bhopal (WCR)

<sup>176</sup> ER, WR, ECoR, SWR, SCR, WCR, SECR, NWR and ECR

<sup>177</sup> ER, NFR and SWR

<sup>178</sup> CR, ER, NR, NCR, NWR, SCR, SECR, WR and WCR

<sup>179</sup> Para 807 (b) of IRWM

cases stemmed from this lapse. The Railway Board in its instructions of April 2010 directed that all land record registers should be maintained and up-dated by the Zonal Railways and Railway Divisions as per codal provisions.

As per codal provisions<sup>180</sup>, Land Plans, Land Record Register (LRR), Land Boundary Verification Register (LBVR) and Encroachment Inspection Register (EIR) are the basic land records which are required to be maintained at Zonal headquarters, Railway Divisions and field units of Railway Divisions. Audit examined the land records maintained at all the three levels in selected sample for the period 2011-14 and observed the following:

#### 4.6.2.1 Land Plans

Land Plan is a document in which details of a piece of land such as total area, particulars of locality, dimension of land, particulars of adjoining land, title of such land etc. are given. The title of a piece of land in revenue records is changed after any transfer of title through mutation. In the absence of mutations, clear title of Railway land cannot be ensured making the Railway land vulnerable to disputes and encroachments.

Rules<sup>181</sup> provide that up-to-date land plans should be available in the Divisional Offices and copies thereof should also be made available to the Field Inspectors whenever required. ADENs, SSE/SE (Works /P. Way) of field units should keep with them the copies of certified land plans pertaining to their jurisdictions showing complete dimensions. Railways should get all land plans authenticated with State Revenue authorities to avoid any discrepancy of title. A review in audit, however, revealed the following:

- Out of the required 56255 land plans, 53898 land plans (96 per cent) were available with the Railways. The remaining 2357 land plans (4 per cent) were missing in 14 Zones<sup>182</sup>.
- Area was not indicated in land plans of twelve Zones.<sup>183</sup>
- Out of 53898 land plans available with Railways, 8554 land plans (16 per cent) had not been got authenticated from State Revenue Authority which could cast a doubt on title of railway land to that extent. Authentication of State Revenue Authority had been obtained for all the land plans in three Zones<sup>184</sup> only.
- Records connected with mutation were not made available for review by three Zonal Railways<sup>185</sup>. Out of the remaining 13 Zones, no mutation of land had been done in five Zones<sup>186</sup> and Metro Railway, Kolkata. In eight

<sup>180</sup> Indian Railway Code for Engineering department, Indian Railway Works Manual, Joint Procedure Orders issued by Zones

<sup>181</sup> Para 812 (a), (b) and (c) of IRWM

<sup>182</sup> CR, ER, ECR, ECoR, NR, NCR, NER, NWR, SR, SCR, SECR, SWR, WR, WCR

<sup>183</sup> CR, ECR, ECoR, NR, NCR, NER, SR, SCR, SER, SECR, SWR and WR

<sup>184</sup> CR, NR and NFR

<sup>185</sup> NCR, WR and WCR

<sup>186</sup> ER, ECoR, SER, SECR and SWR



Zones<sup>187</sup> where land mutation records were available, out of total available 31567 land plans, only 15325 land plans (48 per cent) had been mutated with the State Revenue Authorities. Under the circumstances, Audit could not ascertain whether mutation had not been done at all or the data was not available with the Railway Administration.

**(Annexure XII)**

Thus, in the absence of total land plans and status of mutations, the IR was not in a position to ascertain the quantum of land in their actual possession without which proper management of land was in doubt.

Railway Board accepted (April 2015) the deficiencies in maintenance of Land Plans.

#### **4.6.2.2 Digitization of land plans**

Railways have undertaken the digitization of land plans. Rules<sup>188</sup> provide that certified land plans should be transferred on microfilms, requisite sets of which can be kept in safe custody in the Headquarters' office and also in the Divisional Offices. Railway Board in April 2010 also instructed that scanning and microfilming of land plans should be completed by December 2010.

It was, however, observed that as on 31 March 2014, there was 100 per cent digitization of land plans in five Zones<sup>189</sup>. Out of total 53898 land plans available with IR, 43342 land plans (80.41 per cent) had been digitized. No land plan was digitized in Metro Railway, Kolkata.

Shortfall in digitizing the land plans to the extent of 19.59 per cent indicates that the Railway Administration did not prioritize the issue even after clear deadline given by the Railway Board. Further, the incomplete digitisation of land plans could also not ensure an effective and robust management information system for land management.

Railway Board accepted (April 2015) that digitization of land plan was not complete and stated that instructions had been issued to complete the project. However, Railway Board has still not prescribed any time line for completion of the digitization of land plan.

**(Annexure XII)**

#### **4.6.2.3 Land Record Register**

IRWM provides for the maintenance of LRR in the office of Chief Engineer and Divisional Engineer showing details of railway land such as land plans, kilometrage, description of land, area, cost of and date of transfer of land. Railway

<sup>187</sup> CR, ECR, NR, NER, NFR, NWR, SR and SCR

<sup>188</sup> Para 812 (b) of IRWM

<sup>189</sup> NCR, NFR, SER, SWR and WCR

Board instructed<sup>190</sup> all Zonal Railways that a register of total railway land is also to be maintained at field level by SSE (Works).

A review in Audit, however, revealed that:

- LRR was not being maintained in 37 out of 68 Railway Divisions of all Zones except NER, NFR and WR. The register was also not being maintained in Metro Railway, Kolkata.
- The register of total railway land was also not being maintained in 40 out of 68 Railway Divisions in all Zones except NER, NFR and WR. The register was also not being maintained in Metro Railway, Kolkata.

Railway Board stated (April 2015) that instructions have been issued for the propose upkeep of land records as per IRWM.

#### 4.6.2.4 Land Boundary Verification Register (LBVR)

All lands, permanently occupied for the purpose of Railway, should have their boundaries demarcated in such a manner as to enable such boundaries to be readily ascertained and identified. For this purpose, the boundary of the railway land has to be defined by a continuous wall, fence or ditch or by detached marks, posts or pillars. Guidelines for demarcation of land boundaries, laying of boundary stones, boundary walls, fencing etc. are enumerated in Rules 808 to 813 IRWM. As per these provisions<sup>191</sup>, Railways are required to maintain separate printed LBVR in the prescribed format for each section showing "Details of Encroachments" and "Details of the Missing Boundary Stones" and action taken thereon. The entries in the register should be certified by the SE (Works/P. Way) of the respective sections in field and verified/inspected by the ADEN / DEN /Sr. D EN or other higher officers (Dy. CE/CE at Zonal headquarter) from time to time. A certificate is required to be given by the SE once a year that is verified and countersigned by ADEN with regard to correct demarcation of land boundaries. A review in Audit revealed that:

- Out of 223 SSEs test-checked, LBVR was being maintained by only 126 SSEs (56 per cent). The register was being maintained by all SSEs test - checked in three zones only<sup>192</sup>.
- Selected SSEs of ER and SR did not verify the entries in register even once during the review period (2011-14). SSEs who maintained the registers verified the boundaries in their respective sections regularly only in CR, NCR and NWR. Due verification of boundaries by the ADENs and submission of these registers to Zonal headquarter for verification was noticed only in CR.
- In the remaining 11 zones<sup>193</sup>, the registers were neither being maintained by any SSEs nor the content in the registers verified regularly by the SSEs/ADENs.

<sup>190</sup> Joint Procedure Order- September 2001

<sup>191</sup> Para 813 (d) of IRWM

<sup>192</sup> NR, NWR and WCR

<sup>193</sup> ER, ECR, NCR, NER, NFR, SR, SCR, SER, SECR, SWR and WR



- Chief Engineer/ Dy. Chief Engineer at Zones did not verify the registers at all in six Zones<sup>194</sup>.

Railway Board stated (April 2015) that only certificate is required to be submitted to Dy. Chief Engineer/ Chief Engineer. Audit, however, observed during the review that SSEs and ADENs were recording requisite certificates in the registers that were being submitted by some of them to Dy. CE/ CE for signature/ verification. No separate certificate was being submitted to Headquarters office.

(Annexure XIII)

#### 4.6.2.5 Encroachment Inspection Register

Railway land has been a soft target for encroachers for residential, commercial or religious purposes. There are provisions in the Railway Codes/Manuals to keep a constant watch on encroached lands and also on the attempts being made for removal of encroachments.

As per IRWM<sup>195</sup>, Encroachment Inspection Register (EIR) showing the encroachments on Railway land noticed during inspections by various officials is required to be maintained by each SSE duly furnishing the location, name of the encroacher, area encroached, type of encroachment (commercial/ residential/ cultivation), date of commencement of unauthorized occupation, date on which the encroachment came to notice for the first time, action taken and date of removal of encroachment. The encroachment plan prepared to scale is also required to be pasted on the right side of the register. The EIR should also be verified by the SSEs quarterly.

It was, however, observed during test-check of records of 223 selected Divisions that:

- None of the SSE verified the encroachments entered in EIR in any of the selected Railway Divisions regularly as prescribed. EIR was being verified by only 138 SSEs out of 223 SSEs test-checked. Only in NR and WCR, the register was maintained by all the SSEs test-checked. Verification of encroachments was entered in the registers only 104 times as against the required 552 times during 2013-14, by 138 SSEs in the Railway Divisions selected in audit.
- No selected SSEs in SR and Metro Railway, Kolkata verified the register even once during the review period.
- Verification of the registers by the ADENs was also not regular. Against the required 138 verifications, ADENs verified the registers only 61 times during 2013-14.
- Verification of these registers by Dy. CE / CE at Zonal headquarters was also not regular.<sup>196</sup> These registers were never submitted to the Zonal

<sup>194</sup> ER, ECR, NCR, SCR, SER and SWR

<sup>195</sup> Para 814 (e) of IRWM

<sup>196</sup> ER, NCR, SR & SWR

headquarters office for verification in four Zones and Metro Railway, Kolkata.

Thus, in spite of recommendations of the PAC, clear codal instructions/ provisions in IRWM for maintenance of the above basic records and reiteration of the same in the JPO issued by the Railway Board and Zones, these records and registers were not being maintained/maintained properly at different levels of Railway Administration. Due to such deficiencies in maintenance of essential land records, an effective and robust monitoring of Railway land cannot be ensured making it vulnerable to disputes and encroachments.

Railway Board (April 2015) that a comprehensive report regarding encroachments is to be submitted to Headquarters and that was being done. Their contention was not correct. It was observed that on the basis of EIRs, a monthly certificate regarding addition, removal, encroachment etc. were to be submitted by Divisions to Headquarters office.

### 4.6.3 Measures to prevent Railway Land from encroachment

#### 4.6.3.1 Boundary Wall

Proper maintenance of land boundary is the first and effective step towards prevention of encroachment. Guidelines for demarcation of land boundaries, laying of boundary stones, boundary walls, fencing etc. have been explicitly enumerated in rules<sup>197</sup>. All land permanently occupied for the purposes of Railway, should have its boundaries demarcated in such a manner as to enable such boundaries to be readily ascertained and identified. The PAC also observed that the main cause for increase in cases of encroachment was non-erection of boundary walls around the vacant Railway land. The Railway Board directed (April 2010) that the Zonal Railways should identify vulnerable locations prone to encroachments and to construct boundary walls at such locations on a programmed basis in order to prevent encroachments and the same was also informed by it in its Action Taken Note to the PAC's observations.

During the review Audit, however, noticed that:

- Only in WCR, the total vacant land (476.17 HA) had boundary wall protection. In NER, a major portion (4973.79 HA- 86 *per cent*) of total vacant land (5775.65 HA) land was not protected. However, in the remaining 14 Zones and Metro Railway, Kolkata, Railway Administration did not inform the position in regard to protection of vacant land. It indicates that due importance had not been given by IR to the protection of vacant land available with them. As a result, precious railway land has been left unprotected making it prone to encroachment.
- With a view to construct boundary wall along the Railways vacant land, Railway Administration was required to assess the requirement/measurement of boundary wall to be constructed. However, data in regard to such assessment was not made available to Audit in nine

<sup>197</sup>Paras 808 to 813 IRWM

Zones<sup>198</sup> and Metro Railway, Kolkata. This reflects lack of proper planning for construction of boundary wall.

- Out of the seven Zones<sup>199</sup> that assessed the requirement for construction of boundary walls, targets were not fixed by the Railway Board indicating that due seriousness was not accorded to this issue at the initial stage itself.
- In seven Zones<sup>200</sup> where construction of boundary wall was assessed as well as targeted, the shortfall in achievement of target ranged from 19 *per cent* to 96 *per cent* indicating that due priority was not accorded to this.

It is obvious from the above that despite PAC's specific concern for provision of boundary walls along vacant land and MOR's assurance for suitable compliance, Zonal Railways were not according due importance to this important aspect thereby leaving the Railway land prone to encroachments.

Railway Board stated (April 2015) that assessment of encroachment prone area is done and target for construction of boundary walls fixed every year depending upon availability of funds. Audit has noticed that pace of construction of boundary walls was very slow and no priority was being accorded for such construction which is evident from the fact that the assessment of requirement was not available in nine Zonal Railways.

#### 4.6.3.2 Grow More Food Scheme

The Indian Railways introduced "Grow More Food Scheme" in July 2010, to license vacant Railway land to its employees for cultivation to protect valuable land from encroachment. It realizes license fee for the same. While the main purpose of licensing vacant Railway land to its employees was to protect Railway land from encroachment, a reasonable quantum of return by way of license fee was also to be ensured.

Audit, however, noticed that during the period covered under review, the Scheme was not implemented in 11 Zones<sup>201</sup> as no vacant Railway land was allotted for the same. During 2011-12, only two Zones (CR and SR) implemented the Scheme by allotting vacant land to the extent of 293.33 HA and 55.13 HA respectively. During the period 2012-14, three more Zones<sup>202</sup> implemented the Scheme and allotted 289.88 HA, 14.74 HA, 43.89 HA land respectively. As on 31 March 2014, total vacant land allotted to Railway employees under the Scheme was 1356.36 HA (3 *per cent* approx.).

Thus, neither was the scheme implemented in its spirit by Zonal Railways nor did MOR impress upon them the importance of the same. As a result, the vacant land was susceptible to encroachments. Besides, Railway Administration was deprived of additional revenue in the shape of license fee.

<sup>198</sup>ER, ECoR, NR, NCR, NFR, NWR, SER, SWR and WCR

<sup>199</sup>CR, ER, NR, NCR, NWR, SER and WCR

<sup>200</sup>SCR (19%), NFR (20%), SECR (40%), ECR (61%), CR (70%), WR (95%) and NER (96%)

<sup>201</sup>ER, ECR, ECoR, NCR, NER, NWR, SCR, SER, SECR, SWR and WCR

<sup>202</sup>NR, NFR and WR

Railway Board stated (April 2015) that efforts were being made to protect the railway land being encroached upon by giving the same under Grow More Food Scheme. Their contention is not correct as in spite of issue of instructions (July 2010), the scheme has not been implemented in 11 Zonal Railways (March 2014).

#### 4.6.3.3 Plantation

Plantation in vacant railway land is a measure to check encroachment of vacant railway land and also to reduce air pollution. Zonal Railway Administration has been authorized to decide the railway land for plantation. For this, targets are fixed. Audit observed that during the years 2011-12 to 2013-14 fixation of targets for plantation vis-à-vis actual plantation were as under:

- Targets for plantation were not fixed by two Zones (NER and SWR).
- Plantation was as per target in NCR and SECR only.
- Target fixed for plantation by Zones were not achieved in 12 Zones<sup>203</sup>. The actual plantation against the targets fixed ranged between 0 *per cent* and 91 *per cent* during 2011-14. The actual plantation was nil in CR and less than 50 *per cent* in seven Zones.

From the above it is evident that Zonal Railways' efforts to adopt plantation as a measure for safeguarding its vacant land from encroachers were not adequate.

#### 4.6.4 Management of existing encroachment

In the context of Railway land that has been encroached it is essential that the existing encroachments are not only watched but efforts are made for their earliest removal. For this purpose, Railway Administration should have the details of encroachments and they should watch the developments through adequate monitoring and monthly joint inspections with State Revenue Authorities.

##### 4.6.4.1 Details of encroachments

Apart from details of encroachment to be maintained in EIR, details of encroachments are also to be kept in a proforma devised vide Para 2.2 of JPO of September 2001 by the SSEs at field level. Monthly progress regarding additions and removal of encroachments, filing eviction cases and their progress in court of Estate Officer and in Civil Courts etc. should be submitted by the Divisions to Headquarters.

A test-check of records of 223 SSEs in 16 Zones and Metro Railway, Kolkata revealed that:

- Out of 223 SSEs test- checked, encroachment existed in the jurisdiction of 108 SSEs (48 per cent). Total number of encroachments within jurisdiction of these 108 SSEs in all Zones (Except CR) and Metro Railway, Kolkata was 105145 involving total area of 3018890.55 square meter. Area under 8775 encroachments was not available with the selected SSEs in CR.

<sup>203</sup> ER (0%), SER (19%), CR (37%), SR (37%), NWR (39%), ECoR (45%), WR (49%), NFR (55%), NR (63%), SCR (76%), WCR (79%) and ECR (91%)

- Zonal Railways' vacant land had been encroached during the period between 1950 and 2013. Existence of encroachments for such long periods indicates insufficient action taken by the Railways for removal thereof. Non-availability of area under encroachments raises the concern that Railway Administration does not possess the required data to defend its claim before the adjudicating Authorities/Courts.
- Monthly progress regarding additions and removal of encroachments, filing eviction cases and their progress in court of Estate Officer, in Civil Courts etc. to be submitted by Railway Divisions to Zonal headquarter was submitted by selected Divisions in all Zones except NR and NFR. In NR, one out of two Divisions did not submit the report and in NFR, none of the divisions submitted the same.
- Proforma for maintaining details of encroachments circulated vide JPO of September 2001 was also not being maintained in any of the field offices test-checked in nine Zones<sup>204</sup>. In four Zones<sup>205</sup>, the information was maintained by some of the selected SSEs. The instruction to maintain such information was followed by the selected SSEs only in NCR, WR and WCR.

Thus, basic records were not being maintained as envisaged resulting in non-availability of basic land particulars which are essential for effective monitoring and removal of encroachments.

(Annexure XIV)

#### 4.6.4.2 Removal of encroachments

The PAC recommended that the Railway Board should take up the matter with various State Governments with a view to ascertain the causes of their reported reluctance in providing necessary assistance for removal of encroachment so that an amicable solution is arrived at for speedy reclamation of Railway land. The PAC also desired that inaction or negligence in preventing or removing the encroachment of Railway land should be viewed adversely and stringent action taken against the officials concerned for collusion or dereliction of duty. The PAC urged the Ministry of Railways to formulate a comprehensive action plan both for early removal of all the encroachments and prevention of fresh encroachments on Railway land especially those in the Safety Zones<sup>206</sup>.

It was observed during review of records of 223 selected SSEs that:

- Due to inadequate monitoring of encroachment cases, out of 113751 encroachments existing on Railway land (except in SR and SCR) as on 1 April 2011, only 2465 encroachments (2 per cent) could be removed during 2011-14. In three Zones<sup>207</sup> and Metro Railway, Kolkata not even a single encroachment was removed during the review period.

<sup>204</sup> ECR, NR, NER, NFR, NWR, SR, SCR, SER and SWR

<sup>205</sup> CR, ER, ECoR and SECR

<sup>206</sup> Railway land adjacent to Railway tracks, encroachment on which may impact adversely on safe operation of trains.

<sup>207</sup> NER, SWR, WCR

- Besides this nominal decrease in existing encroachments, there were 1215 cases of fresh encroachment (area of 1171 encroachments -5.34 HA<sup>208</sup>) during 2011-14 on Railways' vacant land.
- The Position of addition and removal of encroachment during the period of review was not available in SR and SCR.

It was observed that Railway Administration failed to formulate any comprehensive action plan both for early removal of all the encroachments and prevention of fresh encroachments into any of the Railway land.

Railway Board furnished (April 2015) the position of seven out of 16 Zonal Railways regarding removal of encroachments which indicate that no comprehensive action plan was available with them for removal of encroachments over the entire Railway land.

(Annexure XV)

#### 4.6.4.3 Removal of encroachment through PPE Act, 1971

As per Para 814 (a) of IRWM, new encroachments were required to be removed promptly under section 147 of Railway Act 1989. For old encroachments, where party is not amenable to persuasion for removal of such encroachments, action should be taken under the provisions of Public Premises (Eviction of Unauthorized Occupants) Act 1971. Rules<sup>209</sup> also provide that whenever encroachments are taken up under the PPE Act, the concerned officials from the Engineering branch would act as the presenting officer, and proactively help expeditious finalization of the proceedings. A review in Audit, however, revealed that:

- Though there were 113920 cases of encroachments in selected SSEs in all 16 Zones, their pursuance under PPE Act was insufficient as may be observed from the fact that only 9135 cases were outstanding with Estate Officers<sup>210</sup> in selected Divisions. The remaining 104785 cases remained outside the proceedings under PPE Act.
- Of these 9135 cases, 3081 cases were pending with Estate Officers for more than ten years. Out of these, 1185 cases were pending for more than 20 years. Cases pending for more than ten years were mainly noticed in CR (1483) and NER (1212), indicating ineffective pursuance of cases filed with Estate Officers.
- In all Zones except SWR, though the Estate Officers finalized 11519 cases during 2011-14, Railway Administration could not implement the orders of Estate Officers in 11169 (97 *per cent*) cases resulting in non-removal of encroachments.

(Annexure XVI, XVII, XVIII)

<sup>208</sup>Area of 44 encroachments was not available.

<sup>209</sup>Para 815 (h) of IRWM

<sup>210</sup>In terms of section 3 of PPE Act 1971, the Central Government may, by notification appoint such persons, being gazetted officers of Government or officers of equivalent rank of the corporate authority, as it thinks fit, to be estate officers for the purposes of this Act.



The following significant cases of lack of action on the part of Railway Administration in removal of encroachments under PPE Act were noticed in Audit:

**(a) Failure to clear encroachment from Railway land valued ₹ 51.16 crore**

On Ambala Division of NR, some Railway land in village Dhakoli near Chandigarh was reported (December 2003) to be under illegal encroachment. While disposing a Public Interest Litigation (PIL) on the matter Hon'ble Punjab and Haryana High Court directed (March 2005) for demarcation of the area and removal of encroachment within four months. During demarcation (May 2005) Railway land measuring 23 acres (93077.688 sqm) was identified under illegal occupation. Therefore, Railway Administration started eviction proceedings between January and March 2006 under PPE Act. Only 36 cases of encroachments could be finalized ex-parte. But, eviction could not be implemented due to law and order problems. Later, Railway issued a public notice (August 2008) directing the encroachers to vacate the Railway land and also carried out an anti-encroachment drive (06.08.2008) which was not successful. Meanwhile, in May 2011, a temple also came up at the encroached location. In August 2011, notice to 255 encroachers was published in local newspapers wherein area encroached was shown as 3.42 acres only. These cases were pending in Estate Courts during the time covered under Audit review.

Audit observed that:

- Railway authorities were either unable to identify majority of the encroachers or their identities were not established. The Railway was yet to find out the details of parties under unauthorized occupation of remaining Railway land.
- Railways acted in a casual manner as is evident from the fact that even after eight years, the dispute resolution mechanism has been initiated only for 3.42 out of a total of 23 acres of land. Railway Authorities also failed to take action in 36 cases decided ex-parte in 2006. This indicated that the eviction cases were not monitored properly.

Failure of Railways in observing guidelines for custody of land through monthly joint inspection etc. has resulted in unauthorized occupation of prime Railway land measuring 23 acre and costing ₹ 51.16 crore.

The matter was taken up with the Railway Administration (April 2006, May 2012 and May 2013). Reply was not received (September 2014).

**(b) Loss of ₹12.99 crore due to non-renewal of license agreement and non-realization of damage rent for unauthorized occupation by the private party**

Rules<sup>211</sup> provide that the Railway Administration is permitted to grant to the outsiders, under a lease or license, rights and facilities in respect of available land for the purposes connected or not with railway working. Railway Board's orders<sup>212</sup> require license fee to be fixed @ 6 per cent of total value of land and liable to be

<sup>211</sup> Para 1013 of Indian Railway Code for Engineering department

<sup>212</sup> Railway Board's letter no. 2005/LML/18-8/New Delhi dated 10.02.2005

increased @ 10 per cent every year over the previous year's value prior to April 2004 and thereafter @ 7 per cent every year over the previous year's value. Rules<sup>213</sup> also provide that every year, at the close of the financial year, detailed survey of encroachments must be made and action under PPE Act is required to be taken in case of 'A' category encroachments by outsiders.

NR Administration entered (September 1994) into an agreement with a party for manufacture and supply of Pre-stressed Mono-block Concrete Sleeper (PSC sleepers) sets for turnouts and licensed to them a piece of land (3.08 acre) at Lohta (Near Varanasi) for three years from 1 July 1996 (extended up to September 2001). The party, though remaining in occupation of the Railway land, did not renew the lease agreement after expiry of the contract. Although subsequent contracts for manufacture and supply of sleepers were also awarded to the same party, Railway Administration took no action to renew the already licensed Railway land to the party. They also failed to protect their additional land (2.17 acre) adjacent to the land already in party's occupation. The party occupied un-authorisely the additional land in March 2000 and July 2001. Railway Administration did not take any action under PPE Act for removal of the party's unauthorized occupation. A proposal for realization of license fee for the year 2001 to 2010-11 submitted in April 2011 was pending for financial vetting (September 2014).

As such, the license fee for 3.08 acre of Railway land amounting ₹3.82 crore remained unrealized from 2000-01 to 2014-15 besides unauthorized occupation of 2.17 acre land resulting in non-realization of damage rent amounting to ₹9.17 crore.

The matter was taken up with the Railway Administration in March 2013, to which no reply has been received so far.

#### **4.6.4.4 Removal of encroachments under Section 147 of Railways Act, 1989**

As per provisions of Section 147 of Railways' Act 1989, if any person enters upon or into any part of Railway without lawful authority or having lawfully entered upon or into such part, misuses such property or refuses to leave, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ₹ 1000/- or both. Such person may also be removed from the Railway premises by a Railway servant or by any other person whom such Railway servant may call to his aid.

A review in audit revealed that 37149 cases of encroachments were registered under Section 147 of Indian Railway Act in CR, ER, ECR, NWR, SECR and WR from 2011-12 to 2013-14. Out of these, only seven cases (NWR) remained undisposed as on March 2014.

(Annexure XVI, XVII, XVIII)

<sup>213</sup> Para 814 (d) of IRWM

#### 4.6.4.5 Monitoring

As per Railway Board's instructions<sup>214</sup>, an ABC analysis of encroachments on Railway land should be done. The level of monitoring as per these instructions is as under:

- (a) 'A' category stations: Should be monitored at GM's level through CE/CGE
- (b) 'B' category stations: Should be monitored at DRM's level through Sr. DEN (Co.)/DEN (Estate).
- (c) The remaining may be monitored at the Divisional Officer's level.

While monitoring of encroachments at 'A' and 'B' category stations is to be done by GM and DRM respectively, review for 'A' category is to be done by Railway Board for which six monthly progress reports are to be sent by Zonal headquarter. For 'B' category, review is to be done at GM level. For others, review is to be done at DRM level. In order to send the six monthly progress reports to Board for 'A' category, Divisions should send the information as per Board's proforma (Annexure 'C' of Board's letter of 31.3.98) within the last week of the fifth month positively. Six monthly progress reports for 'B' category stations which are to be reviewed at GM's level should also be sent by the Divisions while sending the reports for 'A' category. Information for 'B' category should be submitted in a proforma similar to that of 'A' category.

A review of records of selected Divisions and all Zonal offices revealed that:

- Six monthly progress reports for encroachments at 'A' and 'B' category stations as prescribed in Railway Board instructions ibid was not being submitted by any of the selected divisions except NR, SCR and SWR. In NR, one out of two Divisions submitted the required details of encroachments.
- Similar reports to be submitted by Zonal offices to Railway Board were also not being submitted by any Zone except NR and SCR.

Thus, Railway Administration did not follow its own instructions regarding monitoring of cases of encroachment at Zonal and Divisional levels. This points to inadequate monitoring and lack of robust follow-up at each level of Railway Administration in dealing with cases of encroachments.

#### 4.6.4.6 Monthly Joint Inspection

As per Para 6.1 of JPO of Railway Board (September 2001), a monthly joint inspection should be conducted by the officials specified in Para 3.1 of JPO duly co-opting the Section Engineer (Works) wherever other departments are responsible, to study the old and new encroachments on the spot for taking immediate necessary action. The inspection report should be made out in the prescribed format. Such report should be sent to the higher officials (Branch officer) of the respective departments by the concerned Inspectors.

<sup>214</sup>Railway Board's letter No. 98/LML/14/7 dated 31.3.98

Test-check of records of 223 selected SSEs revealed that no such monthly joint inspection was conducted by the SSEs with the concerned departments in all zones except CR and WR. In CR and WR also, the required joint inspection was not conducted regularly. Only two SSEs in these zones conducted the joint inspection. This is indicative of lack of sincere effort on the part of Railway Administration in preventing encroachments even after issuing a JPO for this purpose.

#### 4.6.4.7 Regular monthly meetings at the SAG level

As per Railway Board's instructions (April 2010), regular monthly meetings at the SAG level (DRM in divisions and Chief Engineers in Zones) should be held with the appropriate State Revenue Authorities on issues regarding land acquisition, mutation of land, title disputes, eviction of unauthorized encroachers, training matters, etc.

A review of records, however, revealed that no such meetings were held in 10 Zones<sup>215</sup> and Metro Railway, Kolkata. Further, records relating to such meetings were not available in 4 Zones<sup>216</sup>. Only in CR and NWR, such meetings were held only two and five times respectively during the review period. This interaction with the State authorities is very important in view of the fact that 16 per cent of total land plans could still not be authenticated as already discussed in Para 6.2.1 above.

#### 4.7 Conclusion

Non-implementation of provisions already mentioned in codes and manual, reiteration of the same in Railway Board's letter of April 2010 and specific recommendations of PAC resulted in deficiencies in setting up effective Land Management Cell in all the Zonal Railways and Divisions as assured by Railways in its Action Taken Note on PAC's observations. Poor maintenance of records, inconsistencies in data maintained at various levels, failure to attain the target for construction of boundary walls, inability to prevent fresh encroachments, laxity in removal of existing encroachments, ineffective pursuance under the PPE Act are all indicative of lack of robust and effective land management system in Indian Railway resulting in poor performance in safeguarding of its valuable assets.

#### *Recommendation*

- *MOR may set up on priority and in a time bound manner Land Management Cells in the remaining Zonal headquarters and Railway Divisions. Railway's land management may also be strengthened by posting qualified and dedicated staff in these cells and laying greater emphasis on training and capacity building measures.*
- *MOR may ensure on priority and in a time bound manner the maintenance of all essential land records at various levels. To ensure the safe custody of Railway land and prevention of the encroachments, MOR should also ensure that such land records are regularly updated and verified as per periodicity prescribed.*

<sup>215</sup>ER, ECoR, NCR, NEFR, SR, SCR, SER, SECR, SWR, WR

<sup>216</sup>ECR, NR, NER and WCR

- *Railways should streamline the system of authentication and mutation of land plan by regular liasoning with the State Government authorities. Computerization of land records should be taken up on priority to ensure a robust and effective land management information system.*
- *With a view to prevent encroachments of vacant land, MOR should ensure on priority and in time bound manner the demarcation with adequate structures around all such land.*
- *MOR may vigorously pursue the matter regarding removal of existing old/ fresh encroachments through strict compliance to the provisions of PPE Act/ Railways Act and implementation of recommendations of the PAC to ensure the reclamation of encroached Railway land. IR may ensure compliance with the instructions of 1998 to facilitate effective monitoring of encroachments.*