

CHAPTER-IV LAND REVENUE AND BUILDING TAX

4.1 Tax administration

The Revenue and Disaster Management (R&DM) Department is under the control of the Principal Secretary at the Government level with the Commissioner of Land Revenue as its head. The revenue collected by Department includes basic tax, building tax, lease rent and plantation tax. The Department realises arrears of public revenue under the Kerala Revenue Recovery (KRR) Act, 1968 with interest and cost of process prescribed.

4.2 Internal audit

The Internal Audit Wing (IAW) of the Land Revenue Commissionerate is supervised by the Senior Finance Officer under the control of the Commissioner of Land Revenue. The audit of *Taluk* offices, Revenue Divisional Offices and Revenue Recovery Offices, Offices of Vigilance Deputy Collectors and Central Stamp Depot are conducted in a period of two to three years. The IAW is manned by one senior superintendent, three junior superintendents and six clerks. The Department stated that the selection of offices to be audited were made on the basis of the date of audit last conducted and the files to be checked were randomly selected and no risk analysis was done before selecting an office for audit. The Department also stated that there is no regular training programme for the staff of IAW. During 2015-16, the IAW planned 24 units for internal audit which were covered during the year. During the year, the Department cleared 4,137 paragraphs out of 17,789 paragraphs which was 23.26 *per cent* of the outstanding objections. The Department stated that the poor clearance of audit observations was due to non receipt of rectification reports from the suboffices audited.

4.3 Results of audit

The records of 58 units relating to land revenue and building tax were test checked during 2015-16. Under-assessment of tax and other irregularities involving ₹ 165.60 crore were detected in 223 cases which fall under the following categories as given in **Table – 4.1**.

Table – 4.1

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1	Performance Audit on Disaster Management in the State	1	-
2	Audit on Land governance in the State	1	146.76
3	Under assessment and loss under building tax	176	14.36
4	Under assessment and loss under other items	45	4.48
	Total	223	165.60

A Performance Audit on Disaster Management highlighting the deficiencies in the management of finance and inadmissible expenditure from State Disaster Response Fund with expenditure impact of ₹ 153.63 crore was noticed.

During the course of the year, the Department accepted under-assessments and other deficiencies involving ₹ 158.80 crore in 107 cases. An amount of ₹ 7.33 crore was realised in 205 cases during the year, of which 197 cases involving ₹ 4.91 crore pertained to 2015-16.

4.4 Performance Audit on Disaster Management in the State

Highlights

- Disaster Management Plan at State/District levels and by Local Authority were not prepared even after 10 years of enactment of the Disaster Management Act, 2005 (DM Act).

(Paragraph 4.4.6.1, Bullet 1)

- Government/ Kerala State Disaster Management Authority (KSDMA) had not met legal obligations in submission of annual reports on disaster management activities which deprived the Legislature of getting a true and full account of Disaster Management (DM) activities in the State.

(Paragraph 4.4.6.1, Bullet 2)

- Out of the 24 Village Offices test checked in Alappuzha, Kottayam, Palakkad and Thiruvananthapuram districts, Village Disaster Managements Committees (VDMCs), required to be set up to reduce the risks associated with disasters and dependency on external agencies, were not set up in the test checked village offices.

(Paragraph 4.4.6.1, Bullet 4)

- NGO Co-ordination Committees were not constituted at State/District levels.

(Paragraph 4.4.6.1, Bullet 6)

- In the test checked districts, Early warning systems were either not functioning or not installed.

(Paragraph 4.4.6.2, Bullet 2)

- State Disaster Response Force was not constituted as category wise staff strength had not been sanctioned by Government.

(Paragraph 4.4.6.2, Bullet 7)

- Provisions of National Disaster Management Authority guidelines were not included in the municipal and *panchayat buildings* Rules dealing with the construction of buildings in the State.

(Paragraph 4.4.6.2, Bullet 8)

- Preparation of budget estimated for State Disaster Response Fund was not based on estimates of District Collectors. Other *miscellaneous* relief expenditure was irregularly accounted as SDRF disbursements.

(Paragraph 4.4.6.2, Bullet 10)

- The State and District Authorities did not constitute District Disaster Response Fund and State Disaster Mitigation Fund.

(Paragraph 4.4.6.2, Bullet 12)

- In the selected districts, State Disaster Response Fund expenditure of ₹ 83.44 crore was utilised for calamities which did not conform to the definitions of disasters.

(Paragraph 4.4.6.3)

4.4.1. Introduction

Disasters disrupt the progress, destroy the developmental gains of the nation and cause immense hardships to individuals. Thus efficient management of disasters rather than merely responding to disasters has become very important. To achieve this, in December 2005, the Government of India (GoI) took a defining step by enacting the Disaster Management Act, 2005 (DM Act), to spearhead and adopt a holistic and integrated approach to Disaster Management (DM). This was a paradigm shift, from the erstwhile relief-centric response to a proactive prevention, mitigation and preparedness-driven approach for conserving developmental gains and to minimise loss of life, livelihood and property.

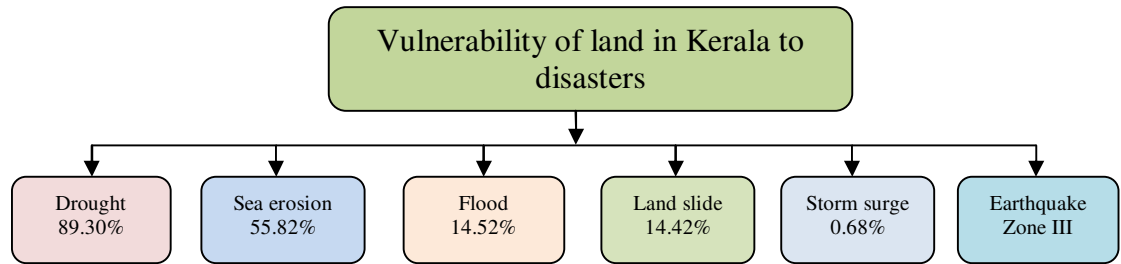
4.4.1.1 State's vulnerability to various disasters

Kerala is geographically bordered on the west by the Arabian Sea and the east by the Western Ghats. The total land area of State is 38,863 sq. km. The State has a coastline of about 580 km with an approximate breadth of 35 to 120 km. The State has a population of 3,34,06,061 (Census 2011) which translates to about 860 people/sq.km. Kerala is a multi-hazard prone State; its geography and population density favours high degree of vulnerability to various hazards.

Vulnerability of the State, as per Drought Map¹ of Kerala and Hand Book² on Disaster Prone Areas of Kerala, to various natural disasters is depicted below.

¹ Drought Map of Kerala, State Emergency Operations Centre, Government of Kerala.

² Hand Book on disaster prone areas of Kerala , Volume-1, 2014, State Emergency Operations Centre and Institute of Land and Disaster Management, Kerala under the United Nations Development Programme (UNDP) Project.



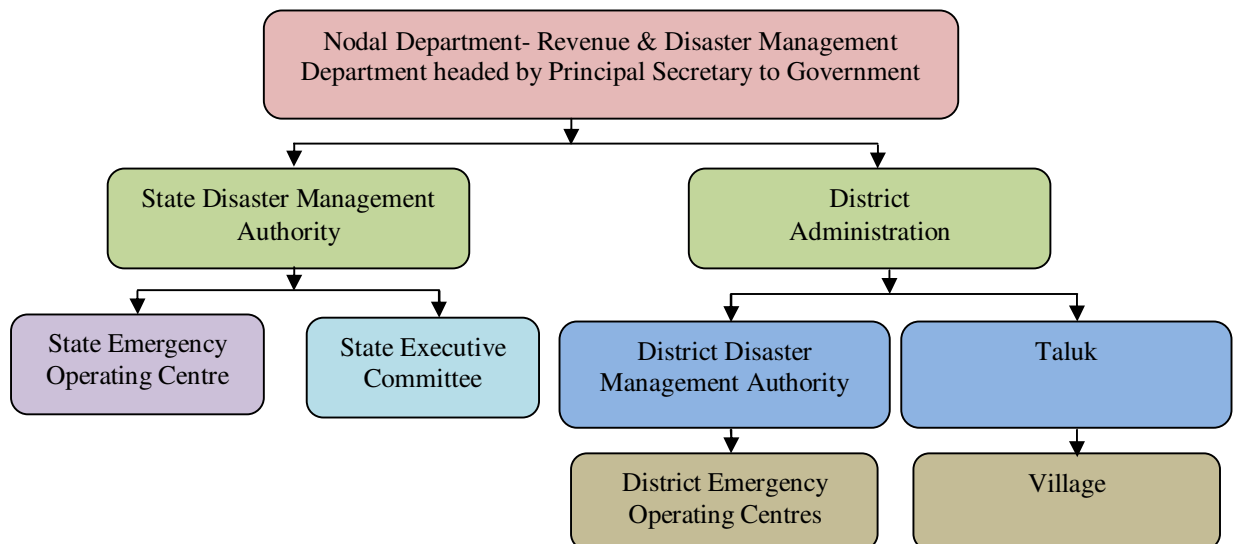
4.4.1.2 Organisational set-up

The scope of Department of Revenue had been enhanced to include prevention, mitigation and preparedness aspects of DM apart from its traditional responsibility of relief and rehabilitation and the Department renamed as Department of Revenue and Disaster Management (R&DM Department). The Department was the nodal department for DM. The Principal Secretary to Government acts as State Relief Commissioner.

As per the National Policy on Disaster Management (NPDM) of 2009 issued by Ministry of Home Affairs (MHA), at the State level, the State Disaster Management Authority (SDMA), headed by the Chief Minister, had to lay down policies and plans for DM in the State. The State Government had to constitute a State Executive Committee (SEC) to assist the KSDMA in the performance of its functions. The SEC was to be headed by the Chief Secretary to the State Government and coordinate and monitor the implementation of the National Policy, the National Plan and the State Plan.

The District Disaster Management Authority (DDMA) is headed by the District Collector. DDMA acts as the planning, coordinating and implementing body for DM at District level. It has to prepare the District Disaster Management Plan (DDMP) for the District and monitor implementation of the National Policy, the State Policy, the National Plan, the State Plan and the District Plan.

Organogram of the Administrative set up of DM in the State is given below:



4.4.2 Audit objectives

The performance audit was conducted to assess whether:

1. legislative, institutional, financial and capacity building frameworks were robust enough to address issues of disaster management.
2. measures for prevention, mitigation, and preparedness to reduce impact of disasters were adequate, efficient and effective.
3. response, relief, rehabilitation and reconstruction activities undertaken were efficient and effective.

4.4.3 Scope and methodology

The Performance Audit covered the period from 2011-12 to 2015-16 and was conducted during April to September 2016. Audit was conducted through test check of records of R&DM Department, Finance Department, District Collectorates, *Taluk* Offices, Village Offices, Local Self Government Institutions (LSGIs), Government schools, Government hospitals and State/District level nodal departments. Kerala State Disaster Management Authority (KSDMA), SEC, State Emergency Operating Centre (SEOC), Institute of Land and Disaster Management (ILDM), DDMAs and District Emergency Operating Centres (DEOCs) were also visited. All the institutions at the State level were covered and 25 per cent of the districts (ie four³ out of fourteen) was selected using risk based stratified random sampling method, considering proneness to disasters. The sampling procedure and selection was approved by the Nodal Statistical Officer. One stakeholders meeting was conducted on 14 March 2016 at the State level to assess the risk areas in DM. An entry conference was conducted on 13 April 2016 with R&DM Department, in which audit explained the objectives, scope and criteria for the Performance Audit. On completion of audit an exit conference was conducted on 8 November 2016 with R&DM Department and draft report was discussed in detail.

4.4.4 Audit criteria

Audit criteria is derived from the following sources.

- The Disaster Management Act, 2005 (DM Act, 2005) ;
- National Policy on Disaster Management, 2009 (NPDM, 2009) ;
- State Policy on Disaster Management, 2010 (SPDM, 2010) ;
- The Kerala State Disaster Management Rules, 2007 (KSDM Rules, 2007) ;
- District Disaster Management Plans (DDMP) ;
- Manual for Drought Management, 2009 and

³ Alappuzha, Kottayam, Palakkad and Thiruvananthapuram.

Guidelines issued by National Disaster Management Authority (NDMA) and other instructions issued by the Government of India, NDMA and State Government.

4.4.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation and assistance extended by R&DM Department and other administrative departments, Kerala State Disaster Management Authority, District and field level functionaries and LSGIs of selected districts during the course of Performance Audit.

Non-production of records to audit

Despite earnest efforts by the audit team and even after bringing the matter to the notice of Chief Secretary by Principal Accountant General, 252 work files on repair of damages to roads due to flood for which administrative sanction was issued for ₹ 14.79 crore to be met from SDRF was not produced by the Secretary, Thiruvananthapuram Corporation.

4.4.6 Audit findings

A typical DM continuum is comprised of six elements; the pre-disaster phase includes prevention, mitigation and preparedness, while the post-disaster phase includes response, rehabilitation, reconstruction and recovery. A legal and institutional framework binds all these elements together. The above components were evaluated and deficiencies noticed in this respect are discussed in the succeeding paragraphs.

4.4.6.1 Institutional framework and planning

DM Act provides for constitution of DMAs at State and Districts levels and formulation of DM plans at State, District, Department and LSGI levels, including measures to be taken for prevention, mitigation and response to any disaster. Audit detected a few deficiencies in this regard, which are discussed in the succeeding paragraphs.

- **Absence or Delayed preparation of DM plans**

As per Section 23 of the DM Act, State Plan shall be prepared by the SEC, which shall be approved by the SDMA. Section 40 of the Act requires that every department of the State Government should prepare a DM plan at State/District levels, which shall lay down the types of disasters to which different parts of the State are vulnerable. Section 32 of DM Act stipulates that local authorities shall prepare a DM plan and submit a copy of the plan and of any amendments thereto, to the District authority. It was noticed that though SEC⁴ was constituted in 2007,

⁴ The State Executive Committee constituted under Section 20 of the DM Act was to assist the State Authority in the performance of various functions stated in Section 22 of the Act

State Plan and DM plans of departments at State/District levels and by local authorities were not prepared as of June 2016, that is even after 10 years of the enactment of the Act. Even though SEOC had prepared a vulnerability map in the year 2014, reasons for not preparing the State/ Department /local authority plans were not on record.

As State DM plan was not prepared, the preparedness of the State to various disasters and other DM issues could not be evaluated with reference to any parameters in the plan.

Chairpersons of DMAs, who were responsible for supervising the preparation of Department/local authority plans stated (August 2016) that instructions would be issued immediately to prepare plans.

Government stated (November 2016) that the State plan had since been approved by KSDMA on 7 September 2016 and published on 15 September 2016. The departmental plans of Health & Family Welfare Department, Fire and Rescue Services, Homeopathy and Kerala Water Authority have been approved. On delay in its preparation for more than 10 years, it was stated that KSDMA became active from the year 2012 only.

Instructions may be issued by the Government to prepare the DM plan at departmental, village and local levels.

- **Non- compliance of legal obligations**

Government/KSDMA had not met the following legal obligations as of July 2016 which indicated lack of seriousness.

- **Non-submission of Annual Report:** Annual Report on DM activities which was to be presented to State Legislature under Section 70(2) of DM Act was not prepared by KSDMA and submitted to Government which was to place it before the State Legislature. This deprived the Legislature of getting a true and full account of DM activities in the State, like non-preparation of DM plans, lack of preparedness activities, inadequacies in prevention and mitigation measures, spending of SDRF etc.

such as implementation of the National and State Plan, coordination and monitoring of the National Policy, examine the vulnerability of different parts of the State to different forms of disasters and specify measures to be taken for their prevention or mitigation, laying down guidelines for preparation of disaster management plans by the State Departments and the District Authorities and monitoring of the implementation thereof, monitor the integration of measures for prevention of disasters and mitigation by the departments in their development plans and projects, evaluate the disaster preparedness at all governmental or non-governmental levels, coordinate response in the event of any disaster; promote general education, awareness and community training in regard to the forms of disasters, provide necessary technical assistance or give advice to District Authorities and local authorities and to ensure that communication systems are in order and the disaster management drills are carried out periodically etc.

- **Framing of Rules in contravention to Act:** Section 14(2) of DM Act prescribed two ex-officio members, Chief Minister as Chairperson and Chief Secretary as CEO, and a maximum of eight other members for SDMA. Violating this provision, KSDM Rules, 2007 prescribed nine ex-officio members against two.

The nomination of nine ex-officio members instead of two violated the provisions of the Act.

Government stated (November 2016) that the submission of annual report was not intentionally overlooked. The report for the year 2015-16 had already been prepared, laid before SEC and will be submitted to the legislature. Regarding the prescription of contradictory rules to accord ex-officio status to the KSDMA members it was stated that the pleasure of the Chairman was supreme as per the DM Act.

The reply was not tenable since the Act specifically prescribes only two ex-officio members and the State Government cannot frame rules in contravention to the provisions of the Act.

Government may take steps to submit the Annual Report to the legislature and appoint full time members in KSDMA.

- **Shortage/Diversion of manpower**

As per Section 29 of the DM Act, State Government shall provide the District Authority with such officers, consultants and other employees for carrying out the functions of District Authority stipulated under Section 30 of the Act.

Government converted 546 posts related to housing for DM in the state against which 197 posts only were redeployed for DM. In the selected districts of Alappuzha and Thiruvananthapuram posts of Deputy Collector (DM) were created specifically for DM activities, whereas in Kottayam and Palakkad districts Deputy Collector (DM) posts were not created. Deputy Collector (General) was given charge of DM, in addition to their original duties. Audit noticed that Government, as per orders issued in November 2009 and March 2014, gave additional duties of attending to VIP visits and housing scheme to Deputy Collector (DM) of Alappuzha and Thiruvananthapuram districts as well as to the staff of DM cells of all the selected districts.

Government stated (November 2016) that it would comply with the audit observation.

Dedicated staff may be provided for DM activities.

- **Failure to constitute Village Disaster Management Committees**

Paragraph 5.3.1 of NPDM, 2009 and 7.1.2.7 of SPDM 2010, require that village community being the first responders, Village Disaster Management Committees (VDMCs) were to be set up to reduce the risks associated with disasters and dependency on external agencies. Village Disaster Management Plan (VDMP) was also to be prepared.

Audit scrutiny revealed that out of 24⁵ village offices test checked in Alappuzha, Kottayam, Palakkad and Thiruvananthapuram districts, VDMC was not set up in any of them. It was further noticed that VDMPs also were not prepared in those villages, which would have catered to the training needs and other mitigative measures of the community. In reply, Village Officers stated that VDMCs were not constituted as they were not instructed to do so.

Failure to constitute VDMCs resulted in non preparation of VDMPs and engagement of local people in DM activities.

Government stated (November 2016) that, local plans are to be prepared at the local level such as Panchayat, Municipality and Corporation and not at the village level.

The reply is not tenable since the SEC is responsible for the implementation and monitoring of the NPDM, 2009 as per Section 22(2) (a) of the DM Act.

Instructions may be issued by the Government to set up VDMCs.

- **Delay in commencement of Civil Defence Training Institute (CDTI)**

As per paragraph 3.4.4 of NPDM, 2009 mandate of the Civil Defence would be redefined to assign an effective role in the field of disaster management. They will be deployed for community preparedness and public awareness. Under the centrally sponsored scheme for Revamping of Civil Defence, GoK had constructed a building for CDTI in 2013 utilising the grant of ₹ 1.95 crore during 2010-11 and 2011-12. As Government had not taken steps for the creation of posts and purchase of equipments, the Institute was not made functional as of July 2016. Audit further noticed that another MHA grant of ₹ 2.26 crore received by the Government in August 2014 for creation of CD set up in most vulnerable districts in the State was not provided for in the budget estimates upto 2015-16.

⁵ **Alappuzha District:** Mullackal, Aryad South, Ambalapuzha West, Cherthala South, Kadakkarapally, Pattanakkad.

Kottayam District: Kottayam, Veloor, Nattakom, Naduvila, Thalayazham, Vaikom.

Palakkad District: Ambalappara-2, Lekidiperoor-1, Ottappalam-2, Kollangod-2, Muthalamada-1, Ozhalapathy.

Thiruvananthapuram District: Vanchiyoor, Muttathara, Manacaud, Anad, Aruvikkara, Karipoor.

Due to delay in making the Civil Defence Training Institute functional and due to non-creation of CD set up in most vulnerable districts, civil defence personnel could not be trained in DM and deployed for community preparedness and public awareness.

Government stated that (November 2016) a decision was taken to activate CDTI and the matter has been entrusted to KSDMA.

Government may take steps to establish Civil Defence set up.

- **Non-coordination of NGOs in DM activities**

As per paragraph 5.3.3 of NPDM 2009, NGOs would be encouraged to empower the community and generate awareness through their respective institutional mechanisms. MHA, in October 2014, advised State Governments to constitute NGO Co-ordination Committees at State/District levels through SDMA/DDMAs.

Paragraph 1.5 of the Guidelines on NGOs issued by NDMA in September 2010, requires the DDMAs to develop a database of NGOs at all levels working on DM focusing on geographic outreach and thematic capacities of the organisations.

Audit noticed that NGO Co-ordination Committees were not constituted at State/District levels, which may lead to a non-coordinated response at the time of need that may arise out of any disaster. In reply, Member Secretary, KSDMA stated that the matter was reported to Government. In respect of DDMAs, District Collectors intimated that the Committees would be constituted at the earliest.

Government stated (November 2016) that the DM Act, 2005 does not stipulate formation of coordination committee.

The reply is not tenable since the SEC is responsible for the implementation and monitoring of the NPDM, 2009 as per section 22(2) (a) of the DM Act and the State Government is bound to implement the directions issued by the MHA.

Government may take steps to constitute NGO coordination committee.

4.4.6.2 Disaster preparedness and mitigation

Kerala is prone to various types of natural disasters described in paragraph 4.4.1.1 in addition to the various human induced disasters. The dominant climatic phenomena, the South-West (June to September) monsoon and the North-East (October to December) monsoon causes floods while the State faces scarcity of water during summer season. The R&DM Department acts as the nodal department for management of the disasters acting through the District Collectors, *Tahsildars* and Village Officers at the field level.

Natural hazards like floods, earthquakes, cyclones etc., cannot be avoided. However, impact of disasters could be minimised with adequate preparedness and

by taking preventive and mitigative measures. NPDM, 2009 emphasised the necessity for preparedness, prevention and mitigation of disasters. As State DM Plan was not prepared, disaster specific preparedness, preventive and mitigation measures were carried out in an ad-hoc manner.

Audit found the following deficiencies in this respect.

Preparedness

- **Deficiencies in the functioning of Emergency Operating Centres**

The Emergency Operating Centres (EOCs) are nerve centres of disaster preparedness, planning, early warning, emergency management, recovery management and mitigation planning.

The functioning of the SEOC and four DEOCs test checked was deficient as given below. (Details in **Appendix XIX**)

- As per paragraph 6.8 of Kerala State Disaster Management Policy, EOCs should function round the clock. But the SEOC and two DEOCs were not functioning round the clock.
- VHF radio communication systems to be used as Early Warning Systems (EWS) at the time of disaster when normal communications fail, were not functioning in the two DEOCs.
- High Frequency Ham radio set, radio receiver and portable generator were not available.
- Equipments purchased for DEOCs were used in other sections of the Collectorate.
- Training on DM and VHF operation was not imparted to DEOCs staff.
- Toll free number 1077 was not functioning/accessible to all consumers.

EOCs were not equipped to properly respond to a disaster for the above stated reasons.

In the exit meeting the Deputy Secretary stated (November 2016) that all DEOCs were working 24 x 7. The SEOC works 24 x 7 during the monsoon season (June to December) and would be functional 24 x 365 days after the completion of KSDMA Headquarters. A meeting was held with the telecom operator in July 2016 to make accessible the toll free numbers. Subsequently Government replied (November 2016) that SEOC and DEOCs are working 24 x 7, necessary instructions are issued to District Collectors not to allocate equipments meant for disaster management to other sections, instructions are issued by Government to procure items like Radio Receiver and portable generator sets.

The reply regarding functioning of SEOC is not tenable since it was not functioning 24 x 365 days. The EOCs being vital nerve centres of disaster

management activities concerned with monitoring of disaster information dissemination centres must be fully equipped and function 24 x 365 days.

- **Failure of Early Warning Systems**

As per Section 30 of DM Act, DDMA shall be responsible for setting up, maintaining, reviewing and upgrading the mechanism for early warnings and dissemination of proper information to public.

In the CAG's Audit Report of General and Social Sector of Government of Kerala for the year ended 31 March 2013, it was reported that equipment procured for ₹2.34 crore for VHF radio based communication for enforcing effective EWS installed at village offices, *taluk* offices and district collectorates were lying idle due to improper installation and non-execution of repair works within the guarantee period by the supplier. In the remedial measures taken report, Government stated that District Collectors were instructed to make the VHF systems fully functional through Police Telecommunication wing.

Of the 70 VHF systems installed in various locations in Alappuzha, Kottayam and Palakkad districts, 58 systems were not functioning as of August 2016 due to faulty accessories, non-servicing of batteries etc and in Thiruvananthapuram district, 35 sets, repaired in February 2015 were stored in Collectorate without being installed in the identified locations as detailed in **Appendix XX**.

Failure of DDMA's in repairing the essential communication system may make dissemination of proper information impossible to lower levels such as *Taluks*, Villages and thereby to vulnerable communities during a disaster. To this, District Collectors responded (August 2016) that follow up action would be intimated.

Government stated (November 2016) that VHF system was currently working upto *Taluk* level and steps were being taken to shift from analogue system to satellite system.

The reply is not acceptable as the situation had not improved even after furnishing of similar reply by Government to the Audit Report 2013.

SEOC and DEOCs may be made operational 24 x 365 with sufficient communication networks.

- **Hospital preparedness**

Paragraph 4.6 of National Disaster Management Guidelines on Medical Preparedness and Mass Casualty Management issued by NDMA, Government of India require all hospitals to have a 'all hazard' plan, simple to read and understand, easily adaptable with normal medical practices and flexible to tackle different levels and types of disasters.

In eight⁶ government hospitals selected for audit in Alappuzha, Kottayam, Palakkad and Thiruvananthapuram districts, various significant aspects of preparedness were lacking as shown below.

- DM plan was not prepared by any of the hospitals.
- DM training was not imparted to doctors and paramedics or covered a few only.
- Blood banks were not available or had storage facility only.
- Trauma Care Centres were not available or were combined with casualty.

Government stated (November 2016) that the Health Department had already approved Disaster Management plan. In the case of hospitals, the function was departmental and reply had to be obtained from the Health Department.

Infrastructure and DM plans may be put in place for hospital preparedness.

• School DM project

:Suraksha Club⁷ was a joint venture of R&DM Department and Education Department for creating awareness in school children for facing various disasters. In October 2010, Government accorded administrative sanction for setting up of :Suraksha Clubs⁷ in all Government/Aided Schools in the State, for a grant of ₹1.75 crore from 13 Finance Commission for capacity building in disaster response.

In eight⁷ Government schools selected for audit in Alappuzha, Kottayam, Palakkad and Thiruvananthapuram districts, :Suraksha Clubs⁷ were constituted in all the schools during 2010-11, out of which only one was functioning as of July 2016. By discontinuing the functioning of the clubs, the objective of making school children aware of facing various disasters was not achieved. No school had prepared DM plans also as stipulated in paragraph 9.1.1 of NDMA guidelines on Management of Earthquakes.

Head Masters of schools selected for audit stated that they had not prepared DM plans as they were not instructed to do so by the Government.

Government stated (November 2016) that the project could be sustained only through institutionalising and mainstreaming disaster risk management and continued financial support.

⁶ General Hospital Alappuzha, Taluk Hospitals Cherthala, Vaikom, Ottappalam, District Hospitals Kottayam, Palakkad, Nedumangad and District Model Hospital, Peroorkada.

⁷ Government HS for Girls, Alappuzha, Government TDJB School, Alappuzha, TKMM UPS, Vaikom, Government VHSS, Nattakom, LSN Girls High School, Ottappalam, Government UP School, Chittur, Government UP School Boys, Nedumangad and Government UP School, Chala.

Steps may be taken to create awareness of disaster among school children.

- **Use of schools as relief camps**

As per paragraph 8.2.1 of NPDM 2009, DDMAAs, especially in recurring disaster prone areas, should identify locations for setting up of temporary relief camps. The use of premises of educational institutions for setting up of relief camps needs to be discouraged.

Audit noticed that out of eight schools selected for audit in four districts, two⁸ schools were used as relief camps. Holiday was declared to the schools on the days in which the relief camps functioned.

DDMAAs had failed to identify locations other than educational institutions for relief camps as suggested in the National Policy.

Government stated (November 2016) that schools would not be allowed to operate as relief camps beyond the emergency period, except in special cases, if situation warrants.

Steps may be taken to identify buildings other than school buildings to run relief camps.

- **Low priority for awareness and preparedness**

GoK provided assistance to KSDMA under the head of account `2053-00-800-90-34-State Disaster Management Authority (Plan)_, to be utilised for activities included in the annual plan of KSDMA each year. All the activities related to pre-disaster measures such as conduct of mock drills, awareness campaigns, strengthening of emergency response capabilities, updation of DM plan etc. KSDMA disbursed the money to District Collectors, who were responsible for implementing the projects/activities specified.

Audit noticed that District Collectors of Alappuzha, Kottayam, Palakkad and Thiruvananthapuram received ₹ 201.32 lakh from 2011-12 to 2015-16, which was deposited in treasury, against which ₹ 75.61 lakh only was utilised (38 per cent) as detailed in **Appendix XXI**.

Due to non/partial utilisation of plan allotment by District Collectors, conduct of mock drills, awareness generation campaign, updation of DM plan and formation of VDMCs were not implemented even though included in annual plan. District Collectors, who were responsible for utilisation of the amount, stated that money would be utilised immediately for the specified activities.

Government stated (November 2016) that the matter was discussed in SEC meeting (October 2016) and orders in this regard were issued by the Government.

⁸ Government TDJB School, Alappuzha, TKMM UPS, Vaikom.

Steps may be taken to implement the annual plan and to refund the unutilised funds before close of the financial year.

- **Non-constitution of State Disaster Response Force**

As per National Policy, State Government was to constitute one battalion equivalent Force known as State Disaster Response (SDR) Force. State Government, in October 2012, issued orders constituting a 100 member SDR Force. Commandant of Rapid Response and Rescue Force (RRRF) was posted as Commandant of SDR Force. During 2013-14 and 2014-15, ₹ 1.88 crore was allotted for the purchase of equipments and training of SDR Force, from which ₹ 0.09 crore was spent and balance of ₹ 1.79 crore remained in the Treasury Savings Bank (TSB) account of the Commandant.

The following deficiencies were noticed:

- SDR Force was not in existence as of July 2016, as category wise staff strength had not been ordered and postings not made by Government.
- As an amount of ₹ 1.88 crore was sanctioned for training and purchase of equipments for SDR Force, utilisation of ₹ 0.07 crore by the Commandant for training and purchase of equipments for RRRF personnel was irregular.
- An amount of ₹ 0.02 crore paid towards remuneration of Personal Assistant to Additional Chief Secretary, Home and Vigilance Department was irregular as it was not related to the purpose specified.

Dedicated SDR Force was not available to respond to the disasters.

The Deputy Secretary stated (November 2016) that decision was taken to conduct separate recruitment for SDR Force and funds had been allotted for the training of the force by KSDMA. Government stated (November 2016) that the payment made to the personal assistant was not illegal and was made from funds available with SEC.

The reply is not tenable since the expenditure was not incurred for training and purchase of equipment.

Dedicated SDR Force may be made functional by recruiting category wise staff.

- **Failure to adopt techno-legal framework**

As per paragraph 5.2.1 of NDMA guidelines on Management of Earthquakes, all State Governments/SDMAs were to adopt the model techno-legal framework for ensuring compliance of earthquake resistant design and construction practices in all new constructions. Further, the State Governments were to update the urban

regulations by amending them to incorporate multi-hazard safety requirements by 30 June 2007. Audit noticed that the non-inclusion of provisions of NDMA guidelines in the Rules⁹ dealing with the construction of buildings in the State prevented the LSGIs from implementing the earthquake resistant design and construction practices in new constructions in the State.

Government stated (November 2016) that the steps for amendment were under progress.

- **Non-identification of buildings for retrofitting**

As per paragraph 6.4.1 of NPDM, 2009, ensuring safe construction of new buildings and retrofitting of selected lifeline buildings, as given in the Earthquake Guidelines, is a critical step to be taken towards earthquake mitigation.

Paragraph 4.1.1 of NDMA guidelines on Management of Earthquakes issued in April 2007, recommended structural safety audit and retrofitting of select critical lifeline structures and high priority buildings. The initial focus on structural safety audit and retrofitting would be on government and public buildings. The responsibility to identify and prioritise these structures would rest with State Government. Expert Technical Committee on techno-legal regime constituted by the State Government also recommended evaluation of existing lifeline¹⁰ structures for retrofitting.

Audit noticed that State Government had not identified and prioritised critical lifeline structures and high priority buildings for structural safety audit and retrofitting so far, due to which it could not be ensured whether the existing life line buildings have adequate earthquake resistant features.

Government stated (November 2016) that identification and maintenance of lifeline buildings and high priority buildings are to be done by the Public works Department as a routine activity.

The reply is not tenable since as per NDMA guidelines the responsibility to identify and prioritise the structures rests with the Government. Government has not issued any instructions in this regard.

Retrofitting of lifeline buildings in the State may be done at the earliest and necessary amendments be carried out in the regulations to incorporate multi hazard safety measures in new constructions.

⁹ Kerala Municipality Building Rules 1999 (last amended in 2013) and Kerala Panchayat Building Rules 2011 (last amended in 2014).

¹⁰ Buildings frequently used by public such as School, Hospital, Government Offices etc.

• **Financial Management**

Year wise financial data from 2011-12 to 2015-16 of disaster management activities from various sources as detailed in **Table – 4.2**.

Table – 4.2

(₹ in crore)

Expenditure						13 th Finance Commission		Response, rehabilitation, reconstruction and recovery SDRF		Total expenditure
Preparedness, prevention and mitigation										
Year	State Budget – Accounts				Total State Budget	Receipt	Expenditure	Receipt	Expenditure	
	Plan	Non Plan	Non Plan SDMF	Total Non Plan	Plan + Non Plan					
2011-12	0.84	0.23	2.00	2.23	3.07	4.00	2.55	137.63	130.65	136.27
2012-13	5.36	0.29	0.00	0.29	5.65	0.00	1.28	243.93	176.21	183.14
2013-14	3.50	0.44	0.00	0.44	3.94	0.00	3.40	258.02	292.50	299.84
2014-15	4.87	2.06	0.00	2.06	6.93	8.00	5.97	159.33	215.15	228.05
2015-16	1.50	2.57	32.50	35.07	36.57	0.00	0.00	184.75	134.12	170.69
Total	16.07	5.59	34.50	40.09	56.16	12.00	13.20*	983.66	948.63	1,017.99

Source: Finance Accounts and Appropriation Accounts of 2011-12 to 2015-16, Government of Kerala.

* includes expenditure from 2010-11 receipt also.

State Disaster Response Fund (SDRF) was created under section 48(1) (a) of the DM Act and managed by State Government. The objective of SDRF was to provide assistance by way of gratuitous relief. Under guidelines of MHA, 12 disasters¹¹ were eligible for assistance from SDRF. Lightning, coastal erosion and strong wind were declared as state-specific disasters eligible for assistance from SDRF from 1 April 2015. Quantum of SDRF for each State was fixed as per recommendations of Central Finance Commission and was shared by Central and State Governments in the ratio 75:25. Expenditure for various activities under pre-disaster phase was met from the plan and non-plan allotments provided by the State Government and from the SDRF for the post disaster phase. As per SDRF guidelines, the fund was not meant for preparedness and mitigation.

Besides, based on 13 Finance Commission (FC) recommendations, GoI sanctioned a one-time grant of ₹ 20 crore at the rate of ₹ four crore per year to GoK for the period 2010-15 for capacity building in disaster response.

¹¹ Drought, flood, cyclone, earthquake, fire, tsunami, hailstorm, landslide, avalanche, cloud burst, pest attack, frost/cold wave.

Expenditure from budget heads of accounts from 2011-12 to 2015-16 that were accounted as disbursements from SDRF is shown in **Appendix XXII**.

Audit noticed deficiencies in the management of finances and preparation of budget estimates and accounting of SDRF.

- As per paragraph 14 of Kerala Budget Manual, the budget of the State was to be based on departmental estimates submitted by the Heads of Departments and certain other estimating officers, which in turn were based on the estimates prepared by the regional/ district offices. Preparation of budget estimates by R&DM and Finance Departments was defective, as estimates were not obtained from District Collectors and was prepared merely by distributing the amount of SDRF grant receivable among the sub heads under the major head `2245_.
- As per paragraph 11 of Kerala State Disaster Response Fund (KSDRF) Rules, 2010, for ensuring proper accounting of SDRF, DM department shall provide a certificate to the effect that the expenditure booked under the various heads were as per norms of MHA, before final transfer was made in accounts. Due to non-furnishing of expenditure certificate of SDRF by R&DM Department, Other Miscellaneous Relief Expenditure (OMRE) of ₹ 23.07 crore and refund of ₹ 1.50 crore under Recovery of Over-Payments (ROP) were accounted as SDRF disbursements, which reduced the fund balance by ₹ 24.57 crore.
- As per Article 40(c) of Kerala Financial Code, drawing of Government money in lump and keeping in bank/treasury account beyond the end of a financial year was against basic financial principles. *Tahsildars* of Cherthala and Chittur *Taluk* Offices drew relief assistance from treasury and deposited in Savings Bank accounts. Unspent balance of ₹ 34.53 lakh was not refunded, which inflated SDRF disbursement figures in Government accounts.
- As per Guidelines on Constitution and Administration of SDRF issued by MHA, State Governments shall constitute SDRF in the Public Account under the Reserve Fund bearing interest under the major head : 8121- General and other Reserve Fund and accretions together with income earned on the investment of SDRF should be invested in instruments specified therein. Failure of State Government in investing SDRF in specified securities had resulted in loss of interest of ₹ 32.52 crore to SDRF.
- As per Article 40(c) of Kerala Financial Code, all appropriations lapse at the close of the financial year. ie money drawn from Government account could not be utilised in the next financial year without approval of Legislature. Government irregularly granted extension to

KSDMA to spend grant of ₹ two crore from 13 FC beyond the financial year.

- Guidelines for release and utilisation of grant-in-aid for capacity building for disaster relief under 13 FC, stipulated utilisation of previous instalment for the release of yearly instalments of ₹ four crore. Government lost one instalment of grant of ₹ four crore from 13 FC due to non-utilisation of previous instalments.
- State Government prescribed the KSDRF Rules, 2010 for the management of SDRF for the 13 FC period 2010-15, which ceased to exist on 31 March 2015. Rules for managing SDRF during the 14 FC period 2015-20 were not prescribed by State Government till now due to which the entire transactions carried out from 1 April 2015 was unauthorised.

In the exit conference the Deputy Secretary stated (November 2016) that detailed reply would be furnished by the Finance Department.

Government may take steps for preparation of budget after assessing requirements and efficient management of finance related to disaster management activities.

- **Mitigation**
- **Non-establishment of mitigation funds**

As per section 48 of DM Act, State Government shall, immediately after constituting the State Authority and the District Authorities, establish the following funds.

- (a) State Disaster Response Fund (SDRF)
- (b) District Disaster Response Fund (DDRF)
- (c) State Disaster Mitigation Fund (SDMF)
- (d) District Disaster Mitigation Fund (DDMF)

Audit noticed that State Government had constituted SDMF, but DDMF and DDRF were not constituted. Though SDMF was constituted, Audit found that it was in nomenclature only. SDMF was the description given to the head of account `2245-80-102-96_`, which meant that it was only an expenditure head lapsing on the last day of the financial year with no character of a fund.

As the mitigation funds were not created in the proper form, the funds were not available for utilisation after the lapse of the financial year for mitigation related works.

In the exit meeting the Deputy Secretary stated (November 2016) that operationalisation of National Disaster Management Fund (NDMF) was

necessary for making the SDMF a permanent fund and action would be taken to make SDMF a permanent fund. No reply was given in respect of DDRF and DDMF.

The reply that operationalisation of NDMF is a pre requisite for making SDMF a permanent fund is not tenable since as per paragraph 1.5 of the `Guidelines for Administration of the SDMF 2012_ issued by the Government of Kerala, annual contributions to the SDMF would be based on the amount allocated in the State Budget and the Government of India contributions to the fund would be remitted to the fund as and when the NDMF is constituted. Further reply was awaited.

Government may take steps to establish mitigation funds as per the prescribed procedure.

4.4.6.3 Post-Disaster Activities

As per DM Act, `disaster_ means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man-made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area.

Government of Kerala (GoK) had declared a disaster once. i.e. drought, in January 2013, based on which relief assistance was paid for supply of drinking water, loss of agricultural inputs etc, from SDRF from January to May 2013.

SDRF guidelines stipulated relief assistance to natural disasters notified by MHA such as drought, flood, cyclone, earthquake, fire, tsunami, hailstorm, landslide, avalanche, cloud burst, pest attack and frost/cold wave. Further, as disaster was defined in the Act, for becoming eligible to be paid from SDRF, the mishap/calamity/ accident should conform to the parameters of the definition. Besides, paragraph 17 of the Guidelines on Constitution and Administration of SDRF stipulates that the provisions for mitigation should not be part of SDRF.

In the districts selected for audit, it was noticed that SDRF was utilised for events which did not conform to the definition of disaster. Isolated events without any substantial loss of life or human suffering or damage to property, routine inundation due to rain, scarcity of drinking water etc were treated as disasters and inadmissible relief paid regularly by/through District Collectors. As per paragraph 5 of Manual on Administration of SDRF and NDRF, SEC was authorised to decide on all matters relating to the financing of the relief expenditure from SDRF, in accordance with the items and norms approved by GOI. But it had not authorised payment of relief assistance for such events. Audit found that out of total expenditure of ₹ 96.31 crore incurred from 2011-12 to 2015-16 from SDRF in the four districts selected, ₹ 83.44 crore (86.63 *per cent*) was inadmissible, details of which are given below.

- Expenditure of ₹ 31.66 crore was incurred by District Collectors of Alappuzha, Kottayam, Palakkad and Thiruvananthapuram districts on new works and works not damaged due to any notified disaster, such as pipeline extension and/or inter connection works, re-laying of pipeline, supply and erection of pump sets, commissioning of tube wells and extension of drinking water supply schemes executed through Kerala Water Authority and Grama *Panchayats*. These works were carried out based on Government instructions every year for drought mitigation/preparedness and allotted funds from SDRF, which was inadmissible.
- Expenditure of ₹ 21.15 crore was incurred on supply of drinking water, by eight Taluk Offices¹² without declaration of drought as required in the Manual for Drought Management, 2009.
- Construction of suspension bridges (in 11 *kadavus*¹³ in Alappuzha, Kottayam and Palakkad Districts) were carried out at a cost of ₹ 8.84 crore in violation of the guidelines.
- Out of 37 LSGIs, in **Appendix XXIII**, selected for audit in Alappuzha, Kottayam, Palakkad and Thiruvananthapuram districts, 29 LSGIs utilised SDRF of ₹ 8.50 crore and carried out 224 road maintenance works. Entire expenditure was inadmissible as the works done were regular road maintenance works and not the type of works of immediate nature permitted under SDRF guidelines, like filling up of breaches and potholes. Further, payment of ₹ 6.04 crore was pending with District Collectors due to insufficient fund in respect of 142 works which were completed by 23 LSGIs.
- Payment of ₹ 7.85 crore was made towards assistance for repairs of partially damaged houses by *Tahsildars* of eight *taluks*¹⁴ in excess of the rates prescribed under the items and norms for assistance from SDRF.
- Cash payment of ₹ 1.75 crore, named as lumpsum grant, was made by *Tahsildars* of six *taluks*¹⁵ from SDRF, to 8747 families accommodated in the relief camps in June 2013, though no provision existed in SDRF norms for cash payment in addition to relief camp facilities.

¹² *Taluk* Offices Ambalapuzha and Cherthala (Alappuzha district), Vaikom and Kottayam (Kottayam district), Ottappalam and Chittur (Palakkad district), Nedumangad and Thiruvananthapuram (Thiruvananthapuram district).

¹³ *Kadavus* are landing places in river for country boats used to transport goods and people across a river.

¹⁴ *Taluk* Offices Ambalapuzha and Cherthala (Alappuzha District), Vaikom and Kottayam (Kottayam District), Ottappalam and Chittur (Palakkad District), Nedumangad and Thiruvananthapuram (Thiruvananthapuram District).

¹⁵ *Taluk* Offices Ambalapuzha and Cherthala (Alappuzha District), Vaikom and Kottayam (Kottayam District), Chittur (Palakkad District) and Thiruvananthapuram (Thiruvananthapuram District).

- Expenditure of ₹ 1.82 crore was incurred on 580 drought preparedness works such as construction of minor check dams using local materials in order to recharge the sub-surface soil, setting up of water kiosks, establishing/maintaining rain water harvesting systems etc by District Collectors of all the selected districts Alappuzha, Kottayam, Palakkad and Thiruvananthapuram. These works which were executed through *Grama Panchayats*, Municipalities, Minor Irrigation Department etc were against the SDRF guidelines that expenditure for disaster preparedness should not be part of SDRF.
- Ex-gratia payment of ₹ 90.40 lakh was made from SDRF to families of 59 deceased persons in seven *taluks*¹⁶ of the selected districts. The expenditure incurred was inadmissible under SDRF since deaths were isolated accidents occurring in different villages and there was no substantial loss of life and property to the community.
- Input subsidy of ₹ 53.87 lakh was paid to small and marginal farmers in all the selected districts of Alappuzha, Kottayam, Palakkad and Thiruvananthapuram districts, as detailed in **Appendix XXIV**, in excess of the rates prescribed in the SDRF norms. The expenditure was inadmissible as assistance above SDRF norms should be met by State Government and not from SDRF.
- District Animal Husbandry Offices in all the selected districts had paid assistance of ₹ 16.40 lakh as shown in **Appendix XXV**, to farmers who lost animals/cattle shed in calamities like lightning, fall of tree, wind and rain etc, which were calamities not eligible to be paid from SDRF.
- Expenditure of ₹ 2.40 lakh was paid to ten persons in *Taluk Office Cherthala* in Alappuzha district for repair of houses damaged by flooding due to sluice valve distraction of *Thekkeputhenkadu padasekharam*¹⁷ during August 2013. As the assistance was not related to damages caused due to a notified natural disaster, the expenditure incurred was inadmissible.
- Paddy farmers were paid both insurance for crop loss of paddy under the State Crop Insurance Scheme and SDRF of ₹ 1.96 lakh assistance by *Krishi Bhavans* under Assistant Director of Agriculture, Alappuzha and Kottayam. As the loss of the farmers was compensated by way of insurance, SDRF assistance could have been avoided.
- Deputy Director of Fisheries, Alappuzha and Thiruvananthapuram provided assistance of ₹ 20.49 lakh from SDRF to 366 fishermen for

¹⁶ *Taluk Offices Cherthala, Vaikom, Kottayam, Chittur, Ottappalam, Nedumangad and Thiruvananthapuram.*

¹⁷ Paddy field.

replacement of boats and nets, damaged mostly due to high waves in the sea during the months from 2011-12 to 2015-16. As high wave was not a disaster notified for assistance from SDRF, the expenditure was inadmissible.

- SDRF assistance of ₹ 0.84 lakh paid by *Tahsildar*, Ottappalam for damaged wells to 20 persons whose wells were damaged in natural calamities during 2011-12 was not admissible since the SDRF items and norms for assistance for people affected by notified natural calamities did not provide for assistance for damaged wells.
- *Taluk* Office, Cherthala had incurred expenditure of ₹ 0.75 lakh for assisting persons who were involved in a bus accident at Vagamon on February 2012 and connected relief activities. The expenditure was inadmissible since bus accident was not a notified disaster, eligible for assistance under SDRF.
- *Taluk* office Cherthala in Alappuzha district utilised ₹ 0.61 lakh from SDRF for conducting two relief camps in June 2014 for accommodating persons affected by coastal erosion. As the camps were conducted for the people affected by coastal erosion, which was not a notified disaster during 2014-15, the incurring of expenditure from SDRF by *Tahsildar*, Cherthala was irregular.

Government stated that DM Act, 2005 does not define any specific parameters for declaring an event as a disaster. The term disaster itself is relative and so are the specific words provided in the definition of disaster. Regarding the procedure to be followed for treating an event as disaster as conforming to the definition of disaster in DM Act, the procedures followed in other states will be examined and if appropriate, such procedure will be adopted.

State Disaster Relief fund should be spent as per SDRF guidelines after due authorization by State Executive Committee.

4.4.7 Conclusions

The State Government continued a relief-centric approach in DM activities rather than a pro-active prevention, mitigation and preparedness driven approach as envisaged in the DM Act. Institutional and financial frameworks were not robust enough to address the issues of DM. No guidelines existed in the State for identifying and providing relief assistance based on the parameters of the definition of disaster. SDRF was irregularly spent towards preparedness and mitigation activities and on repair and restoration not related to disasters.

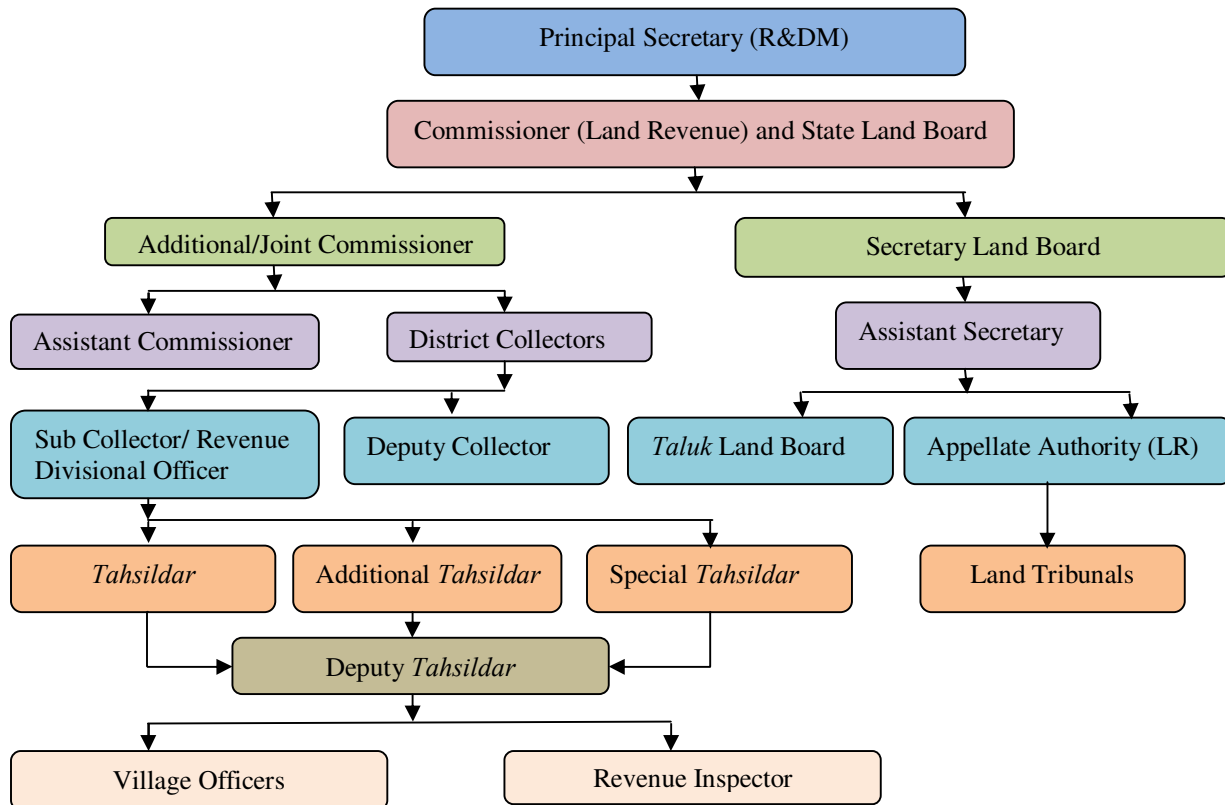
4.5 Land governance in State

4.5.1. Introduction

State Government, being custodian of land in the State is responsible for management of land fulfilling the need of individuals, communities, industry, agriculture etc. In pursuance of this, it passes the right of utilisation of land to the individuals, bodies, authorities, industries etc.

The jurisdiction of the R&DM Department extends to the 14 revenue districts of the State which were subdivided into 21 revenue divisions, 75 *taluks* and 1,635 villages. It is headed by Principal Secretary (R&DM) at the Government/ Department level. At Directorate level it is headed by Commissioner of Land Revenue assisted by Additional Commissioner/ Joint Commissioner and Assistant Commissioners at State level and field officers from district level to village level viz., District Collectors, Revenue Divisional Officers (RDOs), *Tahsildars*, Deputy *Tahsildars* and Village Officers.

The organogram of the Department is given below:



The duties assigned upto Village Assistant is given in **Appendix XXVI**.

4.5.2. Objectives and Scope

The broad objectives of Audit were to assess whether:

- ❖ mechanism for institution, detection, eviction and settlement of encroachment cases was in place, adequate and implemented efficiently and effectively
- ❖ mutation cases were disposed of efficiently and effectively
- ❖ conversion of land was accorded as per Act and Rule

The Audit was conducted between February 2016 and June 2016 covering the period from 2012-13 to 2015-16.

The scope of audit was confined mainly to the Revenue Divisional Offices, *Taluk* Offices and Village Offices. Eight¹⁸ out of 14 districts, 12¹⁹ out of 21 Revenue Divisional Offices and 24²⁰ out of 75 *taluks* were selected by simple random sampling method using IDEA for audit. Some related offices including Village Offices and Special Revenue Office at Munnar, Idukki were also visited during February 2016 to May 2016.

An entry conference was held (08 June 2016) with the Special Secretary to Government, R&DM Department and Commissioner of Land Revenue to discuss the audit plan. An Exit Conference was held on 20 July 2016 with the Additional Secretary to Government, R&DM Department and Commissioner of Land Revenue wherein the audit findings were discussed.

4.5.3. Audit findings

The cases noticed during audit are discussed below:-

4.5.3.1. Encroachment of Government land

The Kerala Land Conservancy Act (KLC Act), 1957 and the Kerala Land Conservancy Rules (KLC Rules), 1958 authorise the *Tahsildars/* Village Officers to prevent the Government land from encroachment by individuals, organisations or communities. Section 7 of KLC Act, 1957 and Rule 8 of KLC Rules, 1958 stipulate that persons unauthorisedly occupying Government land are liable to pay fine as assessed under the Act and as per Section 11(1) be summarily evicted after giving notice to remove the unauthorised construction, crops raised on the land etc.

¹⁸ Ernakulam, Idukki, Kollam, Kottayam, Malappuram, Thiruvananthapuram, Thrissur and Wayanad

¹⁹ Alappuzha, Devikulam, Fort Kochi, Idukki, Kollam, Kottayam, Mananthavady, Pala, Perinthalmanna, Thiruvananthapuram, Thrissur and Tirur.

²⁰ Aluva, Devikulam, Idukki, Thiruvananthapuram, Kanayannur, Kanjirappally, Karunagappally, Kollam, Kondotty, Kothamangalam, Kottayam, Mananthavady, Meenachil, Muvattupuzha, Nilambur, Pathanapuram, Peermade, Perinthalmanna, Thrissur, Thodupuzha, Tirur, Sulthan Bathery, Udumbenchola and Vythiri

- **Undetected encroachments of Government land**

As per the Village Manual Chapter 9 item 134, the Village Assistant should verify the boundary of Government land every three months for detection of encroachments and report to the Village Officer. Out of the cases detected by the Village Assistant, 10 *per cent* is to be checked by the Revenue Inspector and five *per cent* by the *Tahsildar*.

Audit observed that verification as per the village manual was not conducted in any of the Village Offices in selected *Taluk* Offices. None of the Village Assistants of the test checked *Taluks* had submitted such reports during the period of Audit. Neither *Tahsildar* nor the Village Officer monitored submission of such report. Register in respect of complaints of encroachments received from public were not maintained in the village offices, though some complaints were duly verified and submitted to the *Taluk* Office.

Audit randomly selected (from the Government land bank records maintained by the Commissioner of Land Revenue) 148 Government plots/ sites involving 1,030.78 ha in various survey numbers in 24 *Taluk* Offices for joint physical inspection (JPI) which were inspected by the representatives of *Tahsildar* concerned in the presence of Audit team. The JPI revealed that in 30 (20 *per cent*) cases, encroachments of 72.61 ha of Government land (valuing ₹ 65.45 crore as per fair value and when considered in market value, the value would be much higher) remained undetected as detailed in **Appendix XXVII**. Illustrative cases are discussed below:-

- Out of an extent of 11.89 ha of revenue land in Block No 85, Re-survey No. 5 in Vadakevila village, Kollam *taluk*, 10.62 ha was assigned²¹ to Secretary, Sree Narayana Trust (SN Trust), Kollam. Audit found that the SN Trust unauthorisedly occupied the balance area of 1.27 ha of land with fair value of ₹ 13.30 crore²² and erected a statue in that plot.



²¹ Vide GO (MS) 55/2006 Rev dated 23.02.2006.

²² 1.2662 ha x (Fair value ₹ 10,50,000/Are).

- The revenue land in survey Nos. 1395/1, 1395/2 in Ernakulam village, Kanayannur taluk with an extent of 0.01 ha with fair value of ₹ 57.01 lakh²³ was under the possession of Kerala Municipal Council Staff Union and one Shri. Paily, which was utilised as union office and residence respectively.



The analysis of the utilisation of land occupied unauthorisedly detected during JPI is as detailed in **Table – 4.3**.

Table – 4.3

(₹ in lakh)

Purposes for which utilised	No. of cases	Area (ha)	Value of land as per fair value
Commercial	6	5.18	3,131.33
Cultivation	4	3.64	210.10
Educational Institutions	2	2.16	371.97
Religious	6	0.08	7.52
Residential	5	57.42	1,113.96
Others	7	4.13	1,709.78
Total	30	72.61	6,544.66

(Source: Results of JPI, records of *Tahsildar* and Registration Department)

The *taluk* wise analysis of land occupied unauthorisedly which was detected during JPI is as detailed in **Table – 4.4**.

Table – 4.4

(₹ in lakh)

Name of <i>Taluk</i> Office	District	No. of cases	Area (ha)	Value of land as per fair value
Devikulam	Idukki	1	2.96	31.10
Thodupuzha		1	Not available	0.00
Peermedu		4	1.62	37.94
Udumbenchola		4	1.86	176.81
Perinthalmanna	Malappuram	1	0.05	2.93
Tirur		3	4.13	99.68
Kondotty		1	0.61	49.73
Kothamangalam	Ernakulam	9	58.80	1,690.87

²³ 0.0127 ha x (Fair value ₹ 44,88,750 per Are).

Name of Taluk Office	District	No. of cases	Area (ha)	Value of land as per fair value
Kanayannur		3	1.02	3,085.71
Aluva		1	0.05	37.50
Mananthavady	Wayanad	1	0.24	2.88
Kollam	Kollam	1	1.27	1,329.51
Total		30	72.61	6,544.66

Audit observed that non-verification of Government land resulted in non-detection of encroachment. On this being pointed out the Additional *Tahsildars* stated that report would be sought from the Village Officers concerned and action would be taken. In the exit meeting (October 2016) Special Secretary stated that one of the main reasons for lapses is non-availability of proper records of Government land. A new project would be implemented to start the resurvey of land in 2017 with modern technology.

- **Non-eviction of unauthorised occupants**

As per Section 11 (1) of the KLC Act, 1957 any person unauthorisedly occupying Government land may be summarily evicted by the Collector and any crop or other product raised on the land shall be liable to be forfeited and any building or structure erected or anything deposited thereon shall also, if not removed by him after such written notice as the Collector may deem reasonable, be liable to be forfeited.

A scrutiny of Land Conservancy Files/Registers of 22 *Taluk* Offices revealed that 1,950 land conservancy cases were booked upto March 2016 for encroachment of Government land, out of which 1,419 cases were cleared by eviction. The balance 531 cases pending for final settlement/eviction included 518 cases which were more than one year old.

Age wise analysis of encroachment cases pending as on 31 March 2016 is detailed in **Table – 4.5**.

Table – 4.5

(₹ in lakh)

Periodicity of pendency	No. of cases	Area (ha)	Value of land as per fair value
Age-wise pendency			
Less than one year	13	0.99	602.70
One year to less than two years	82	11.19	951.08
Two years to less than five years	277	59.36	3,236.62
Five years to less than 10 years	116	80.06	3,044.65
10 years to 30 years	43	4.90	264.91
Total	531	156.50	8,099.96

Audit observed that

- The commercial category included buildings/resorts constructed in two cases²⁴ involving 28.94 ha with a value of ₹ 676.75 lakh.
- One Shri. Thulaseedharan Nair encroached an extent of 0.51 ha in Thavinjal village, Mananthavady *taluk* and land conservancy case was booked in 2003. Even after 13 years no eviction was made.
- An extent of 1.22 ha of surplus land demarcated by Government for the purpose of public crematorium in Edavaka village, Mananthavady *taluk* was encroached by Shyma Sajeevan & others and land conservancy case was booked in 2003. Even after 13 years no eviction was made.

During exit meeting (October 2016) Commissioner of Land Revenue stated that notices had since been issued to all the individual cases and that in the case of category :others ~ action would be taken immediately.

- **Non-eviction even after the directions of High Court**

In the following cases the orders of the Hon'ble High Court were violated/not enforced by the Revenue Department and the land continued to be under the possession of the encroachers with un-authorized construction on it.

Sl. No.	Taluk, Village, Survey No & Extent	Particulars
1	Thodupuzha <i>Taluk</i> , Vannapuram Village, Sy. No.1478/1A & 0.50 Ha	Encroached by Sri. Kuriakose and Smt. Mary Kuriakose and leased out to two mobile companies viz. Vodafone Essar Cellular Ltd and Aircel Dishnet Wireless Limited for erecting mobile towers. The Honourable High Court of Kerala directed the RDO, Idukki vide judgment (January 2015) to pass fresh orders in accordance with law after hearing all the parties within three months but RDO took seven months for ordering (August 2015) the eviction.
2	Peermade <i>Taluk</i> , Kumily Village, Sy.No.24/1A	Encroached by individuals and other departments in an extent of 2.35 ha. The Hon'ble High Court in its various judgements (February 2015 & December 2015) directed the revenue authorities to take necessary steps under the KLC Act, 1957 to evict the encroachers, but no evictions were effected.
3	Devikulam <i>Taluk</i> , KDH village	Encroached by Sri. Benny in KDH village, Nallathanni Puzha, Munnar, extent of which was not ascertainable. The High Court in November 2014 ordered that encroachment should be evicted within six weeks.

²⁴ Choice Paradise in Vagamon village, Peermade *taluk* and Toll Trees Resort in Pallivalal village, Devikulam *taluk*.

Sl. No.	Taluk, Village, Survey No & Extent	Particulars
4	Devikulam Taluk, KDH village, Sy No.62/9	Encroached by Sri. Binu Pappachan in KDH village, Ikka Nagar, Munnar, extent of which was not ascertainable. The High Court in May 2015 ordered that encroachment should be evicted within four months.
5	Devikulam Taluk, KDH village, Sy No.20/1	Encroached by Sri. Issac, extent of which was not ascertainable. The High Court in December 2014 ordered for eviction. The District Collector, Idukki directed (May 2015) <i>Tahsildar</i> to take further action. But no action was taken.
6	Sulthan Bathery Taluk, Krishnagiri Village, Sy No.449/1, 5.72 Ha	Encroached by Sri. P.M. Suresh & K.V. Hasib Ahmmed. The High Court in August 2007 ordered to consider the case. No action was taken by District Collector & <i>Tahsildar</i> even after 9 years.

Audit observed that failure in carrying out High Court direction resulted in continuous encroachment of Government land for years. The District Collectors and *Tahsildars*/Additional *Tahsildar* concerned failed to monitor the evictions and were responsible for non eviction of encroachment. During exit conference the Commissioner of Land Revenue stated that time bound action would be taken on cases pointed out in Audit.

4.5.3.2. Non-eviction of encroachment on river/kayal poramboke

The State Government, by a notification issued on 29 June 1993, took control of nine²⁵ rivers from the *Panchayats* under Sub-section 82(1) of the Kerala Panchayat Act, 1960 which included Periyar River also. As such the *poramboke*²⁶ of the banks of Periyar river is under the control of the Revenue Department.

Government of Kerala, by an order²⁷ in May 2010 formed Munnar Special Revenue Office at Munnar under a Special *Tahsildar* in order to deal with land related issues as well as protection of Munnar river bank in Munnar area of Idukki District. The duty and responsibility of the office included protection of rivers, canals, trees, mountains etc., under Part III (ii) (6) of the GO cited.

²⁵ Bharathapuzha, Periyar, Chaliyar, Pamba, Kallada, Vamanapuram, Chandragiri, Karamana and Meenachil

²⁶ All unassessed land which are the property of Government which includes land such as held by right of escheat, purchase, resumption, acquisition etc.

²⁷ Vide GO No. 201/2010/RD dated 31 May 2010

Audit noticed the following encroachments in river/kayal²⁸ *poramboke* from the records maintained at the selected *taluk* offices.

- Land conservancy cases were registered on encroachment of Periyar river *poramboke* in 25 cases with an extent of 0.40 ha under survey No. 67/7 in Periyar village of Peermade *taluk* and 10 cases with an extent of 0.47 ha under survey Nos. 378, 402 in Chengamanad and Vadakkumbhagam villages of Aluva *taluk*.
- Erattupetta *Grama Panchayath* encroached and constructed a double storied building on 0.07 ha of Meenachil river *poramboke* in survey No. 95 in Meenachil village of Erattupetta *taluk*.
- Public Interest Protection Association made a complaint (June 2014) to the Hon'ble President of India, stating that illegal constructions of commercial buildings on the encroached land in Munnar are still continuing by various persons which was stayed (SLP 9655/2007) by the Hon'ble Supreme Court on 11 May 2011.
- An extent of 15.15 ha of *kayal poramboke* (Kadinamkulam *kayal*) in Kadinamkulam village, Thiruvananthapuram *taluk* was encroached by 46 persons as detailed in **Appendix XXVIII**.
- Sri. K.P. Raghavan encroached 0.56 ha of *kayal poramboke* in Survey No.1091/347 in Arattupuzha village, Karthikappally *taluk*.

The land in all the above cases are still under the custody of the encroachers. During exit conference the Commissioner stated that a project has been started for protecting Bharathapuzha riverside at Kuttippuram by planting trees. Similar steps would be taken to protect the river/*kayal poramboke*. Regarding encroachment on Kadinamkulam *kayal* and other cases Commissioner/Additional Secretary assured that a special team would be constituted to verify the encroachment and effective action would be taken to evict them.

4.5.3.3. Non-detection/eviction of encroachments even after receiving complaints in Revenue Special Office, Munnar

The Executive Engineer, Kerala State Electricity Board Limited (KSEBL) requested the revenue authorities (June 2014 and May 2015) to take urgent action for eviction on the encroachers who had constructed hotels, resorts etc. The list of encroachers was also attached with the request, as detailed in **Appendix XXIX**.

Audit observed that no action was taken on the request received. This showed laxity on the part of the revenue authorities in protecting Government land. The Special *Tahsildar* who was responsible for eviction stated that necessary action would be taken with the help of higher authorities. During exit conference (July

²⁸ Kayal means backwaters

2016) the Additional Secretary to Government assured that the case would be examined and stringent action would be taken without further delay.

4.5.3.4. Irregular possession of revenue land by other Departments

As per Government order²⁹ the transfer of Government land from one department to other shall be ordered by Government/ the Board of Revenue (now Commissioner of Land Revenue)/ District Collector depending upon the area. As per Circular³⁰ issued by the Commissioner of Land Revenue, for every transfer of Government land, approval from the Revenue Department is compulsory. It was also stated in the circular that the District Collectors should not effect transfers without approval from the Government through Revenue Department.



Based on scrutiny of land records such as basic tax register, *poramboke* register and the data of the Kerala State Land Bank, 148 plots were selected for JPI, out of these 30 cases were found undetected by revenue authorities. Out of this, seven cases related to irregular possession of other departments. These were not officially transferred to above Departments viz. District Tourism Promotion Council (DTPC)/ Education Department/KSEBL/Local Bodies and no action was taken by the Revenue Department to regain the land as detailed in **Appendix XXX**. Illustrative cases are given below:

- An extent of 2.91 ha of Bharathapuzha *poramboke* in survey No.1 in Kuttipuram village, Tirur *taluk* was under irregular possession of DTPC from 2009 where buildings, approach road, playground, shops etc. were constructed. The *Tahsildar* stated that *Taluk* Office was not aware of the activities done in Government land and the matter would be taken up with the District Collector. The reply of the *Tahsildar* is not acceptable as he being the custodian of Government land, it is his duty to protect the land from unauthorised occupation.
- An extent of two ha of revenue land under Re-Survey No.209/2 in Kuttambuzha village, Kothamangalam *taluk*, was under irregular possession of Forest Department which was leased out³¹ by that Department to KSEBL on 04 February 1980 to establish the colony for Pooyamkutty Hydro Electric Project. No action was taken by the Revenue Department to regain the land. The Additional *Tahsildar* stated that even after issuing notice, the land was not vacated and a decision to that effect is

²⁹ G O (P)498/61/Rev dated 17-5-1961 of Revenue (E) Department (Rule 1).

³⁰ No.LRK 2/18287/12 dated 8/5/2013.

³¹ Vide order No.GO (MS)36/80/AD dated 4 February 1980.

to be taken at Government level. Being the empowered person, *Tahsildar* should have been taken necessary steps.

During exit conference the Commissioner of Land Revenue/Additional Secretary to Government stated (July 2016) that report would be sought for and action taken against responsible officers.

4.5.3.5. Repeated encroachments

As per Section 10(1) & (2) and Section 11 of the Kannan Devan Hills (Resumption of Lands) Act, 1971, illegal encroachments after 21 January 1971 in the protected Government land under Section 3(1) of the Act shall be summarily evicted.

In the following cases, the encroachers repeatedly encroached the same land even after eviction by revenue authorities as detailed in **Table – 4.6**.

Table – 4.6


Sl. No.	Name/ Village/Survey No. & Extent	No. of times of encroachments
1	Sri. Manimaran/KDH/ Survey No.20/1 : 0.04 ha	Five times
2	Sri. Thillu Natarajan/KDH/ Survey No.20/1: Extent not available	Five times
3	Sri. Gunasingh/KDH/ Survey No.912 : 0.04 ha	Many times
4	Sri. Pushparaj/KDH/Survey No.20/1:0.04 ha	Many times
5	Smt. Umasalima/KDH/ Survey No. 61/16. Extent not available	Twice
6	Sri. Sivan, H/o Smt. Sreedevi, Dy. <i>Tahsildar</i> (Retd.)/KDH/ Survey No.20/1:Extent not available	Twice

Audit observed that even after eviction the encroachment happened again. The Department failed to take adequate measures for the permanent eviction of encroachers. During exit conference, the Additional Secretary to Government stated (July 2016) that a special team would be constituted to investigate the cases pointed out and other similar cases.

4.5.3.6. Eviction not effectively implemented

Audit observed that in the following cases encroachment could not be evicted effectively as detailed in **Table – 4.7**.

Table – 4.7

Sl. No.	Description	Remarks
1	<p>Government land in Survey No.1208 of Vagamon village, Peermade <i>taluk</i> was in possession by Saj Flight Services Private Limited owned by Smt. Mini Sajan Varghese who also ran a resort named Vagamon Hide Out in that land.</p>  <p>Government land under the possession of private Resort Date : 10.03.2016</p>	<p>The revenue officials intimated Audit that the resort was evicted in 2011. The action taken on eviction of encroachment and other details were not available in the file.</p> <p>During JPI on 02 March 2016, it was revealed that the resort was not under the possession of revenue authorities as the gate was locked from inside. Further verification of electricity bill also proved the consumption of electricity during the period.</p>
2	<p>An extent of 1.62 ha (4 Acre) of Government land in Survey No.730 of Vagamon village, Peermade <i>taluk</i> was encroached by Shri. Abraham, which was adjacent to his own land. The Department placed a board showing the land as `Government land_ (in Malayalam) after demarcation of the area.</p>	<p>During JPI, it was noticed that Shri. Abraham was still using the land for cultivation and a motor pump was installed. Further he had applied (February 2013) for <i>pattayam</i> for the same piece of land.</p>

During exit conference (July 2016) the Commissioner stated that necessary action would be taken at the earliest to evict the encroachers and to conduct verification frequently.

4.5.3.7. Irregular possession of escheated land

As per Section 3 of The Kerala Escheats and Forfeitures Act 1964 (Act 4 of 1964) where a person dies intestate and without leaving legal heirs, all his property shall be escheat and shall belong to the Government. The property taken possession of shall be managed by the Government under the provisions of the KLC Act, 1957.

Illustrative cases showing escheated properties which were not taken possession of by revenue authorities are as detailed below.

- An extent of 0.20 ha of land in Re-Survey No.277/5 in Karinkunnam village, Thodupuzha taluk was owned by Sri. Michael, who died on 13 April 1985 without leaving legal heirs which was liable to be escheated. This land was encroached by Sri. Symon and a building was constructed by him.

Laxity in the part of Village Officers during the period 1985 to 2012 (27 years) resulted in non-possession of the land which was to be escheated.

- As per Section 2 (1) (ii) and Section 2 (2) of the Kerala Private Forests (Vesting and Assignment) Act 1971, any forest not owned by the

Government can be notified as vested forest. As per the said Act there was no provision to notify the Government land as vested forest.

As per the Escheat Order³² of the District Collector, Kozhikode an extent of 343.53 ha of land in Thariode village, South Wayanad *taluk* named as Bhagyalakshmi estate owned by Shri. V.N. Sundaram was escheated and taken possession of by the Village Officer on 26 July 1976. Forest Department notified (08 July 1977) an extent of 176.29 ha of the escheated land as vested forest and took possession.

Audit observed that the absence of periodical verification of Government land by the Village Officer resulted in these lapses. No action was taken by Revenue Department to regain the revenue land to an extent of 176.29 ha.

- An extent of 301.87 ha of land in survey no.519/3 and 519/4 in Kalpetta village, Wayand district known as `Wood Lands Estate_ escheated to Government under the Kerala Escheats and Forfeitures Act, 1964 as per Government order³³ dated 18 June 1971. Out of the total extent, 44.07 ha was under the possession of 322 encroachers.

Audit observed that no land conservancy cases were booked under the KLC Act/Rules for encroachment.

During exit conference (July 2016) the Commissioner of Land Revenue stated that action had since been taken to take possession of the escheat land under Revenue Department.

4.5.4 Mutation of land

As per Rule 3 of Transfer of Registry (TR) Rules, 1966, *Tahsildar/Village Officer* is responsible for the receipt and disposal of application for mutation³⁴. Rule 7(2) (iv) of TR Rules, 1966 provides that when the case regarding transfer of registry involves sub division of the property an entry to that effect shall be made in the column provided for the purpose in Form A and a plotted sketch in triplicate showing the position and area of the sub division together with sub division statements in triplicate shall be forwarded to *Tahsildar* concerned.

When a property is sold or transferred from one person to another, there needs to be a change in the title ownership as well. This process of transferring the ownership in the records of the land revenue department under the new owner's name is called mutation/`*Pokkuvaravu*_. After the registration of the transfer deed with the sub-registrar, an application needs to be given to the respective village office. The village officer should effect the mutation in the cases involving no sub

³² No.28-677/69 (19 July 1976).

³³ Vide GO (MS) No.162/71/RD dated 18 June 1971.

³⁴ Mutation/*Pokkuvaravu* is transfer of registry of the property from one person to another .

Division of the property/Survey number and *Tahsildar* is the authorised officer to sanction Transfer of Registry in cases involving sub divisions.

4.5.4.1 Non- mutation/pokkuvaravu of land as per Rule

The mutation process was not done as per Act and Rules at the test checked *Taluk* offices. The process is now being carried out by assigning a provisional revenue number. When the permanent sanction is allowed the sub division numbers will be given but, no permanent sanction was allowed so far in test checked *taluks*. Only after subdivision of land and completion of re-survey the mutation can be effected as per TR Rules, 1966.

In the exit meeting Government agreed that mutation proceedings were not done in Malabar³⁵ area and for those areas where re-survey was not conducted. It was explained that a new system of `e-pokkuvaravu` is being introduced, so that the issue can be tackled.

4.5.4.2 Non-realisation of Government dues consequent to cancellation of un-authorized mutation of Government land.

The Government ordered to regularise and realise the difference in market value of the alienated land of 0.34 ha in survey No.1478/1A Kodikulam village, Thodupuzha *taluk* for which sanction was accorded for construction of a school by exchanging it with another landed property of 0.38 ha in same survey number by Shri P.N. Kumaran. District Collector, Idukki ordered to realise (04 January 2016) an amount of ₹ 31.86 lakh. The amount due to Government is still to be realised. The Revenue Department has not taken any revenue recovery steps to realise the dues.

On this being pointed out in Audit, the *Tahsildar* stated that time limit was not fixed in the order by District Collector and the amount would be collected before finalisation of mutation proceeding. The Additional *Tahsildar* is responsible for collection of the amount. During exit conference (July 2016) the Commissioner of Land Revenue stated that necessary action would be taken to collect the amount.

4.5.5 Illegal conversion of agricultural land/wet land

As per Section 23 of the Kerala Conservation of Paddy Land and Wet Land (KCPL&WL) Act, 2008, any person who, in violation of the provisions of the Act converts or reclaims any paddy land or wet land shall on conviction, be punishable with imprisonment for a term which may extend to two years but shall not be less than six months and with fine which may extend to rupees one lakh but shall not be less than rupees fifty thousand.

³⁵ Comprising six districts of north Kerala which was a district in erstwhile Madras province.

For monitoring the activities under the Act, there shall be a Local Level Monitoring Committee (LLMC) (Section 5), district level monitoring committee (Section 9) and State level monitoring committee (Section 8). As per Section 7 of the Act, the Agricultural Officers shall be reporting officers and it shall be their responsibility to report to the Revenue Divisional Officer regarding any act in violation of the provisions of this Act.

4.5.5.1 Non-detection of illegal conversion of agricultural land/wet land

Joint physical inspection of the following three agriculture plots under the selected RDOs conducted during the audit has shown that these plots were illegally converted and the conversions were not reported by the Agricultural Officer or detected by the Village officer:-

- An extent of 0.81 ha in survey No.940/2, 4 in Mannamkandam village/ Adimali *panchayat* under RDO, Devikulam owned by Mar Baselios College.
- An extent of 0.14 ha in survey No.996/3 in Mannamkandam village/ Adimali *panchayat* under RDO, Devikulam owned by Smt. Sindhu Rajan.
- An extent of 0.12 ha in Block No 22, Re-Survey No. 244/8, 9, 10 of Thrikkovilvattom village in Kollam *taluk* owned by Mohammed Naufal S/o Abdul Salam.

Audit observed that absence of periodical verification resulted in non-reporting of the offence in a large area which is still usable for agriculture. The RDO stated that action for re-instating of the land would be taken immediately. As per the KCPL&WL Act, the Agricultural Officer is responsible for the lapse. During exit conference (July 2016) the Commissioner of Land Revenue agreed that the Department is also responsible for protection of agricultural land.

4.5.5.2 Failure to reinstate the converted land

Audit noticed that registers to watch the complaints of illegal conversion and action taken were not maintained in 12 out of 21 Revenue Divisional Offices due to which details of total illegal cases booked, disposed and pending could not be ascertained. Further, the converted land was not re-instated even after the order/direction by RDO/ District Collector in the cases mentioned in **Appendix XXXI**.

During exit conference (July 2016) the Commissioner stated that the main reason for failure to reinstate the converted land is the non-availability of sufficient funds.

4.5.5.3. Continued illegal conversion and construction of buildings in Kumaramangalam village, RDO Idukki

The RDO ordered³⁶ (May 2011) Sri. K.M. Moosa to reinstate 0.17 ha agricultural land in Re-survey No. 330/4 of Perumbillichira in Kumaramangalam village which was converted by him. The conversion was done for construction of buildings for Al-Ashar Engineering College owned by Nurul Islam Trust. Against the



order of the RDO, Sri. Moosa filed a revision petition on 11 January 2013 before Secretary to Government, Agricultural Department. It was noticed that *Tahsildar* had reported to the RDO, Idukki that even after issuing Stop Memo the construction activities are still continuing.

Audit found that the RDO did not collect evidence of the commission of the offence and send report to the court of competent jurisdiction as provided in Section 12 of the KCPL&WL Act, 2008.

The RDO stated that necessary action would be taken immediately.

4.5.5.4 Non compliance of provisions while sanctioning conversion

Section 10 (1) of the KCPL &WL Act, 2008 stipulates that the Government may grant exemption from the provisions of this Act, if such conversion or reclamation is essential for any public purpose. But, as per Sub-section (2) of Section 10, no exemption under sub-section (1) shall be granted by the Government, unless the Local Level Monitoring Committee (LLMC) has recommended the conversion or reclamation and the Government are satisfied on the basis of the report submitted by the State Level Committee, that no alternate land is available and such conversion or reclamation shall not adversely affect the cultivation of paddy in the adjoining paddy land and also the ecological conditions in that area. As per Section 2(xiv) of the Act, "Public purpose" means purposes for the schemes undertaken or financed by the Centre-State Governments, Government-Quasi-Government Institutions, Local Self Government Institutions, Statutory Bodies and other schemes, as may be specified by the Government, from time to time.

Audit noticed that the provisions of Act were not complied with while according sanction for conversion in the following cases as detailed in **Table – 4.8**.

³⁶ Vide his Proceedings No. B3-1897/10/K.Dis dated 06 May 2011.

Table – 4.8

Sl. No.	Irregularities noticed	Reply
1	Sanction was accorded by the Principal Secretary, Revenue on 06 May 2015 to acquire the private agricultural land for establishing Harippad Medical College, Alappuzha. The sanction was accorded by the Additional Chief Secretary, Chief Secretary and Chief Minister, without fulfilling the provisions contained in Section 10 (2) of KCPL & WL Act, 2008.	On this being pointed out (September 2016) in Audit, Government stated (October 2016) that details/replies would be furnished without delay.
2	The Government accorded ³⁷ sanction for conversion of paddy land at the suburban of Kottayam town for Kottayam Corridor project. The sanction was accorded by the Additional Chief Secretary, Chief Secretary and Chief Minister, without fulfilling the provisions contained in Section 10 (2) of KCPL & WL Act, 2008; by the Principal Secretary (22 September 2015), Revenue Minister (23 September 2015) and Chief Minister (27 September 2015). The note was submitted before the Cabinet as Item No 7555 and it was approved by the Chief Minister on 07 October 2015.	In the exit meeting (July 2016) Government stated that the case would be examined. Further reply was awaited. (November 2016).
3	The Government accorded ³⁸ sanction for conversion of paddy land in Nattakom Village of Kottayam <i>taluk</i> for Kodimatha Mobility Hub project. The details of the provisions contained in Section 10 (2) of the KCPL & WL Act, 2008 was explained in the office note which was signed by the Principal Secretary (8 January 2016), Chief Secretary (12 January 2016) and Revenue Minister (13 January 2016). The proposal was put up as item No.8104 before the Cabinet and approved by the Chief Minister on 20 January 2016 without fulfilling the provisions of the Act.	Government stated (November 2016) that the cabinet decision on the case was placed before the cabinet sub-committee. Further course of action on the case would be taken based on the decision of the cabinet sub-committee.
4	The Government accorded ³⁹ sanction for conversion of land for the project at Methran Kayal paddy fields to the Kumarakam Echo Tourism Village Project of Rekindo Developers Private Limited giving exemption from the provisions of the Act. The sanction for conversion of land for the project Medi City at Kadamakkudy <i>panchayat</i> was issued without obtaining the approval by the Agricultural Production Commissioner, being the Chairman of the State Level Monitoring Committee.	Sanctions were cancelled in March 2016.

The cases mentioned above depicts that the Government bypassed all prescribed procedures for the conversion of paddy and wet land.

³⁷ GO (Ord.) No.5925/15/Rev dated 13 November 2015.

³⁸ GO No. 651/16/Revenue dated 29 January 2016.

³⁹ GO MS No.198/2016/Rev dated 01 March 2016.

4.5.6 Conclusion

Though a procedure was prescribed in the Department for the periodical verification of Government land, it was not carried out by the officials for timely detection and eviction of encroachments. The RDOs/Collectors were not monitoring the eviction of encroachments effectively. The system existing in the Department for detection of escheat land and implementation of escheat procedures/taking possession of escheat land was inadequate. Implementation/monitoring of mutation procedure prescribed in the TR Rules, 1966 was not effective. There was no system in the Department for timely detection of illegal conversion of agricultural/wet land and to reinstate the illegally converted agricultural land/wet land.

A few illustrative cases involving ₹ 9.45 crore are given in the following paragraphs.

4.6 Non-assessment of building tax

As per Section 5(1) of the Kerala Building Tax Act (KBT Act), 1975, building tax shall be charged on every building the construction of which is completed on or after 10 February 1992 based on the plinth area of the buildings at the rates prescribed. Section 7(1) of the KBT Act, 1975 stipulates that the owner of every building the construction of which is completed or to which major repair or improvement is made on or after 10 February 1992 shall furnish to the assessing authority a return in the prescribed form along with a copy of the plan approved by the local authority or such other authorities as may be specified by the Government in this behalf. As per Rule 3 of the Kerala Building Tax (Plinth Area) Rules, 1992 every Village Officer shall transmit to the assessing authority, within five days of the expiry of each month, a monthly list of buildings liable to assessment, together with extracts from building application register of the local authority within whose area the buildings included in the list are situated. As per Section 7(3) of the KBT Act, 1975 if the assessing authority is of opinion that any person is liable to furnish a return under sub-section (1), it may serve a notice upon that person requiring him to furnish within such period a return in the prescribed form. If any person fails to make a return in response to any notice issued under sub-section 3 of Section 7, the assessing authority shall assess the amount payable by the person as building tax to the best of its judgement.

4.6.1 Cases which were not reported by Village Officers

- 21 Taluk offices⁴⁰

Audit collected the details of buildings completed from the local authorities which were cross-verified with the building tax assessment registers, booking registers and collection registers of Taluk offices. Audit found that in 21 out of 33 Taluk Offices, 671 buildings⁴¹ completed/assessed by local authority between April 2010 and March 2015 in 57 villages were not reported by Village Officers to the assessing authorities for assessment of building tax. The root cause for non identification of new buildings completed was non-filing of return by the building owners to the Taluk Office and failure of Village officers to forward the monthly list of completed buildings to Tahsildars. Though a penalty clause had been envisaged in the Act, this was not being enforced. This resulted in non-assessment of buildings by the Tahsildars and consequent non-levy of tax of ₹ 2.98 crore as shown in **Appendix XXXII**.

Audit found that Taluk Offices, Ottappalam (192 cases; ₹ 32.67 lakh) and Kochi (83 cases; ₹ 7.15 lakh) have maximum number of cases of non levy of building tax where the village officers had not reported the buildings for assessment.

An analysis of the details revealed that the major cases of non-reporting of buildings by Village officers were in the category 'Other Buildings' which included hospital, auditorium, showroom and service centre etc., as detailed in **Table – 4.9**.

Table – 4.9

Sl. No.	Name of Office	Name of Owner/Building	Plinth area (sq.m)	Building Tax not levied (₹ in lakh)
1	Taluk Office, Ottappalam	Smt. V.R.Sudha, Harisree Square	3,059.41	10.44
2		Musthafa Haji, Royal Auditorium	2,755.07	4.69
3		Nehru Group of Institutions	1,839.26	6.05
4	Taluk Office, Kannur	Rashida Mustapha	4,325.43	7.52
5	Taluk Office, Thalappally	William Varghese, BRD Car World Ltd	2,584.68	2.19
6		William Varghese, BRD Ape Showroom and Service Centre	1,163.84	1.82

⁴⁰ Alathur, Changanassery, Chavakkad, Kannur, Kochi, Kothamangalam, Kunnathunadu, Mavelikkara, Neyyattinkara, Nilambur, North Paravur, Ottappalam, Perinthalmanna, Ponnani, Ranni, Thalappilly, Thalassery, Thiruvananthapuram, Thodupuzha, Vatakara and Vythiri.

⁴¹ Including one building completed during 2004-05.

7	Taluk Office, Ponnani	Moideen Kutty	2,102.75	3.51
8	Taluk Office, Mavelikkara	Raju, Hospital	1,304.79	2.08

The Audit findings were referred to Government in April 2016. The Government stated (October 2016) that ₹ 7.99 lakh has been realised and an amount of ₹ 17.89 lakh could not be collected due to pending appeal /Court cases. It was also stated that directions have been given to all District Collectors concerned to realise the balance tax amount.

4.6.2 Cases which were reported by Village Officers

- **24 Taluk Offices⁴²**

Audit cross-verified the building tax assessment registers of 34 *Taluk* Offices with the booking registers and collection registers of village offices and found that in 24 *Taluk* Offices, 1,884 buildings in 245 villages were reported by Village Officers during 2012-2015 (including a building in 2000) to the *Tahsildars* for assessment. But the *Tahsildars* did not levy and assess tax on these 1,884 buildings, the completion of which were reported by the Village Officers, resulting in non-levy of building tax amounting to ₹ 4.92 crore (**Appendix XXXIII**).

Maximum number of cases of non-assessment by *Tahsildars* was found in *Taluk* Office, Vatakara (547 cases; ₹ 58.85 lakh) and *Taluk* Office, Kunnathunad (278 cases; ₹ 16.64 lakh). In the case⁴³ reported by Village Officer in 2000, though a verification report was furnished by the Special Squad Officer to the *Tahsildar* in 2010, the *Tahsildar* did not assess the building and levy the building tax of ₹ 2.02 crore.

Audit noticed that the inaction on the part of the *Tahsildars* had affected the revenue and Government was taking action only after these defects/deficiencies were being pointed by Audit.

The Audit findings were referred to Department between March 2015 and February 2016 and to Government in April 2016. The Government stated (October 2016) that ₹ 94.64 lakh was realised in 740 cases, ₹ 2.10 crore was pending due to appeal/Court cases and an amount of ₹ 5,400 was exempted from payment. It was also stated that strict directions have been given to all the District Collectors concerned to collect the balance amount.

⁴² Alathur, Changanassery, Chittoor, Kanayannur, Kanjirappally, Kannur, Kochi, Kothamangalam, Koyilandy, Kunnathunad, Mavelikkara, Meenachil, Nilambur, North Paravur, Ottappalam, Perinthalmanna, Ponnani, Ranni, Thalappilly, Thalassery, Thodupuzha, Vatakara, Vaikom, Vythiri.

⁴³ Taluk Office, Kanayannur - Amrita Institute of Medical Sciences- Plinth area- 89,988.90 sq.m- Building tax leviable - ₹ 2.02 crore

4.7 Non-assessment of extended area of commercial buildings to tax

- **Eight Taluk Offices⁴⁴**

As per Section 5(4) of the Kerala Building Tax Act 1975, where the plinth area of the building, the construction of which is completed after 10 February 1992 is subsequently increased by new extensions or major repair or improvement, building tax shall be computed on the plinth area of the building including that of the new extension or repair or improvement and credit shall be given to the tax already levied and collected, if any, in respect of the buildings before such extension or repair or improvement. Section 7 (1) further stipulate that the owner of every building the construction of which was completed, or to which major repair or improvement is made on or after 10 February 1992 shall furnish to the authority a return in the prescribed form within the prescribed period along with a copy of the plan approved by the local authority or such authorities as may be specified by the Government in this behalf and verified in the prescribed manner and containing such particulars as may be prescribed. As per Rule 3 of the Kerala Building Tax (Plinth Area) Rules, 1992 every Village Officer shall transmit to the assessing authority, within five days of the expiry of each month, a monthly list of buildings liable to assessment, together with extracts from building application register of the local authority within whose area the buildings included in the list are situated.

Audit test checked 33 Taluk Offices and cross verified the building tax assessment details maintained in those Taluk Offices with the property tax register in the local bodies and found that in eight offices the assessee extended the areas of the buildings by subsequent addition or improvement in 13 cases. The buildings were originally assessed between 2008 and 2014. Audit noticed that neither the assessee filed the returns on extension of buildings, nor the Village Officers reported the extended portions for assessment as prescribed in the Act. The non-assessment of the extended portion of buildings resulted in non-levy of building tax of ₹ 22.95 lakh as given in **Appendix XXXIV**.

The audit findings were referred to the Government in April and June 2016. The Government stated (October 2016) that an amount of ₹ 2.97 lakh has been realised and strict directions have been given to all the District Collectors concerned to realise the balance tax amount.

⁴⁴ Kannur, Kothamangalam, Ponnani, Thalappilly, Thalassery, Thaliparamba, Thodupuzha, Vythiri

4.8 Non-levy/short realisation of luxury tax

(24 Taluk offices⁴⁵)

As per Section 5A of the Kerala Building Tax Act, 1975, a luxury tax is leviable at the rate of ₹ 2,000 *per annum* on all residential buildings completed on or after 1 April 1999, having a plinth area of 278.7 square metres or more. The rate was revised to ₹ 4,000 *per annum* from 1 April 2014. As per the Act, luxury tax is to be paid in advance on or before 31 March every year. As per Section 19 of the Act, in case of default, such amount shall be recoverable under the law relating to the recovery of arrears of public revenue due on land. Further, the arrears of tax shall attract interest at six *per cent per annum* from the date of default. As per Rule 13A of Kerala Building Tax (PA) Rules a register showing the details of residential buildings coming under assessment of luxury tax with particulars of remittance shall be maintained by the *Tahsildars* and Village Officers in Form D.

As per the luxury tax assessment records maintained in 24 Taluk offices, the assessee either did not pay luxury tax or paid the tax partially during the period 1999-2000 to 2015-16 in 3,857 cases. Audit found that the building owners had not paid the luxury tax in advance and the assessing officers were not reviewing the register containing details of residential buildings maintained for watching the remittance of luxury tax to ensure that luxury tax due was paid by the owners of buildings regularly. The absence of such a review led to the failure of *Tahsildars* concerned to take action under Section 19 which resulted in non-realisation of luxury tax and interest amounting to ₹ 1.34 crore as shown in Appendix XXXV.

Audit observed that maximum cases of non levy of luxury tax were in Taluk Office, Kannur (274 cases- ₹ 14.18 lakh) and those of short levy in Taluk Office, Nilambur (431 cases - ₹ 8.62 lakh).

All buildings which escaped from assessment of luxury tax can be identified and assessment completed by taking details of completed buildings from local bodies concerned and cross verifying the same with the details available in the Taluk offices. Audit found that the *Tahsildars* in the Taluk Offices are not effectively following such a system to make good the non/short collection of tax.

The audit findings were referred to the Department between February 2015 and February 2016 and to the Government in April 2016. Government stated (October

⁴⁵ Alathur, Changanassery, Chavakkad, Chittur, Kannur, Karthikappally, Kothamangalam, Koyilandy, Meenachil, Muvattupuzha, Neyyattinkara, Nilambur, Ottappalam, Perinthalmanna, Ponnani, Ranni, Thalappilly, Thalassery, Thaliparamba, Thiruvananthapuram, Thodupuzha, Vadakara, Vaikom, Vythiri

2016) that short collection was only ₹ 62.40 lakh in 1,619 cases, of which ₹ 35.76 lakh has been realised in 1,363 cases so far and an amount of ₹ 74,000 was exempted from payment in 12 cases and an amount of ₹ 18,000 was pending in six appeal/Court cases. It was also stated that strict directions have been given to all District Collectors concerned to realise the balance amount.

Audit points out the above observations regularly. Still Government has not evolved an effective system to detect such cases and make good the non collection of tax.