

CHAPTER-IV: LAND REVENUE

4.1 Tax administration

Allotment of land and assessment and collection of land revenue are governed by the provisions of Rajasthan Land Revenue Act, 1956 and rules framed thereunder. Land revenue mainly comprises rent on land, lease rent, premium¹, conversion charges and receipts from sale of Government land.

The Revenue Department (Department) functions as the Administrative Department of the Government. The overall control of revenue related judicial matters, supervision and monitoring over revenue officers and maintenance of land record vested with the Board of Revenue (BOR), Ajmer. The BOR is assisted by 33 District Collectors (DCs) at district level for management of land. Further there are 289 Sub-Divisional Officers (SDOs) at the sub-division level and 314 *Tehsildars* at the *tehsil* level to assist the Collector.

4.2 Internal audit

The Financial Advisor, BOR is the head of the Internal Audit Wing. There are 18 internal audit parties. The position of number of units due for audit, number of units actually audited and number of units remaining unaudited during the period from 2013-14 to 2017-18 is as under:

Year	Units pending for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2013-14	72	672	744	586	158	21
2014-15	158	672	830	551	279	34
2015-16	279	809	1,088	883	205	19
2016-17	205	815	1,020	772	248	24
2017-18	248	815	1,063	739	324	30

Source: Information provided by the BOR.

The Department has been consistently stating for the last three years that the arrear in audit was due to the shortage of posts and deployment of staff in disposal of outstanding audit paras raised by the Internal Audit Parties.

It was noticed that 17,926 paragraphs were outstanding at the end of 2017-18. Year-wise break up of outstanding paragraphs of Internal Audit Wing is as under:

Year	Upto 2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	Total
Paras	8,176	814	871	1,744	2,711	3,610	17,926

Source: Information provided by the BOR.

Out of 17,926 paragraphs, 8,176 paragraphs were outstanding for more than five years for want of compliance/corrective action. The reason given for slow pace of disposal of paras was the shortage of posts in various cadres.

¹ Premium here means cost of land.

The Government may take steps to ensure expeditious compliance with the outstanding observations raised by the Internal Audit Wing.

4.3 Results of audit

There are 690 auditable units in the Department. There were 12,08,800 cases of encroachments in the State noticed by the Department during 2014-17.

- Audit of 'Encroachments on Government land' was conducted in 14 units in which 74,627 cases (approximate 6 per cent of the total encroachments cases) were noticed by the Department during 2014-17. Audit found irregularities in 10,194 cases (approximate 14 per cent of sampled cases) of encroachments relating to registration, disposal of the cases, eviction of trespassers, etc.
- Further, audit of 128 units revealed irregularities in conversion, allotment and lease of the Government land in 1,426 cases. This resulted in short/non-recovery of cost of land, conversion/regularisation charges, short realisation of Government's share and non-reversion of land to Government, etc. involving ₹ 66.69 crore.

Audit pointed out some of the similar omissions in earlier years also, not only these irregularities persist but also remain undetected till next audit is conducted. Thus, there is a need for the Government to improve the internal control system including strengthening of internal audit so that recurrence of such cases can be avoided. Irregularities noticed are broadly fall under the following categories:

(₹ in crore)			
Sl. No.	Particular	Number of cases	Amount
1	A paragraph on 'Encroachment on Government land'	1	-
2	Non-recovery/short recovery of premium and lease rent	83	12.45
3	Non-recovery/short recovery of conversion charges from <i>khatedars</i> ²	512	23.00
4	Non-reversion of land to Government	6	9.77
5	Other irregularities relating to:		
	(i) Revenue	714	0.11
	(ii) Expenditure	110	21.36
Total		1,426	66.69

During the year 2017-18, the Department accepted audit observation worth ₹ 55.86 crore pertaining to 1,000 cases, of which 47 cases involving ₹ 2.17 crore were pointed out during the year 2017-18 and 953 cases involving ₹ 53.69 crore were pointed out prior to 2017-18. The Department recovered ₹ 3.58 crore in 461 cases during the year 2017-18, of which 2 cases involving ₹ 0.01 crore related to the year 2017-18 and 459 cases involving ₹ 3.57 crore were pointed out prior to 2017-18.

A paragraph on 'Encroachment on Government land' and a few illustrative cases involving ₹ 2.80 crore are discussed in the succeeding paragraphs.

² *Khatedars* are tenants on Government land to whom the land is given for agricultural purpose.

4.4 Audit on 'Encroachment on Government land'

4.4.1 Introduction

The Government land is managed under the provisions of the Rajasthan Land Revenue (LR) Act, 1956 and rules made thereunder. As per Section 88 of the LR Act, all roads, water bodies and lands which are not the property of any individual or legal persons, belongs to the State.

Land being a scarce and limited resource needs to be used efficiently by the State Government. Unauthorised occupation of Government land and its eviction are dealt with under Section 91 of the LR Act and LR (Eviction of Trespassers) Rules, 1975. The cases of encroachment against trespassers are disposed off in the court of *Tehsildar/Naib Tehsildar* after the trespassers are accorded an opportunity of being heard.

The encroachments on Government land can broadly be bifurcated into two categories *i.e.* for agricultural and non-agricultural purposes. The scope of present audit was encroachment on Government land within the jurisdiction of the Department of the State Government and did not include the encroachments on land under the control of local bodies.

4.4.2 Audit objectives

The Audit was conducted with the view to ascertain that:

- the land revenue records of the encroachment cases were maintained properly;
- a proper mechanism existed in the Department for identification, eviction and regularisation of encroached land; and
- adequate and effective monitoring controls were in place for safeguarding the Government land.

4.4.3 Audit criteria

The audit criteria were derived from the provisions of the following acts and rules/notifications/circulars/orders issued thereunder:

- Rajasthan Land Revenue Act, 1956;
- Rajasthan Tenancy Act, 1955;
- Rajasthan Land Revenue (Eviction of Trespassers) Rules, 1975;
- Rajasthan Land Revenue (Allotment of land for digging of wells and installing of pumping sets for irrigation purposes) Rules, 1979;
- Rajasthan Land Revenue (Industrial Areas Allotment) Rules, 1959; and
- Rajasthan Land Revenue (Allotment of Land for Establishment of Brick Kilns) Rules, 1987

4.4.4 Scope of audit

The State is divided into seven revenue divisions. Audit test checked the records of 14 *tehsils* of seven districts³ out of total 314 *tehsils* of 33 districts, selecting one district from each revenue division. The selection of *tehsils* was

³ 1. Baran (*Tehsil*: Baran and Shahbad) 2. Bharatpur (*Tehsil*: Weir and Bhusawar) 3. Bikaner (*Tehsil*: Bikaner) 4. Dausa (*Tehsil*: Dausa and Ramgarh Pachwara) 5. Dungarpur (*Tehsil*: Bichhiwada and Sagwada) 6. Jodhpur (*Tehsil*: Bilara, Pipar City and Shergarh) and 7. Tonk (*Tehsil*: Tonk and Newai).

made through random statistical sampling. Records pertaining to encroachment and removal thereof maintained by *tehsils*, regularisation of encroachment cases maintained by SDOs and records maintained by DCs and BOR for monitoring, planning and controlling of encroachment activity were test checked.

The audit was conducted between November 2017 and May 2018 covering the period from 2014-15 to 2016-17. A Factual Statement was issued to the Government and BOR on 4 July 2018; their replies are awaited (February 2019).

4.4.5 Trend of encroachments

According to the information provided by the BOR after collecting it from DCs, the position of encroachments and their disposal in 33 districts during the years 2014-15 to 2016-17 was as under:

Year	Opening Balance		Additions		Cases disposed of		Closing Balance as on 31 March	
	Number of cases	Area in hectares	Number of cases filed during the year	Area in hectares	Number of cases	Area in hectares	Number of cases	Area in hectares
2014-15	28,315	29,207	3,95,530	2,94,877	3,93,543	2,95,572	30,302	28,511
2015-16	30,302	28,511	4,04,012	3,51,805	4,13,561	3,55,007	20,753	25,309
2016-17	20,753	25,309	4,09,258	3,44,288	4,10,999	3,38,174	19,012	31,423

Source: Information provided by BOR and DCs.

As it evident from the table, 19,012 cases of encroachment involving 31,423 hectare of land were pending as on 31 March 2017. There was an increase of 3.47 and 16.76 *per cent* respectively in number of cases and area of encroached land during the period 2016-17 in comparison to 2014-15. The number of cases had decreased from 28,315 as on 1 April 2014 to 19,012 as on 31 March 2017 *i.e.* 32.86 *per cent* but the area under encroachment increased from 29,207 to 31,423 hectares *i.e.* 7.59 *per cent*.

Out of above, position of encroachments and their disposal in selected 14 tehsils of seven districts during the years 2014-15 to 2016-17 was as under:

Year	Opening Balance		Additions		Cases disposed of		Closing Balance as on 31 March	
	Number of cases	Area in hectares	Number of cases filed during the year	Area in hectares	Number of cases	Area in hectares	Number of cases	Area in hectares
2014-15	660	356	24,441	21,309	24,141	21,219	960	446
2015-16	960	446	23,260	21,177	23,644	21,001	576	622
2016-17	576	622	26,926	38,662	25,552	35,205	1,950	4,079

Source: Information provided by BOR and DCs.

Scrutiny of these cases disclosed a number of system and compliance deficiencies in regulations and identification of cases of encroachments. These are discussed in the succeeding paragraphs.

System and compliance deficiencies

4.4.6 Maintenance of records and identification of encroachments

4.4.6.1 Database of Government land

Complete and proper database of Government land is an essential prerequisite for ensuring its effective use for social and welfare activities *i.e.* for housing, education, medical and health *etc.* as well as for monitoring encroachments.

It was noticed that there was no centralised system of maintaining database of Government land at State/BOR/District/*tehsil* level for ensuring proper planning and monitoring. The Government stated (September 2018) that no physical and remote sensing survey was conducted in this regard. The total land available with the Government *viz-a-viz* the land under encroachment was not available with the Department. The Authorities at apex level were wholly dependent on the *Patwaris* working in villages for ascertaining the extant of land under encroachment as mentioned in the following paragraphs.

4.4.6.2 Maintenance of record of encroachments

The cases of encroachment were filed under Section 91 of the LR Act on the basis of report of the *Patwari* and thereafter decided by *Tehsildar/Naib Tehsildar* after according an opportunity of being heard to trespassers. For this purpose a *Dayra*⁴ register containing the entries of case number, date of registration of the case, name and address of trespasser, village, type of land, *Khasra* number and area of encroached land, date of decision, penalty imposed and the amount recovered from the trespassers through auction of crop was maintained by *Tehsildar/Naib Tehsildar*. An auction report⁵ based on the bids received by participants was prepared by Land Record Inspectors (LRIs) and *Patwaris*.

It was noticed that the *Dayra* registers were not computerised and were being maintained manually by each *Tehsildar/Naib Tehsildar*. No uniform format for the register was prescribed by the Department. On scrutiny of the registers in the concerned offices, it was found that these were incomplete *i.e.* essential entries relating to date of first encroachment in case of repeated encroachment, period of encroachment, date of eviction, action taken against the trespassers, *etc.* were not entered in the registers. Year-wise register(s) were not maintained, all cases were entered in one register irrespective of the year of encroachment. Further, the registers were not submitted to *Tehsildar/Naib Tehsildar* periodically for ensuring the correctness of the details entered in this regard.

Report of *Patwari*: Scrutiny of the reports of the *Patwaris* revealed following deficiencies:

- In case of repeated encroachments by same trespasser, the date of first encroachment by the trespassers was not mentioned.
- In case of encroachments for well details regarding purpose of construction *i.e.* for drinking, irrigation or commercial and whether it was electrified or not were not mentioned in the reports of *Patwaris*.

⁴ A register for keeping details of all encroachment cases maintained at each *tehsil/ Sub tehsil*.

⁵ A report of auction of seized crop from encroached land prepared by Land Record Inspector and *Patwari*.

Auction Report: Scrutiny of records of selected *tehsils* revealed that quantity of the seized crop and reserve price of the crop were not mentioned in the auction reports. Auction reports of *tehsil* Weir disclosed that the form of the report contained a printed sentence ‘*फसल की हालत देखते हुए इससे अधिक बोली लगाने को कोई तैयार नहीं है*’ (as per the condition of the crop no one has agreed to bid more amount for the crop). Thus, it can be seen that the reports were not prepared diligently.

4.4.6.3 Non-registration of cases of encroachment in *Dayra* registers

*Abadi Vistar*⁶ proposals are being sent from *Gram Panchyat* to *Tehsildars* for allotment of land for residential purpose. Out of selected *tehsils*, in five *tehsils*⁷, 12 *Abadi vistar* proposals were available on record, in the remaining *tehsils* no *Abadi vistar* proposals were found on the records or were produced to the Audit. Cross verification of *Dayra* registers with the *Abadi vistar* proposals revealed that the trespassers encroached upon 1.78 lakh square metre of Government land for residential purpose (constructed houses) as detailed below:

- In one *Abadi vistar* proposal of *tehsil* Bikaner, 37,600 square metre Government land was shown as encroached by 40 to 45 trespassers from 32 to 37 years.
- In another *Abadi vistar* proposal of *tehsil* Baran, 8,000 square metre Government land was depicted as encroached by 25 trespassers from 20 years.
- In remaining 10 *Abadi vistar* proposals wherein 1.32 lakh square metre land was shown as encroached, period of encroachment was not mentioned in any case and number of trespassers was mentioned in four proposals only.

These encroachments were not registered in the respective *Dayra* registers, hence, remained out of the records. Thus, the system of identification of encroachments and record maintenance was lacking and needs strengthening.

4.4.6.4 Delay in registering the cases of encroachment in *Dayra* registers

Cross verification of *Dayra* registers with five *Abadi Vistar* proposals and related records of four *tehsils*⁸ revealed that in five cases, 314 trespassers encroached Government land measuring 44,837 square metre and constructed houses thereon. Out of these, in three cases the Government land had been encroached by 74 trespassers for the period ranging from 5 years to 50 years, these were identified and registered in *Dayra* registers between 2009 and 2015 after a delay ranging between 4 and 49 years. In remaining two cases actual period of encroachment by 240 trespassers could not be ascertained.

It was mentioned in the *Abadi Vistar* proposals that the encroachments were prior to 2014. Inaction/inordinate delay in identification/registration of encroachments and not taking timely action for eviction thereof resulted in undue benefit to trespassers and also deprived the cattle from grazing on the pasture land⁹.

⁶ A proposal submitted by *Gram Panchyat* for allotment of land for residential purpose.

⁷ Baran, Bichiwada, Bikaner, Bilara and Shergarh.

⁸ Bhusawar, Bilara, Shergarh and Weir.

⁹ Pasture land mean land recorded in the land records for use of grazing the cattle of a village or villages.

The Department has a system of reporting of encroachment cases at *tehsil* level. Periodical returns of total number of encroachments and involved area were sent to the BOR and the State Government through the DCs. However, detailed information of encroachment was not readily available with DCs, BOR and State Government for monitoring the eviction of trespassers. The DCs furnished the information to Audit after collecting the same from their field offices indicating the need of strengthening the system by proper maintenance, computerisation and also centralisation of records at apex levels.

4.4.7 Unauthorised use of Government land for non-agriculture purposes – deterrent measures

LR Act provides penalty for encroachment of land for agriculture purpose. No separate rates of penalty for housing, commercial, industrial, *etc.* purposes have been prescribed. Penalty for these purposes were based on rent rate(s) prescribed for agriculture land also called *lagaan* and was 50 times the *lagaan* under Section 91(2)¹⁰.

It was noticed in 10 *tehsils*¹¹ that 3,101 trespassers had encroached upon 30.77 lakh square metre of Government land for housing, commercial, industrial and brick kiln purposes. In absence of separate provision, the *Tehsildars* imposed penalty on the basis of rent (*lagaan*) applicable for agricultural land. Had the penalty been calculated on the basis of the rates determined by the District Level Committees (DLC)/State Government for housing, commercial, Industrial, *etc.* purposes, it would have been much higher. For example, out of these 3,101 trespassers, in case of industrial use by eight trespassers, it would have been ₹ 3.33 lakh instead of a penalty of ₹ 272 only if it would have been calculated on the basis of rent applicable for allotment of Government land for industrial purpose. Further, in case of use of land for brick kiln industry by 77 trespassers, it would have been ₹ 37.49 lakh on the basis of rent applicable for allotment of Government land for brick kilns instead of imposed penalty of ₹ 2.08 lakh.

Thus, there is a need to provide separate rates of penalty regarding encroachments for non-agriculture purposes that could act as an effective deterrent measure against the trespassers.

4.4.8 Non-renewal of penal provision for agriculture purposes

The settlement¹² operations are undertaken for fixation of rent (*lagaan*) taking into account the soil classification and production potentiality of land. As per Section 175 of the LR Act, the term of settlement for all districts is 20 years provided that the State Government may increase or decrease the term of settlement in certain circumstances.

It was noticed that settlement operations were not undertaken for more than 20 years in any of the selected *tehsils* and hence, the rates of *lagaan* were not

¹⁰ Trespasser shall be liable to pay, for each agricultural year or any part thereof, in which he has been in such unauthorised occupation, a penalty which may be extended to fifty times of the annual rent or assessment, as the case may be, for the first act of trespass. In the case of, each subsequent act of trespass, he shall be liable to civil imprisonment for a term which may extend upto three months besides payment of penalty.

¹¹ Baran, Bilara, Bhusawar, Dausa, Newai, Pipar City, Ramgarh Pachhwara, Shahabad, Shergarh and Tonk.

¹² Settlement means settlement or resettlement of rent or revenue or both and shall include a summary settlement under the Rajasthan Lands Summary Settlement Act, 1953.

revised. As the *lagaan* rates remained static for years, the penalty which was to be decided based on *lagaan* also remained unchanged. The penalty rates have thus lost the deterrent power with passage of time as benefits derived from encroachment were highly lucrative. For example rates of *lagaan* in three *tehsils* are as follows:

Sl. No.	Name of <i>tehsil</i>	Year of last settlement	Rate of <i>lagaan</i>	
			Minimum	Maximum
1	Dausa	<i>Samwat</i> 2041(1984)	₹ 2.50 per hectare	₹ 55.00 per hectare
2	Ramgarh Pachhwara	<i>Samwat</i> 2021(1964)	₹ 0.48 per hectare	₹ 25.98 per hectare
3	Tonk	<i>Samwat</i> 2028(1971)	₹ 0.40 per <i>bigha</i>	₹ 7.50 per <i>bigha</i>

On being pointed out the Joint Secretary Revenue replied (September 2018) that rates of *lagaan* would be increased by the Land Settlement Department after completion of settlement operations.

4.4.9 Delayed framing of Policy and absence of Action Plan

The Supreme Court directed (28 January 2011) that all the State Governments should prepare schemes for eviction of illegal/unauthorised occupants of *Gram Sabha/Gram Panchayat* land and these may be restored to *Gram Sabha/Gram Panchayat* for common use of villagers. For this purpose, the Chief Secretaries of all the State Governments/Union Territories had been directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupants, after giving them show cause notices and chances for brief hearings. Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or regularising the illegal possession. Regularisation should only be permitted in exceptional cases *i.e.* where lease has been granted under some Government notification to landless labourers or members of scheduled castes/scheduled tribes, or where there was already a school, dispensary or other public utility exists on the land. However, the State Government did not frame the policy. Thereafter, the Rajasthan High Court, Jaipur directed (7 November 2016) the State Government to frame an appropriate policy for this purpose within four months. The State Government belatedly framed (11 September 2017) a policy after lapse of 10 months from the directions. However, no action plan for removal of encroachments from the Government land was produced to Audit though called for between December 2017 and May 2018.

However, nine *tehsils*¹³ out of the selected *tehsils* stated (between December 2017 and May 2018) that no action plan was prepared in this regard. It shows slackness of State Government regarding removal of encroachments from the Government land.

4.4.10 Encroachment for agricultural purposes

Scrutiny of the records of the selected *tehsils* disclosed ineffective action by authorities which led to repeated encroachments by the trespassers, and non-regularisation of wells constructed on Government land. The financial

¹³ Bhusawar, Bichhiwara, Bikaner, Dausa, Newai, Pipar City, Sagwada, Tonk and Weir.

impact of these lapses noticed in audit during the test check of cases was ₹ 2.43 crore as discussed in the table below:

		(₹ in crore)
Sl. No.	Nature of irregularity	Amount
1.	<p>Ineffective action led to repeated encroachments on Government land</p> <p>Under Section 91(6) of LR Act, in case of encroachment on Pasture land, Public well, <i>Nadi</i>, <i>Johar</i> and <i>Talab</i> (called specified lands) the trespasser shall on conviction be liable to be punished with simple imprisonment which shall not be less than one month but may be extend upto three years with fine upto twenty thousand rupees. In cases of the other trespasses penalty for first act of trespass was required to be levied as 50 times of <i>lagaan</i> under Section 91(2) and for repeated such acts of encroachment the trespassers was liable to imprisonment which may extend to three months in addition to penalty mentioned above.</p> <p>(i) Scrutiny of <i>Dayra</i> registers, <i>furd</i>¹⁴ and other records of 13 <i>tehsils</i>¹⁵ revealed that in 6,832 cases of encroachments, 2,671 trespassers or their family members continued encroachment on the same piece of Government land or its nearby area aggregating to 2,426.07 hectares year after year for agricultural purpose. It was intimated that action for imprisonment was taken against 175 trespassers. The reasons for not taking action against the remaining trespassers was not intimated.</p> <p>(ii) Out of the above, 999 trespassers had encroached upon 742.36 hectares specified land for which penalty of ₹ 2.00 crore could have been imposed. No action was taken resulting in non-realisation of revenue to that extent.</p>	2.00
<p>Remarks: <i>Tehsildars</i> had confirmed eviction of these trespassers in their records in the year of the encroachment, however, repeated encroachments on the same land or nearby land by the same persons indicates that the eviction in that particular year was not effective.</p>		
2	<p>Non-regularisation of wells constructed on Government land</p> <p>According to Rule 12A¹⁶ read with Rule 7 of the Rajasthan Land Revenue Rules¹⁷, if any person constructed a well or installed a pumping set on unoccupied Government land, the concerned DC may allot land¹⁸ for a period of 20 years on payment of one-time lease money equal to the price at the prevalent rates¹⁹ for allotment of land.</p> <p>In 230 registered cases pertaining to 170 trespassers of eight <i>tehsils</i>²⁰, the trespassers constructed wells on Government land measuring 6.36 hectares during 2014-15 to 2016-17. However, the concerned DC neither allotted the land to the trespassers nor removed the encroachments. Due to non-regularisation of these wells, trespassers were using the wells without paying the cost of land worth ₹ 43.47 lakh as per DLC rates.</p> <p>The <i>Tehsildar</i> Tonk did not furnish any reason for inaction against the trespassers in his reply. The <i>Tehsildar</i> Weir stated that notices had been issued to trespassers. No reply was received from other <i>Tehsildars</i>.</p>	0.43

4.4.11 Encroachment for Schools, *Dharamshalas* and *Ashrams*

It was noticed in 10 cases of encroachments pertaining to nine trespassers of five *tehsils*²¹ that the trespassers had encroached upon 62,820.73 square metre of Government land for construction of Schools, *Dharamshalas* and *Ashrams*. On being pointed out, the *Tehsildar*, Weir stated (March 2018) that notices had been given to the trespassers. No reply was received from other *tehsils*.

¹⁴ *Furd* is a case file of encroachments prepared by *Patwari*.

¹⁵ Baran, Bhusawar, Bichiwada, Bikaner, Bilara, Dausa, Newai, Pipar City, Ramgarh Pachwara, Sagwada, Shahbad, Tonk, Weir.

¹⁶ As amended *vide* Notification dated 13 October 2009.

¹⁷ Allotment of land for digging of wells and installing of pumping sets for irrigation purposes.

¹⁸ Provided that the total area of land to be regularised and allotted shall not exceed 0.25 *bigha* per well or pumping set.

¹⁹ Recommended by the DLC or the rates approved by the Inspector General of Registration and Stamps or the rates determined by the State Government, whichever is higher.

²⁰ Bhusawar, Bilara, Dausa, Newai, Pipar City, Ramgarh Pachwara, Tonk and Weir.

²¹ Dausa, Newai, Ramgarh Pachwara, Sagwada and Weir.

Out of these, study of a case is discussed below:

Case study

Government land measuring 26.50 *bigha* (42,896.61 square metre) in village Divrabada in *tehsil* Sagwada was under encroachment of *Saint Shri Asharam Ji Ashram (Ashram)* since 1992. The *Tehsildar* Sagwada vide its decision dated 4 November 2008 favoured the trespasser by recommending for allotment of land on concessional rates on the plea of being in public interest. On the basis of recommendation of *Tehsildar*, the DC, Dungarpur sent (2 June 2011) a proposal to the State Government for allotment of 23 *bigha* land. The SDO Sagwada also favoured (14 March 2013) the proposal. Later on, due to resentment expressed by public, the DC requested the Government (12 November 2013) for withdrawal of the proposal, the approval for the same was accorded (12 March 2014) by the Government. Legal cases in this regard are pending at various forums as detailed below:

Sl. No.	Name of court	Date of filing the case	Date of decision	Detail of decision	Period granted for appeal against decision	Date of appeal in higher court
1	<i>Tehsildar</i> Sagwada	5 September 2005	28 November 2005	Declared trespasser and order of eviction was given	Copy of decision not available in the file	10 January 2006
2	DC, Dungarpur	10 January 2006	5 July 2006	The encroachment was irregular, hence, it was to be removed	No time period prescribed in the decision.	-
3	Revenue Appellate Authority (RAA), Udaipur ²²	5 May 2014	6 May 2014	Stay was granted by RAA	-	-
4	RAA, Udaipur	-	23 November 2016	Order to remove the encroachment issued.	Not mentioned in the decision	7 December 2016
5	BOR, Ajmer	7 December 2016	Case file not available	Case file not available	-	-

Instead of timely removal of encroachment, the concerned Authorities ostensibly favoured the trespasser which resulted in non-removal of encroachment since last 25 years, presently the matter is under jurisdiction of BOR.

4.4.12 Pasture land encroached by Government Departments

It was noticed in four cases of Bichhiwada and Shahbad *tehsils* that Government Departments had irregularly constructed buildings on 8.05 *bigha* of pasture land. In two cases of Shahbad, the Government Departments constructed buildings in 1983, still the land was not allotted (April 2018). In two cases of Bichhiwada buildings were constructed by the Government Departments though allotment orders (February and August 2014) were issued after construction of buildings. This reflects that Government has not earmarked the land before construction of the buildings.

4.4.13 Monitoring and Inspection

4.4.13.1 Survey for assessing encroachment on Government land

Data collection techniques *i.e.* periodical surveys, remote sensing *etc.* are essential to safeguard the Government land from encroachments. These were not conducted and the Department relied on the reports submitted by the *Patwaris*.

The information about the survey for identification of encroachments on land was not furnished by the Department to audit. The *Tehsildar*, Bikaner

²² Case was filed against DC's order dated 24 March 2014 to remove encroachment.

informed that a survey was conducted during November 2016. However, records in this regard were not produced. The Joint Secretary Revenue stated (September 2018) that physical/remote sensing survey was not conducted.

For an effective monitoring and planning adequate measures to collect complete information about the encroachments need to be taken for which the Department may make a mandatory provision in the rules.

4.4.13.2 Formation of Vigilance and Encroachment Prevention cell

Proper vigilance through a Vigilance and Encroachment Prevention Cell is an effective tool for prevention of the encroachments and timely removal thereof. However, no such mechanism exists at state/district/*tehsil* level in Rajasthan.

Audit noticed that Revenue and Forest Department, Government of Maharashtra had issued a circular in May 1999, to form a squad at district level for identification and prevention of encroachment in Maharashtra State. It is recommended that similar mechanism may be put in place in Rajasthan.

On being pointed out the Joint Secretary Revenue accepted the audit contention and replied (September 2018) that neither any order regarding formation of Vigilance and Encroachment Prevention cell has been passed nor it was constituted.

4.4.13.3 Monitoring and supervision by DCs and State Government

Tehsildars prepare a quarterly report of disposal of cases of encroachments and submit it to the concerned DC. After consolidation of these reports, the concerned DC sends it to the BOR and thereafter it is sent to the State Government.

It was noticed in four districts²³ that meetings were organised by the DCs and general instructions were issued to *Tehsildars*, SDOs and other revenue officials for quick disposal of encroachment cases and to take effective action against trespassers under the provisions of the LR Act. It was also noticed that regular compliance reports on these instructions were not sent by the *Tehsildars*. Thus, effectiveness of these meetings could not be ascertained. The Department may ensure follow up of the instructions issued in the meetings.

4.4.14 Conclusion and Recommendations

The Government did not maintain the database of the Government land either manually or electronically at *tehsil*/district/state level. Documentation and record keeping of encroachment cases was deficient. There were discrepancies in maintenance of *Dayra* register. Periodical surveys were not conducted for identification of encroachment. Effective action was not taken for eviction of trespassers. Though policy to curb encroachments was framed after directions of the Supreme Court and the Rajasthan High Court but action plan for time bound removal of encroachments was not prepared. The penal provisions were weak and did not act as effective deterrent against repeated offenders. Separate rates of penalty were not prescribed for encroachments for non-agriculture purposes.

²³ Bharatpur, Bikaner, Dungarpur and Jodhpur.

- Information of a Government land in given place and identification of encroachments are two important aspects that need to be addressed for effective action to deal with encroachment. Accordingly, computerised database should be prepared for the Government land and encroachment thereof, detailing name of the trespassers, period of encroachment, area of encroachment and action taken;
- Periodical survey of the Government land and constitution of Vigilance and Encroachment Prevention Cell and action plan for eviction of trespassers at district/tehsil level may be considered; and
- Separate rates of penalty may be prescribed for encroachments for non-agriculture purposes.

4.5 Non-compliance with provisions of Act/Rules

The LR Act and the various rules made thereunder along with notifications of the Government provide for allotment and conversion of land.

During test check of records audit observed short/non-recovery of cost of land, conversion/regularisation charges, short realisation of Government's share and non-reversion of land to Government. These cases are illustrative only as these are based on test check of records. There is a need for the Government to improve the existing internal control of the Department in order to avoid recurrence of such cases. A few cases involving ₹ 2.80 crore noticed during 2017-18 are mentioned below:

Name of the district/ period involved	Audit criteria	Nature of irregularity
1. Incorrect application of rates of conversion charges		
Alwar June 2015 and September 2016.	As per Rule ²⁴ 7, premium for conversion of agricultural land for non-agricultural purpose shall be charged at the rates ²⁵ prescribed by the Government from time to time.	The DC applied incorrect rates of land for calculation of conversion charges for land situated on Alwar-Bhiwadi Mega Highway. The conversion charges of ₹ 1.18 crore ²⁶ for land(s) measuring 9.88 hectare in villages Pavati and Shahbad in tehsil Tijara were charged instead of ₹ 1.90 crore ²⁷ . This resulted in short levy and recovery of conversion charges of ₹ 0.72 crore ²⁸ .
The Government accepted the audit contention and replied (May 2018) that notices for recovery had been issued to the executants and instruction for recovery in both the cases had been issued to the Tehsildar.		

²⁴ Rajasthan Land Revenue (Conversion of Agricultural Land for non-agricultural purposes in Rural Areas) Rules, 2007,

²⁵ Residential Colony: ₹ 7.5 per square metre or 7.5 per cent amount of DLC rate of agricultural land or 7.5 per cent amount of the purchase rate of that agricultural land as mentioned in registered sale deed, if any, whichever is higher.

²⁶ ₹ 1.18 crore: ₹ 54.23 lakh (48,904 square metre X ₹ 110.90 per square metre as per DLC rates) + ₹ 64.05 lakh (49,900 square metre X ₹ 128.35 per square metre as per purchase rate mentioned in sale deed).

²⁷ ₹ 1.90 crore: ₹ 1.08 crore (48,904 square metre X ₹ 221.80 per square metre as per DLC rates) + ₹ 81.75 lakh (49,900 square metre X ₹ 163.83 per square metre as per DLC rates).

²⁸ ₹ 0.72 crore: ₹ 1.90 crore (-) ₹ 1.18 crore.

Name of the district/ period involved	Audit criteria	Nature of irregularity
2. Non-levy of regularisation charges		
Jaipur Prior to December 2017	Rule 13 of the rules ²⁴ prescribes that a person who used agricultural land for non-agricultural purpose without permission, shall submit an application for regularisation of land to the prescribed authority along with a copy of the challan depositing four times of the conversion charges.	Agricultural land measuring 72,481 square metre in three <i>tehsils</i> ²⁹ was used for non-agricultural purpose (brick kilns) without payment of premium for conversion of land. The Departmental Authorities, however, did not take action to recover the regularisation charges amounting to ₹ 33.33 lakh ³⁰ .
The Government replied (July 2018) that action will be taken under Section 90A of the LR Act which stipulated procedures for ejection, regularisation and levy of premium in the form of fine.		
3. Non-raising of demand		
Jodhpur May 2002 to July 2017	The cost of the land is required to be recovered in accordance to sanction order issued (July 2017) by the Government.	An educational institution in village Kheru, <i>tehsil</i> Jodhpur was allotted (May 2002) land measuring 5 <i>bigha</i> free of cost for establishing school for primary education of girls. Against the term of allotment, the school admitted 2,947 boys for which revised sanction for allotment of land on cost was accorded in July 2017. The Department, however, did not raise the demand of ₹ 28.30 lakh ³¹ for the cost of the allotted land.
The Government replied (October 2018) that demand of ₹ 14.15 lakhs has been raised by the DC in June 2018. The reasons for short raising of the demand were not produced to audit.		
4. Short realisation of Government's share on sale of Government land		
Jaipur November 2007 to January 2008	JDA, Jaipur was required to deposit 20 <i>per cent</i> share of sale proceeds of Government land in Government's account as per notification dated 8 December 2010. Further, as per circular dated 8 October 2007, interest at the rate of 12 <i>per cent</i> per annum was also chargeable in case Government's share is deposited with delay.	Jaipur Development Authority (JDA) allotted (November 2007) Government land measuring 4,716 square metre worth ₹ 18.86 crore ³² situated in village Jhalana, <i>tehsil</i> Sanganer to a private company. The JDA was required to deposit ₹ 3.77 crore ³³ in Government account as Government share against which it deposited (January 2008) ₹ 3.11 crore. This resulted in short realisation of Government's share amounting to ₹ 0.66 crore ³⁴ besides recoverable interest of ₹ 0.81 crore ³⁵ . This was not demanded by the Government.
The Government replied (August 2018) that a letter has been written (July 2018) to the JDA to deposit the amount and efforts are being made for recovery.		

²⁹ Bassi, Maujmabad and Phagi.

³⁰ ₹ 33.33 lakh: ₹ 27.26 lakh (52,500 square metre X ₹ 12.98 per square metre X 4) + ₹ 4.05 lakh (9,864 square metre X ₹ 10.26 per square metre X 4) + ₹ 2.02 lakh (10,117 square metre X ₹ 5 per square metre X 4).

³¹ ₹ 28.30 lakh: 5.00 *bigha* X 2 X ₹ 2.83 lakh per *bigha* as per DLC rates (effective from 13 February 2018).

³² ₹ 18.86 crore: ₹ 0.40 lakh per square metre X 4,716 square metre.

³³ ₹ 3.77 crore: 20 *per cent* of ₹ 18.86 crore.

³⁴ ₹ 0.66 crore: ₹ 3.77 crore (-) ₹ 3.11 crore.

³⁵ Calculated from February 2008 to March 2018 (for 122 months at the rate of 12 *per cent* per annum of ₹ 0.66 crore).

Name of the district/ period involved	Audit criteria	Nature of irregularity
5. Non-reversion of land to Government		
Ajmer, Bharatpur and Jaisalmer June 1990, July 2012 and January 2013	The terms and conditions of allotment orders provided that in case of breach of any condition of grant of the land(s), it shall be reverted to the Government.	Three allottees ³⁶ neither utilised the Government land allotted for specified purpose within the prescribed period nor applied for extension of the period for utilisation. The Department, however, did not initiate action to revert the land measuring 1,659.31 <i>bigha</i> to the Government.
The Government replied (July 2018) in case of Bharatpur that process to revert the land is under progress and a notice has been issued (April 2018) to an allottee in this regard. The Government replied (January 2019) in case of Ajmer that reversion of land to the Government is under process. Reply has not been received in case of Jaisalmer.		

³⁶ *Shergarh Tree Growers Co-operative Society, Sarwad (Ajmer) (156.25 bigha Government land in village Shergarh, tehsil Sarwad); Rajasthan State Agriculture Marketing Board, Jaipur (110.02 bigha Government land at Village Khatoti, tehsil Nadbai.) and M/s. Suzlon Gujarat Wind Park Limited, Jaipur (1,393.04 bigha Government land in Jaisalmer).*