

CHAPTER 5
STAMPS AND
REGISTRATION FEES

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5.1 Tax administration

The levy and collection of Stamps and Registration fees in the State is governed by the provisions of the Indian Stamp Act, 1899, the Registration Act, 1908, the Bihar Stamp Rules, 1991 and the Bihar Stamp (Prevention of Undervaluation of Instruments) Rules, 1995.

The Registration, Excise and Prohibition (Registration) Department is headed by the Inspector General, Registration (IGR). The Department functions under the administrative control of the Secretary of the Registration Department. The IGR is assisted by an Additional Secretary, two Deputy Inspectors General (DIGs) and four Assistant Inspectors General (AIGs) at the Headquarters level. Further, there are nine Assistant Inspectors General at the divisional level. Thirty eight District Registrars (DRs), 38 District Sub-Registrars (DSRs), 83 Sub-Registrars (SRs) and 26 Joint Sub-Registrars (JSRs) at the districts/primary units are responsible for levy and collection of stamp duty and registration fees.

5.2 Results of audit

Audit test checked 10,265 (0.92 *per cent*) documents out of total 11,14,910 documents registered in 52¹ (34.21 *per cent*) out of total 152 units of the Registration Department during the year 2017-18. Revenue collected by the Registration Department during the year 2016-17 was ₹ 3,072.15 crore of which the audited units collected ₹ 1,551.26 crore. Audit observed short realisation and other irregularities involving ₹ 1,037.71 crore in 224 cases in these audited units alone, as detailed in **Table-5.1**.

¹ **DSR:** Araria, Aurangabad, Banka, Begusarai, Bhagalpur, Bhojpur (Ara), Darbhanga, Gaya, Lakhisarai, Madhubani, Munger, Muzaffarpur, Purnea, Sasaram, Saharsa, Samastipur, Saran (Chapra) Siwan and Sheohar. **IG, Registration, Bihar, Patna;** **SR:** Bahera (Darbhanga), Balia, Chakia (East Champaran), Danapur, Haweli Kharagpur (Munger), Hilsa (Nalanda), Jagdishpur (Bhojpur), Katra (Muzaffarpur), Khajauli (Madhubani), Mahua (Vaishali), Motipur (Muzaffarpur), Paru (Muzaffarpur), Patna City (Patna), Phulparas (Madhubani), Phulwarisarif (Patna), Piro (Bhojpur), Rajauli (Nawada), Simri-Bakhtiyarpur (Saharsa), Suryagadha (Lakhisarai), Tarapur (Munger), Udakishanganj (Madhepura), Sonapur (Saran) and Vikram (Patna); **DC Stamp:** Gaya, Madhubani, Nalanda, Nawada, Purnea, Saharsa, Sitamarhi, Patna and Hajipur (Vaishali).

Sl. No.	Categories	Number of cases	Amount
1.	Audit of Computerisation in Registration Department	1	184.61
2.	Blockage of Government revenue due to non-disposal of referred cases	66	34.40
3.	Short levy due to misclassification of documents	11	0.92
4.	Irregular grant of exemption	13	2.73
5.	Stock of stamps lying unutilised and become unfit to issue due to unrealistic assessment	2	773.97
6.	Non-submission of DC bills against AC bills	5	14.99
7.	Short realisation of Stamp Duty and Registration Fee	49	11.13
8.	Short realisation of Stamp duty on Security deposit in mining lease of sand <i>ghat</i>	3	7.63
9.	Loss of Stamp Duty and Registration fee	29	4.26
10.	Additional differential Stamp duty not realised	2	1.21
11.	Others	43	1.86
Total		224	1,037.71

The Department accepted (between April 2017 and July 2019) underassessment and other deficiencies *etc.* involving ₹ 54.10 crore in 482 cases. Out of these 482 cases, 150 cases involving ₹ 43.82 crore were pointed out during 2017-18. Further, the Department could recover ₹ 3.89 crore in 249 cases during April 2017 to July 2019. Recoveries in 233 accepted cases and replies in remaining cases of 2017-18 and those of earlier years were awaited (September 2019).

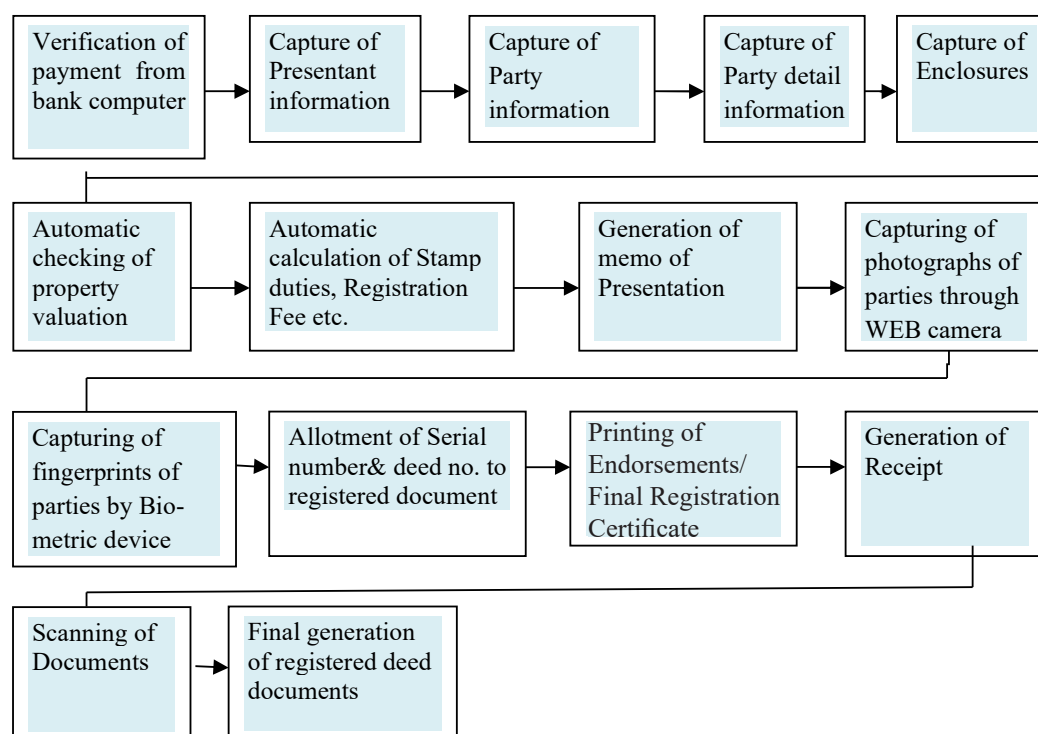
5.3 Audit of Computerisation in Registration Department

5.3.1 Introduction

The Government of Bihar had decided (March 2005) to computerise all the registration offices in the State through System for Computerised Registration (SCORE) software which was initially developed by National Informatics Centre, Bihar and subsequently it was upgraded to SCORE-3 and SCORE-4 by M/s Infosystem and Solutions Limited and M/s IL&FS Limited respectively. Registration through SCORE software started since May-June 2006 in all the districts.

As per the Bihar Registration Rules, 2008, computerisation was carried out through the State level society namely Bihar Society for Computerisation of Registration Offices (BISCORE) and one each at the district level namely District Society for Computerisation of Registration Offices (DISCORE). All members of these societies were officials of the Registration Department. These societies were registered under the Societies Registration Act, 1860.

The BISCORE was responsible for providing computerised services ensuring smooth functioning of the computerised system of registration, preservation, maintenance of the software, guidance and supervision upto the district level. The Department got the software developed and provided it to the societies while the hardware for the system was hired by the DISCORE from the different vendors under the overall guidance of the BISCORE. The process flow of the registration is as follows:



(Source: Information furnished by the Registration Department, Government of Bihar)

Scope of Registration

Section 17 of the Registration Act, 1908 prescribes documents which are required to be mandatorily registered. It includes (a) instrument of gift of immovable property, (b) leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent, (c) non-testamentary instruments transferring or assigning any decree or order of a court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property and (d) the documents containing contracts to transfer for consideration any immovable property. During 2013-14 to 2017-18, 52,80,428 documents were registered which are detailed in **Table 5.2:**

Table 5.2

Year	Number of documents registered	Stamp duty and registration fee realised (₹ in crore)
2013-14	10,98,524	2,868.94
2014-15	10,37,458	2,769.38
2015-16	11,03,174	3,171.23
2016-17	9,46,261	3,072.15
2017-18	10,95,011	3,596.94
Total	52,80,428	15,478.64

(Source: Information furnished by the Registration Department)

5.3.2 Organisational set up

The Registration Department is under the overall administrative control of Principal Secretary, Registration Department at the Government level. The Inspector General of Registration (IGR) is the head of the Department. He is responsible for administration of the Act, rules and circulars/instructions issued by the Government/Department from time to time. The IGR is assisted by an Additional Secretary, two Deputy Inspectors General (DIGs) and four Assistant Inspectors General (AIGs) at the Headquarters level. The work of computerisation is overseen by an AIG at Headquarters level. The IT cell (established by vendor in June 2011) which is mainly manned by the outsourced persons was responsible for designing, implementing and maintaining SCORE in all the registration offices of Bihar. Further, there are one AIGs each in nine divisions. Thirty eight District Sub-Registrars (DSRs) and 86 Sub-Registrars (SRs) at the district/primary units are responsible for levy and collection of stamp duty and registration fees.

5.3.3 Objective of SCORE

Main objectives of SCORE were as under:

1. Complete stoppage of manual registration for all types of documents.
2. Rapid replication of software solution to all registration offices.
3. Quick delivery of original registered deeds to parties.
4. Extensive use of state-of-art technologies like web camera, finger print scanners etc.
5. Simplification, transparency, accountability to be achieved through Business Process Re-engineering (BPR),
6. A software solution which incorporates technologies along with auto-calculation of stamp duties, additional stamp duties, registration fees and other miscellaneous fees based on Market value.
7. Generation of Index I, Index II, Index III, Index IV, daily fee book, monthly fee book, Finger print registers, non-encumbrance certificate, search and copy etc.
8. Technical support to all registration offices and timely incorporation of amended rules in the software solution.
9. Preservation of old records and current scanned documents.

SCORE was upgraded to SCORE-2, SCORE-3 and SCORE-4 with many additional features to facilitate better delivery mechanism to the stakeholders, however, its objectives remained the same.

Previously IT Audit of Computerisation of Registration Department was conducted in year 2009 which featured in the Audit Report (Revenue Receipts) for the year ended 31 March 2009. Highlights of the IT Audit were as under:

- User requirement specification was not properly assessed. As a result, manual intervention continued in the process of registration of the documents.

- Agreements made by the district level societies were not according to the best trade practices which facilitated recurring profitable source to vendors.
- Security policy was inadequate and made the computer systems vulnerable to manipulations or unauthorised deletions/modifications.
- Lack of input controls resulted in incomplete database and due to the deficient system design with regard to categorisation of the documents, identification of executants and prevention of double registration of the same property, the benefits of computerisation could not be achieved.

During 2008-09, SCORE-2 was in operation and the deficiencies highlighted above were related to it. Based on audit recommendations, SCORE-2 was upgraded (2012) to SCORE-3 with additional features such as authentication, log maintenance, mandatory fields as well as validations and checks. SCORE-3 was subsequently upgraded (February 2016) to SCORE-4 after incorporating integration of online payment gateways, online application for registration of documents and printing of documents through web portal.

5.3.4 Audit Objectives

The objectives of this audit was to evaluate and assess whether:

- the computerised system has achieved the intended objectives of Registration department and objective of computerisation;
- the necessary validations and controls were in place for ensuring the data integrity and security of information system and assets; and
- the internal control framework and monitoring mechanism were adequate and controls are in place for business continuity and disaster recovery plan

5.3.5 Audit Criteria

The audit criteria have been derived from the following sources:

The Indian Stamp (IS) Act, 1899; The Registration Act, 1908; The Income Tax Act, 1961; The Bihar Registration Rules, 2008; Bihar Stamp (Prevention of Undervaluation of Instrument) Rules, 1995; The Bihar Registration Manual and Bihar financial Rules; Bihar Treasury Code, 2011; Bihar Court Fee (Sales of stamps by Franking Machine) Rules, 2008; The National e-Governance Plan (NeGP); Information and Communication Technology (ICT) Policy 2011; Departmental instructions, circulars and executive orders made from time to time; and International Standard Organisation (ISO) 27001.

5.3.6 Scope and Methodology

Audit of Computerisation in Registration Department was conducted between April and October 2018 with the help of Computer Assisted Audit Techniques (CAATs). In course of audit of SCORE (including SCORE-3 and SCORE-4), the data from the period January 2013 to March 2018 was extracted from the dump data collected from data centre of the Registration Department and audit analysis was done.

The audit findings were further verified in nine DSRs offices² and four SRs offices³ selected as per stratified random sampling basis using Interactive Data Extraction Analysis (IDEA) software. During audit, questionnaires and audit memos were issued to the Department and the selected offices. An entry conference was held on 5 September 2018 with Inspector General of Registration in which the objectives, scope and audit methodologies were discussed. An exit conference was held on 7 February 2019 with Additional Chief Secretary, Prohibition, Excise and Registration Department in which audit findings were discussed. Response of the Department has suitably been incorporated in the relevant paragraphs.

5.3.7 Status of achievement of objectives of SCORE

Status of achievement of objectives of SCORE are discussed in **Table 5.3**:

Table 5.3

Sl. No.	Objective of SCORE	Status of achievement of objectives
1.	Complete stoppage of manual registration for all types of documents.	All documents were being registered through SCORE and hence objective achieved.
2.	Rapid replication of software solution to all registration offices.	SCORE software were being used in all registry offices and hence objective achieved.
3.	Quick delivery of original registered deeds to parties.	Original registered deeds were being delivered on the date of registration and hence objective achieved.
4.	Extensive use of state of art technologies like web camera, finger print scanners, etc.	Web camera and finger print scanners were being used for registration of deeds and hence objective achieved.
5.	Simplification, transparency, accountability to be achieved through Business Process Re-engineering (BPR).	Non-filing of crucial fields such as area of land, period of lease, required for auto-calculation of duties and fees, were not entered in SCORE database indicating manual intervention (Paragraph No. 5.3.16). Further, gaps in system generated token number/deed number and duplication in system generated deed number/book deed number were noticed in audit (Paragraph No. 5.3.18 & 5.3.19). These shortcomings indicate that desired transparency was not fully achieved.
6.	A software solution which incorporates technologies along with auto-calculation of stamp duties, registration fees and other miscellaneous fees based on Market value.	Crucial fields such as area of land, period of lease which were mandatorily required for auto-calculation of duties and fees were not entered in SCORE database in some cases, as detailed in Paragraph No. 5.3.16 . This indicates that the objective of auto-calculation was not fully achieved.

² Arwal, Bhabhua, Gaya, Jehanabad, Khagaria, Nalanda, Patna, Purnea and Siwan,

³ Barh, Danapur, Darauli and Rajgir

7.	Generation of Index I, II, III, IV, daily fee book, monthly fee book, finger print registers, non-encumbrance certificate, search and copy etc.	<ul style="list-style-type: none"> • Daily fee book and monthly fee books generated through SCORE did not include receipts from fees for search of documents, inspection, issuance of certified copy of deeds, etc. (Paragraph No. 5.3.22). • Non-encumbrance certificates were still being issued manually (Paragraph No. 5.3.24). <p>Hence, the objective not achieved so far.</p>
8.	Technical support to all registration offices and timely incorporation of amended rules in the software solution.	The vendor did not provide training to departmental officials on the features and usage of the SCORE application during the period covered in audit (Paragraph No. 5.3.12). Hence, the objective was not fully achieved.
9.	Preservation of old records and current scanned documents.	Only 27 <i>per cent</i> of the deeds executed between April 2011 and March 2018 were found uploaded (upto March 2018) on SCORE database. Further, though six vendors were paid ₹ 23.94 crore for digitisation and uploading of 1,26,37,896 records pertaining to period 1995 to 2010, details of only 5,87,576 deeds were available in database and further pdf format of only 23 deeds were found uploaded (March 2018) as detailed in Paragraph No. 5.3.15 . Thus, the objective of preservation of old records and current scanned documents were not fully achieved.

Audit findings

Paragraphs related to Project Implementation

5.3.8 Non-availability of System Design Document (SDD)

The Department was fully dependent on the private software developers to handle the critical project due to non-availability of SDD.

The System Design Document (SDD) describes the system requirements, operating environment, system and sub-system architecture, files and database design, input formats, output layouts, human-machine interfaces, detailed design, processing logic, and external interfaces.

Audit scrutiny of files relating to computerisation of the Department revealed that SDD was not available with the Department (December 2018). In absence of SDD, the Department was fully dependent on the private software developers to handle the critical project.

In reply, the Department stated (March 2019) that due to lack of technical expertise for development of software and its implementation the Department could not obtain SDD. Thus, in absence of SDD, the Department may not be able to manage it with some other vendor in case of default by the existing vendor.

Recommendation: The Department should obtain the system design document in future computerisations, so that the dependency on software developers could be avoided.

5.3.9 Business continuity and disaster recovery plan

The Department had not documented any Business Continuity and Disaster Recovery plan.

As per NeGP guideline, the State is required to establish appropriate business continuity and disaster recovery plan along with appropriate data backup and recovery infrastructure.

Audit scrutiny of file related to computerisation revealed that the Department had neither made any provision for business continuity and disaster recovery plan in the agreement with vendor (M/s IL & FS Limited) nor documented it in accordance with NeGP guideline. In absence of this, the vendor maintained software and data without ensuring best practices which includes keeping of back up of data in other seismic zone. Thus, the Department did not have back up data in other seismic zone as business continuity plan.

In reply, the Department stated (March 2019) that due to lack of knowledge regarding keeping of backup data in other seismic zone it was not maintained and appropriate action would be taken in future.

Recommendation: The Department should develop the business continuity and disaster recovery plan in line with guidelines of NeGP. The Department also requires to develop IT awareness among its officials for successful computerisation.

5.3.10 Non-compliance of ICT policy 2011

The Department did not comply provision of the ICT Policy 2011.

As per Information and Communication Technology (ICT) Policy 2011, of Government of Bihar, the Department was required to prepare five years IT plan with yearly deliverables containing details of investments envisaged in the IT infrastructure, training of personnel, etc. and providing high volume of citizen centric services. The Nodal IT Officer had to co-ordinate with the IT Department for conceptualisation and implementation of State IT Projects and the Department had to submit comprehensive reports on the execution of IT projects to SeGP Apex Committee constituted under Chief Secretary on regular basis.

Audit scrutiny of records revealed that the Department had not prepared five year IT plans as per ICT Policy, 2011 for smooth functioning of IT project and had not designated any officer as Nodal IT Officer to co-ordinate with the IT Department for conceptualisation and implementation of the State IT Projects. The Department also failed to submit comprehensive reports on the execution of IT projects to SeGP Apex Committee constituted under the chair of Chief Secretary. The IT Department did not make any correspondence with Registration Department for compliance of ICT Policy as no record was found in files of either the Registration Department or

the IT Department. Due to non-compliance of ICT policy, the Department did not avail the facility of State Data Centre for repository of data and State Wide Area Network for networking purposes.

In reply, the Department nominated (March 2019) nodal officer as required in the ICT Policy and stated (September 2019) that the computerisation of the Department was started in 2005 much before formulation of the ICT policy of 2011 and hence it was not followed earlier.

Reply of the Department is not acceptable as the Department was required to nominate nodal IT officer and to submit comprehensive reports on the execution of IT projects to SeGP Apex Committee constituted under the chair of Chief Secretary soon after promulgation of the ICT Policy.

5.3.11 Standardisation Testing and Quality Certification (STQC)

The Department could not ascertain the security of safe data transmission due to non-conducting of STQC.

As per agreement (September 2010) between Registration Department of Government of Bihar and the vendor (M/s IL&FS Limited) for digitization of registration records, development of web based retrieval system and online access mechanism for updating database on day to day basis, the partner (M/s IL&FS Limited) shall ensure security certification by Government of India Agency like STQC Directorate for safe data transmission.

Audit scrutiny of records revealed that the Department did not secure STQC from the vendor before making the software go live and release of payment. Thus, the Department is not in a position to assess how secure is their data transmission and how vulnerable is their database.

In reply, the Department stated (March 2019) that, in future, necessary steps would be taken for STQC.

Recommendation: The Department should get STQC to have adequate assurance of safe data transmission.

5.3.12 Non-imparting of training to departmental officials by vendors

The vendor did not impart training to departmental officials as envisaged in Service Level Agreement.

Service Level Agreement (SLA) provides for training to selected departmental officials by the vendor on the features and usage of the application. However, information relating to initiative of the Department to get its officials trained by the vendor was not available on records. It was not made available to Audit despite several reminders. Thus, the Department could not develop its own IT support team to handle this system in case of unforeseen circumstances and remained dependent upon the service of outsourced agencies.

In reply, the Department stated (March 2019) that in view of audit observation arrangement would be made to impart necessary training to departmental

officers. The Department was to do so in terms of SLA and not to wait for audit observation.

5.3.13 Avoidable expenditure on Multi Protocol Level Switching Virtual Private Network (MPLS VPN) connectivity

Avoidable payment of ₹ 1.35 crore was made to private vendor on account of MPLSVPN connectivity, though the facility of State Wide Area Network (SWAN) was available.

SWAN was established to connect the State Headquarter (SHQ) with all District Headquarters (DHQ) and all Block Headquarters (BHQ) with minimum leased line with the objective to create a secure Government network for the purpose of delivering Government to Government and Government to citizen services.

Audit scrutiny of records in the Department and other test-checked DSRs/SRs offices revealed that despite the availability of SWAN for network connectivity all over the State from the year 2010, the Registration Department procured separate Multi Protocol Level Switching Virtual Private Network (MPLS VPN) connectivity in February 2016 through private vendors and made a payment of ₹ 1.35 crore during April 2016 to May 2018. However, the State Government was already using SWAN for important projects like CTMIS⁴ and VATMIS⁵. This indicated that the Department had not utilised the resources of available networks and made avoidable payment to private vendors. The Department also did not ensure deduction of non-performance charges for downtime calculated through Network Monitoring System (NMS) as it was not installed.

In reply, the Department stated (March 2019) that the facility of uploading/downloading of text information and image file on real time basis was not available in SWAN in 2016 and hence MPLS VPN facility was obtained. The Department further stated that despite several reminders the vendor did not install NMS, however due to service disruption ₹ 4.31 lakh was deducted from payment made to one vendor and its bank guarantee of ₹ 20.47 lakh was also forfeited. The Department furthermore stated that continuous efforts were being taken to avail the service of SWAN and required actions was being taken by the BELTRON, a state designated agency, who looks after SWAN. However, the facts remain that the Department did not make any correspondence with the Bihar State Electronic Development Corporation Limited (BSEDC) for SWAN before obtaining MPLS VPN connectivity and made avoidable payment to private vendor.

The reply of the Department is incorrect as the facility of uploading/downloading of text information and image file on real time basis was available in SWAN as it was fully implemented in April 2010.

⁴ Comprehensive Treasury Management Information System (CTMIS)

⁵ Value Added Tax Management Information System (VATMIS)

5.3.14 Avoidable expenditure on own Data Centre of SCORE

The Department made avoidable payment of ₹ 2.63 crore towards own data centre despite availability of State Data Centre (SDC).

SDC was established to function as Central Repository of the State, Secure Data Storage, Online Delivery of Services, Citizen Information/Service Portal, State Intranet Portal, Disaster Recovery, Remote Management and Service Integration etc.

- Audit scrutiny of records revealed that the Department continued to operate own data centre despite availability of SDC and made payment of ₹ 2.63 crore during April 2015 to April 2018 to M/s IL&FS for keeping of data of SCORE and maintenance of own data centre. This indicated that the Department had not utilised available SDC and made avoidable payment to private vendor.
- ISO 27001 specifies a management system that is intended to bring information security under management control and gives specific requirements for data ownership, data privacy and data security. However, detailed requirement of ISO 27001, data ownership and privacy policy and its compliance was not available on file. In absence of the fulfilment of requirement of ISO 27001 and robust data ownership and privacy policy and procedures, how the Department ensured its ownership over data, data privacy and data security could not verified in audit.

After being pointed out in audit, the Department requested (March 2019) the IT Department to provide the necessary space in SDC to hoist the data of the Registration Department. The Department accepted (September 2019) the fact of not adhering to the requirement of ISO to ensure data security, data ownership and data privacy and stated that these issues would be incorporated in new application. However, the Department was silent on incorporating these requirements in existing application.

Recommendation: The Department should avail the services of SWAN for network connectivity and SDC for secure data storage to effect economy. The Department should also ensure fulfillment of requirement of ISO relating to data ownership, data privacy and data security.

5.3.15 Unfruitful expenditure on digitisation of deeds without ensuring space in data centre for uploading of digitised data

Without ensuring the space in its own data centre/server for uploading of digitised data of executed deeds, the Department made unfruitful expenditure of ₹ 23.94 crore towards digitisation of deeds and its uploading in data centre.

Audit analysis of the SCORE database revealed the following:

- Out of total 74,66,977 deeds executed during the period April 2011 to March 2018, portable document format (pdf) of only 19,85,477 deeds (26.59 per cent) were uploaded in the database (March 2018).
- Audit further observed that the BISCORE paid ₹ 23.94 crore to six vendors for digitisation and uploading of 1,26,37,896 records pertaining to period 1995 to

2010, but details of only 5,87,576 deeds (4.64 *per cent*) were available in database and further pdf format of only 23 deeds were uploaded (March 2018). This rendered payment of ₹ 23.94 crore made to vendors unfruitful as the deeds and its details could not be retrieved from the database. Moreover, the objective of digitisation of old records was also not achieved.

The AIG in-charge of computerisation also did not ensure completion of digitisation of records and its uploading in data centre. Further, in absence of digitised data the public in general and executants/claimants in particular could not get the benefit of computerisation of the Department which includes printing of documents through web portal.

In reply, the Department stated (March 2019) that due to paucity of space at data centre, all PDFs documents were not uploaded. On further verification in test-checked cases, data was found in hard drive but was not uploaded on server. In absence of data on server, the main purpose of digitisation to facilitate online access of digitised data was defeated.

Paragraphs related to Application Controls

5.3.16 Manual intervention in calculation of applicable stamp duty and registration fee

Crucial fields such as area of land, period of lease were not found entered in SCORE database which indicates that leviable stamp duty and registration fees were manually entered and not auto calculated by SCORE defeating one of its objectives.

In case of lease deeds and sale deeds stamp duty and registration fee is calculated on the basis of market value of immovable property. To arrive at market value of property and to auto calculate leviable stamp duty and registration fee (which was one of the objectives of SCORE), information such as area of property and period of lease of property are mandatorily required to be filled in SCORE database.

Audit analysis of SCORE database revealed the following:

- Out of 47,319 lease deeds executed during January 2013 to March 2018, area of land was shown as zero in 2,981 cases and period of lease was shown as zero in 3,283 cases. Similarly out of 49,79,071 sale deeds executed during January 2013 to March 2018, area of land was shown as zero in 1,43,418 cases. In absence of these crucial information, the SCORE database shown leviable stamp duty and registration fee in all above cases which could be possible through manual intervention in SCORE database. It indicated that filling of crucial field in database was not made mandatory to enable auto calculation of stamp duty and registration fee in all cases. As a result, one of the objectives of SCORE to auto calculate applicable stamp duty and registration fee could not be achieved. Further, the concerned DSRs/SRs did not ensure filling of these information relating to immovable property before executing these deeds.

On further verification through hard copies of the deeds audit observed in 11 test-checked DSRs/ SRs offices⁶ that in 202 cases applicable stamp duty and registration fee were levied and realised though the crucial information was absent in the system which established manual intervention in calculation of applicable stamp duty and registration fee in online system of registration.

In reply, the Department accepted the facts and stated (March 2019) that necessary control had since been incorporated in application software to identify this discrepancy.

- Audit further observed during analysis of SCORE database that excess stamp duty of ₹ 106.14 crore was shown realised in 4,69,428 deeds and excess registration fee of ₹ 20.62 crore was shown realised in 4,70,322 deeds executed between January 2013 and March 2018. Audit furthermore observed that stamp duty in 588 cases and registration fee in 52 cases shown as realised during the period January 2013 to March 2018 was more than even the cost of property.

Audit examination of scanned hard copies of 291 deeds in seven test checked DSRs/SR⁷ offices revealed that in 191 cases leviable stamp duty and registration fee was ₹ 1.29 crore against which ₹ 1.90 crore was realised which resulted in excess realisation of stamp duty and registration fee of ₹ 61.64 lakh. In the remaining 100 cases, stamp duty and registration fee was realised correctly.

In reply, the Department stated (March 2019) that necessary MIS report had since been incorporated in application software to identify this discrepancy and necessary action would be taken after receiving reports from the concerned DSRs/SRs. On further verification Audit observed (April 2019) that necessary MIS had since been incorporated in application software.

5.3.17 Challan details not entered in SCORE database and not linked with deed/token number

Details of challans were not entered in SCORE database for 50,62,399 deeds and 42,350 challans were not linked with the concerned deed/token number though these facilities were available in the application system.

Audit analysis of SCORE database revealed that out of 56,47,243 numbers of deeds executed between January 2013 and March 2018, details of 50,62,399 numbers of challans were not entered in the application system. The concerned DSRs/SRs also did not ensure filling of information of challans before executing the deeds. Further, 42,350 challans in the database were also not linked with the concerned deed/token number. Thus, due to non-linking of challans with the concerned deed number/token number in the application system and further non-filling of this information by the concerned DSRs/SRs, challan details of ₹ 14,092.95 crore involved in 51,04,749 deeds registered during the period 2013 to 2018 was not available in the SCORE and as such audit could not verify them.

⁶ Arwal, Barh, Bhabhua, Darauli, Gaya, Jehanabad, Khagaria, Nalanda, Patna, Purnea and Rajgir

⁷ Bhabhua, Gaya, Jahanabad, Khagaria, Nalanda, Patna and Rajgir.

The Department stated (March 2019) that challan table contained details of payment made through only O-GRAS⁸ and deed table contained details of all payment.

Recommendation: The Department should ensure entry of details of challans in SCORE database in respect of all payments and their linking with corresponding deed/token number.

5.3.18 Gaps in the system generated deed numbers

Due to application control failure and absence of data validation, there were gaps in two consecutive token numbers and deed numbers.

Token number, Deed number (serial number of a deed) and Book deed number are unique fields generated by the application system after registration of a deed. Since, these are system generated number there should not be any gap between two consecutive registered deeds.

Audit analysis of SCORE data for the period 2013-14 to 2017-18 revealed that in 12 DSRs/SRs⁹ offices, there were 693 instances of gap in serial number and 2,376 instances of gap in token number in the deeds generated through application system. It indicates application control failure and absence of data validation check.

In reply, the Department stated (March 2019) that before 2018 gaps were found. The Department further stated that .dmp data provided by the Department contained information of only registered deeds and gaps shown in deed number/token number/book deed number was related to unregistered deed.

The reply was not acceptable as .dmp data provided by the Department was complete database of Registration Department including information of unregistered deeds.

5.3.19 Duplicates in the system generated deed numbers and Book Deed Numbers

Duplicates were found in deed/book deed number which indicated that application system was not appropriately designed to ensure the uniqueness of individual deed.

Token number, Serial number and Book Deed number are unique fields generated by the system after a deed is registered and identifies the complete registration of a deed. Since it is a machine (system) generated number, there should not be any duplication.

Audit analysis of SCORE database revealed that in office of seven DSRs/SRs¹⁰, the duplicates were found in 39 cases of deed number and in 106 cases of book deed number. This indicated that application system was not appropriately designed to ensure the uniqueness of individual deed number. The DSRs/SRs also did not detect such generation of duplicate numbers.

In reply, the Department stated (March 2019) that all duplicates were before commencement of online process of registration (2016) due to delay in response time. The reply of the Department is not correct because four cases pertained to 2017.

⁸ O-GRAS is a portal through which revenue of the Department are remitted into Government Head.

⁹ Arwal, Patna, Gaya, Nalanda, Jehanabad, Kaimur, Khagaria, Purnea, Siwan, Rajgir, Barh and Danapur

¹⁰ Arwal, Danapur, Gaya, Khagaria, Nalanda, Patna and Siwan

5.3.20 Data Entry Operators were given access to user IDs of Assistant

Data Entry Operators were given access to the user IDs of Assistant who were supposed to validate the work of Data Entry Operator.

As per best IT policy, segregation of duties is required to ensure that every transactions are properly authorised, recorded and that assets are safeguarded.

Audit scrutiny of SCORE database revealed in 47 out of 124 DSRs/SRs offices that in 128 cases, Data Entry Operators (DEOs) were given access to user IDs of Assistant, who was authorised to validate work of data entry operator. This indicates weak logical access control.

In reply, the Department stated (March 2019) that due to shortage of manpower one person had been allotted more than one user ID of different privilege level. The reply was not acceptable as in three out of 13 test checked DSRs/SRs offices, Assistants/Head clerks were posted but even then the DEOs were given access to user IDs of Assistants.

5.3.21 Incorrect endorsement of certificate of registration

The DSRs/SRs failed to detect the incorrect endorsement of certificate of registration.

Section 60 of the Registration Act stipulates for certificate of DSR relating to number and page of the book in which the document was copied.

Audit analysis of SCORE database in three DSRs¹¹ offices revealed that in 18 cases, page number mentioned in the Endorsement Certificate generated by SCORE software, were either same or within same range. Thus, it was evident that neither the system was designed to generate unique page number for each document nor the concerned DSRs exercised due diligence before endorsing the certificate of registration in spite of availability of document in the application system. In absence of correct depiction of page number of book in which document was preserved, it would be difficult to retrieve the desired document.

In reply, the Department accepted the facts and stated (March 2019) that necessary correction had been done in application software.

Other IT related Paragraphs

5.3.22 Fees collected manually not reflected in SCORE database

Fees relating to search of documents, inspection, issuance of certified copy of deeds, etc. were collected manually and not reflected in the SCORE database. As a result, daily fee books and monthly fee books generated by SCORE database did not include all transactions.

One of the objectives of the SCORE was to automate daily fee books and monthly fee books.

¹¹ Jehanabad, Kaimur and Purnea

Audit observed that as per SCORE database stamp duty (SD) and registration fees (RF) collected in 13 test-checked DSRs/SRs offices for the period 2013-14 to 2017-18 was ₹ 3,714.95 crore. However, as per the monthly report of DSRs/SRs concerned prepared on the basis of daily fee books, SD and RF collected during the same period was ₹ 3,796.82 crore. Thus, there was difference of ₹ 81.87 crore in SD and RF available in SCORE database and that of reported by test checked DSRs/SRs. Audit further observed that the reasons for this difference were manual collection of fee relating to search of documents, inspection, issuance of certified copy of deeds etc., and upkeep of records thereof in manual form only. This indicates that one of the objectives of SCORE to automate daily fee books and monthly fee books incorporating all the transactions taken place in concerned DSRs/SRs office was not achieved.

In response to audit observation, the Department issued instructions (February and May 2019) to all DSRs/SRs to ensure entry of all transactions relating to collection of revenue in SCORE database and to submit monthly report through MIS available in SCORE database.

5.3.23 Non-mapping of provision of business rules in application system

The Department failed to map the business rules relating to finalised referred cases, refund cases and registration fee for document not mentioned in table of fee in application system.

Section 47-A of the Indian Stamp (IS) Act, 1899 prescribes for referring of case to AIG for determination of valuation of property, if the registering officer, finds that the value of any property set forth in document was less than the market value of the property. Further, Section 54 of the Act *ibid*, prescribes for refund of stamp duty. Further, the Department instructed (January 2007) the DSRs/SRs to realise the deficit stamp duty at the earliest and file the revenue recovery certificate in case the deficit stamp duty remained unrealised within 60 days of order of the AIG.

Audit analysis of SCORE database revealed that there was no provision of finalisation and monitoring of referred cases in application system. Audit examination of the register of the referred cases and information made available for the period 2013-14 to 2017-18 revealed that in four DSRs/SR¹² offices, 606 cases referred to the AIGs were finalised between 2013-14 and 2017-18. The AIGs determined additional sum of ₹ 4.50 crore as payable stamp duty in 169 cases. However, the DSRs/SRs neither realised the differential stamp duty nor filed the revenue recovery certificates, even after elapse of three months to 71 months. The concerned AIGs also did not monitor the realisation of deficit stamp duty in finalised referred cases.

In response to our audit observation the concerned DSR/SR realised stamp duty and registration fee of ₹ 53.05 lakh in 31 cases and filed certificate case in 121 cases involving revenue of ₹ 3.43 crore. Similarly, provision of refund and provision of registration fee for documents not mentioned in registration table of fee were not mapped in application system which led to non-monitoring of these cases by the Department and non-achievement of objective of computerisation.

¹² Gaya, Kaimur, Khagaria and Rajgir

In reply, the Department stated (March 2019) that provision of monitoring of referred cases by the Department and concerned AIG had since been mapped. However, the Department was silent as to why the provision of refund was not mapped.

5.3.24 Manual issuance of non-encumbrance Certificate

Non-encumbrance certificates were issued manually though its online issuance was one of the objectives of SCORE.

Issue of non-encumbrance certificate¹³ was one of the objectives of the automation process under the IT system.

Audit scrutiny of records in 13 test-checked DSRs/SRs offices revealed that 1,15,743 number of non-encumbrance certificates were issued manually during 2013-14 to 2017-18. Thus, one of the objectives of computerisation to issue online non-encumbrance certificate was defeated. Further, the AIG (computerisation) also did not monitor the database and working of their offices so as to ensure online issue of non-encumbrance certificate using application system. The Department also did not issue any instruction to DSRs to stop issuing non-encumbrance certificate manually.

In reply, the Department accepted the facts and stated (March 2019) that necessary arrangements would be made in application software.

5.3.25 Requirement of Income Tax Act not fulfilled

PAN was not captured in SCORE database in respect of 1,49,065 properties worth more than ₹ five lakh (₹ 10 lakh from 01.01.2016) which indicated inadequate validation controls in the system.

The Income Tax Act, 1961 requires mandatory quotation of Permanent Account Number (PAN) in case of sale/purchase of immovable property worth more than ₹ five lakh till 31 December 2015 and thereafter ₹ 10 lakh and in its absence submission of Form 60 and 61.

Audit examination of SCORE database revealed that out of 15,93,805 deeds of immovable properties worth more than ₹ five lakh registered during January 2013 to December 2015, PAN details were not entered in database for 1,05,442 deeds. Further, out of 1,73,493 deeds of immovable property worth more than ₹ 10 lakh registered during January 2016 to March 2018, PAN details were not entered in database for 43,623 deeds. In these cases, fields regarding submission of Form 60 and 61 were also blank.

Audit further verified scanned copy of 321 deeds and observed that PAN was not mentioned in 90 deeds despite the value of properties being more than the threshold limit.

Thus, not uploading of PAN information in the database in respect of properties worth more than ₹ five lakh or ₹ 10 lakh, as the case may be, indicated inadequate validation controls in the system.

¹³ Non-encumbrance certificate is a certificate issued denoting the property to be free from any encumbrance.

In reply, the Department stated (March 2019) that necessary provision for validation of PAN formats in application software had since been incorporated. On further verification Audit observed that necessary changes have since been incorporated in the SCORE software to capture PAN.

5.3.26 Integration with data of land records

The Department did not integrate SCORE database with that of Revenue and Land Reforms Department leading to non-verification of information pertaining to land/property online.

The National Land Record Modernisation Programme (NLRMP) provided for integration of data of registration with the land records data. Accordingly, the DSR/SRs were required to forward online details of the property registered to the concerned revenue officers automatically on registration of any property. These details would include property details, registration number and date of registration and names of the parties, which would be used by the revenue officers for mutation of the property.

Audit scrutiny of records revealed provision for linking of records of the Registration Department with that of the Revenue and Land Reforms Department was not made in the existing application system as envisaged in National Land Records Modernisation Programme in spite of the fact that Revenue and Land Reforms Department uploaded digitised records of 4,29,76,776 *khesra* on its website till January 2018. In the absence of this provision in application system, revenue officer could not utilise the information available with Registration Department for mutation of property and the Registration Department also could not verify online veracity of information pertaining to land/property furnished by the executants. Thus, due to non-automation of critical function, the internal control of the Department was also compromised defeating the intended purpose.

In reply, the Department stated (March 2019) that due to non-computerisation of land records integration of records of Registration Department with that of the Revenue and Land Reforms Department was not made, but of late, land records were being made available with effect from December 2018 by the Revenue and Land Reforms Department through web service and action would be taken to integrate it with data of the Registration Department.

Important miscellaneous issues

5.3.27 Illegal provision of collection of Service Charge in the Bihar Registration Rules, 2008

The Registration Department illegally made provision for collection of service charge in the Bihar Registration Rules, 2008 and consequently not only collected service charge of ₹ 152.60 crore during 2008-09 to 2017-18 by putting undue burden on stakeholders but also kept them in bank account instead of the Consolidated Fund of the State.

Section 69 of the Registration Act, 1908 prescribes the powers of Inspector-General (IGR) to superintend registration offices and make rules for (a) providing for safe

custody of books, papers and documents, (aa) providing the manner in which and the safeguards subject to which the books may be kept in computer floppies or diskettes or in any other electronic form and (b) declaring what language shall be deemed to be commonly used in each district.

Invoking this section, the IGR with the approval of Government of Bihar made the Bihar Registration (BR) Rules, 2008 making provision for levy of service charge on the basis of each page of document registered. However, section 69 of the Act *ibid* did not authorise the IGR to make provision for levy of any service charge. Thus, the provision for levy of service charge was beyond the legislative intent of section 69 of the Act and hence illegal.

Audit further observed that the service charge was being levied for automated registration process and preservation of documents in soft copies whereas registration fee was being collected vide section 78 of the Act for the similar purposes of registration of documents through manual process and preservation of documents in hard copy. Thus, no additional service was being provided. The Computerisation/automation of office procedures in government offices is inherent responsibility in providing ease of doing business for better service delivery. However, the Department levied service charge besides registration fees without any additional service.

Audit analysis of the SCORE database revealed that the Department collected ₹ 152.60 crore as service charge during the period 2008-09 to 2017-18 without approval of the legislature and deposited into private bank account of 39 societies (38 DISCORE and one BISCORE); thus, kept the money so collected outside the legislative and executive oversight by allowing these societies to expend the money. Moreover, the stakeholders had to bear financial burden of ₹ 152.60 crore. Not depositing collection from service charge into the Consolidated Fund of the State is in violation of Article 266 (1) of the Constitution of India which provides that all revenue received by the Government of a State shall be credited into the Consolidated Fund of the State. The practice of depositing service charge into bank account of these societies should be stopped immediately as it is fraught with risk of fraud and misappropriation.

Thus, the Government of Bihar illegally framed provision of collection of service charge in the Bihar Registration Rules and allowed collection of service charge to finance the outsourced firm to undertake its core function which resulted in not only bypassing of legislative oversight in financial matter of the State but also undue burden to stakeholders.

In reply, the Department stated (March 2019) that the Bihar Registration Rules, 2008 which provided for levy of service charge was formulated following all due process including due concurrence of the Law Department and the Finance Department and approval of the State Cabinet.

Reply of the Department was incorrect as notification was issued invoking section 69 (1) (a) and (aa) of the Registration Act which did not authorise the State Government to levy any service charge and the Department also did not

bring this fact to the notice of the State Cabinet while seeking approval on the Bihar Registration Rules, 2008.

Recommendation: The Department should amend the Bihar Registration Rules, 2008 so that service charge may not be collected in violation of the legislative intent of Section 69 of the Registration Act. The Department should reconcile the collected service charge (kept in bank account) and remit it into the Consolidated Fund of the State immediately. Further the Department may also investigate how the amount thus collected has been used by the BISCORE and DISCORE.

5.3.28 Irregular reduction of value of land

Irregular reduction of value of land in Minimum Value Register (MVR) led to loss of revenue of ₹ 13.86 lakh.

The Bihar Stamp (Prevention of Under Valuation of Instruments) (Amendment) Rules 2013 provides guidelines to district valuation committee for ascertaining minimum value of property which *inter alia* includes minimum value of property of an area shall not be less than the average value of five registered sale deeds having highest value of that area.

Audit scrutiny of SCORE database and records in office of DSR, Patna revealed that the district valuation committee Patna reduced (February 2016) the value of land of Srikrishnapuri to ₹ 16.25 lakh per decimal from ₹ 18.00 lakh per decimal without following above prescribed criteria. Audit further observed as this criteria was not mapped in application system, the system did not raise any red flag regarding undue change in value of MVR. Thus, reduction of value of land in MVR was irregular which led to loss of revenue of ₹ 13.86 lakh¹⁴ from 51 deeds executed between February 2016 and March 2018.

In response to our audit observation, the Department compared the number of deeds executed and MVR of North and South Srikrishnapuri with those of Shivpuri and stated that reduction of value of land had been done on the basis of report submitted (January 2016) by survey team and there was no revenue loss due to reduction in MVR.

Reply of the Department is factually incorrect as the Survey Report of January 2016 did not include Srikrishnapuri.

¹⁴

(Amount in ₹)

Thana No.	Number of deeds executed	Total area of land in decimal	Difference in MVR rate	Short valuation of property	Loss of revenue at the rate of 10 per cent
204	8	25.2453	1,75,000	44,17,927	4,41,792
224	43	53.9548	1,75,000	94,42,090	9,44,209
Total	51				13,86,001

5.3.29 Delayed remittance of sale proceeds of court fee stamps (judicial) into Government Account

The DSR Patna remitted sale proceeds of court fee stamps (judicial) into the Government account with delay of one to 121 days.

As per Rule 7(1) read with Rule 4(1) of Bihar Court Fee (Sale of Stamps by Franking Machine) Rules 2008, no pre-entry of an amount in the Franking machine shall be made for sale of court fee stamps through Franking machine. The Secretary DISCORE was to deposit amount to concerned DSR for recharging the Franking machine who in turn remits the amount so collected from Secretary DISCORE into government account and sends its weekly report to IGR. However, these rules were not mapped in the SCORE.

Audit scrutiny of records/reports related to franking machine for the year 2016-17 and 2017-18 in office of DSR, Patna revealed that franking machines were recharged and stamps worth ₹ 5.94 crore were sold without ensuring realisation of amount with which franking machine was recharged. This was flagrant violation of provision of the Rules *ibid* which stipulates realisation of revenue at the time of recharge itself. Further, the proceeds of sale of stamps from franking machines were deposited in separate bank account of DISCORE and thereafter remitted into the Government account with delay of one to 121 days. Further, no weekly report regarding receipts on account of recharging of franking machine and its remittance into Government Account was sent to IGR. Thus, due to non-mapping of business rules relating to receipts from sale of stamps through franking machines, the Department failed to exercise necessary control over sale of stamps through franking machines and realisation of revenue therefrom which led to non-realisation of revenue at the time of recharging the franking machine and subsequent delayed remittance into Government account.

In reply, the Department stated (March 2019) that in future this type of negligence would not be repeated.

5.3.30 Inspection of Registry Offices

Required numbers of inspection of Registry Offices were not conducted which indicated poor internal control.

As per Bengal Government's letter no. 745-P dated 4.11.1899, as applicable in Bihar, 96 inspections of registry offices were required to be undertaken by the inspecting authorities during 2016-17 and 2017-18. However, Audit scrutiny of records in 13 test checked DSRs/SRs offices revealed that only 17 inspections (17.71 *per cent*) were conducted during 2016-17 and 2017-18 by the inspecting authorities against 96 required inspections which indicated poor internal control.

In reply, the Department stated (March 2019) that during 2016-17 and 2017-18, 92 and 82 inspections were conducted by concerned controlling offices respectively in 124 registration offices.

Reply of the Department is not acceptable as in 13 test checked offices, 11 and six inspections were done during 2016-17 and 2017-18 respectively against required 96 inspections.

Recommendation: The Department should ensure inspections of offices as per prescribed norms and endeavor should be made to implement inspection through proper MIS and modules in the application system.

5.3.31 Conclusion

- System Design Document, Business Continuity and Disaster Recovery Plan were not available/documented. Standardisation Testing and Quality Certification (STQC) of SCORE was not done.
- SCORE database was also not integrated with land records database of Revenue and Land Reforms Department leading to non-verification of information pertaining to land/property mentioned in the documents online by the Registering authorities.
- Gaps in system generated token number/deed number, duplication in system generated deed number/Book Deed number and reference of incorrect page numbers in endorsement of certificate of registration were noticed.
- Crucial fields such as area of land, period of lease were not found entered in SCORE database which indicates that leviable stamp duty and registration fees were manually entered and not auto calculated by SCORE defeating one of its objectives.
- The Department did not avail facility of SWAN and SDC and obtained intranet services and data centre from outsourced vendors and made avoidable payments of ₹ 3.98 crore.
- Only 27 per cent of the deeds executed between April 2011 and March 2018 were found uploaded (upto March 2018) on SCORE database. Further, though six vendors were paid ₹ 23.94 crore for digitisation and uploading of 1,26,37,896 records pertaining to period 1995 to 2010, details of only 5,87,576 deeds (five per cent) were available in database and further pdf format of only 23 deeds were found uploaded (March 2018). In absence of data on server, the main purpose of digitisation to facilitate online access to digitised data was defeated.
- The Government of Bihar illegally made provision of collection of service charge in the Bihar Registration Rules 2008 as Section 69 of the Registration Act did not authorise levy and collection of service charge.

Other observations of Compliance Audit

5.4 Short realisation of Stamp duty and Registration fee due to undervaluation of property

AIG Muzaffarpur overlooked factual position of land while finalising case referred by SR Chakia which resulted in short levy of SD and RF of ₹ 4.32 crore. Six Registering Authorities failed to detect undervaluation of properties which resulted in short levy of SD and RF of ₹ 3.96 crore.

As per the Indian Stamp Act, 1899, the consideration/market value of the property and all other facts and circumstances affecting the chargeability of duty is to be fully and truly disclosed in the instrument. Further, as per notifications issued (February and July 2013) by Registration, Excise and Prohibition (Registration) Department, Government of Bihar, stamp duty and registration fee shall be leviable on the market value of the property based on Minimum Value Register (MVR) and in case of lease for period of 30 years, rate of stamp duty shall be six or eight¹⁵ *per cent* and registration fee shall be two *per cent* of 50 *per cent* of value of lease amount.

- During scrutiny of instruments executed during April 2012 to November 2017 in the office of the Sub Registrar (SR) Chakia, Audit observed (January 2018) that an instrument for sale of land was presented for registration in July 2016. Subsequently, the SR got the spot verification conducted (15 July 2016) and as per the said verification report the land was falling under commercial category and therefore the SR referred (23 July 2016) the case under section 47-A of the IS Act, 1899 to Assistant Inspector General (AIG), Muzaffarpur.

The AIG, Muzaffarpur again got the spot verification conducted (December 2016) and on the basis of said verification report finalised (December 2016) the case treating part of the land as residential and remaining part as developing and accordingly the document was registered by the SR in December 2016. However, the AIG himself mentioned in his order that the seller used the land for establishment of plant and machinery for road construction activities (a commercial activity). Further, audit examination of another instrument for sale of land by the same seller and pertaining to same premises involving same purchaser (registered in January 2017) revealed that the land was situated on National Highway (NH) and hence treated under commercial category. As the land of both instruments was under single boundary and having same seller and purchaser the entire land should have been treated under commercial category situated on NH. Thus, it was evident that the land was splitted with a view to misclassify the land and avoid higher stamp duty. The SR while registering the document did not detect the splitting of the land.

Audit also conducted joint physical verification with SR Chakia in January 2019 which confirmed category of the land as commercial. Audit also got confirmation from concerned land authority that there was no change in land use before sale of land. Thus, due to non-consideration of the available physical facts, the

¹⁵ In municipal area apart from stamp duty, an additional stamp duty at the rate of two *per cent* of valuation of property is also applicable thus making the effective rate to eight *per cent*.

AIG erroneously categorised the land as residential and developing instead of commercial category while finalising the referred case. Thus, misclassification of land led to undervaluation by ₹ 53.98 crore and short levy of stamp duty and registration fee of ₹ 4.32 crore¹⁶.

In reply, the Department stated (January 2019) that instructions was issued to District sub registrar, East Champaran to file an appeal against the order of the AIG before Commissioner, Tirhut Division, Muzaffarpur. Thereafter, the SR Chakia filed (12 March 2019) an appeal before Commissioner against the order of the AIG which was pending for disposal (September 2019).

Recommendation: The Department may take immediate action against the concerned AIG for his arbitrary decision/order which hampered the prospect of revenue.

- Audit observed (between May 2017 and January 2018) during scrutiny of instruments executed during May 2015 and November 2017 in six District Sub Registrar/ Sub Registrar offices¹⁷ that in 11 instruments (eight sale deeds, two lease deeds and one gift deed) the concerned district sub registrar/sub registrar (DSR/SR) either did not detect splitting of land or applied incorrect rate of stamp duty and registration fee. In three cases of sale deeds, the concerned DSR did not detect splitting and subsequent misclassification of land as the bigger portion was registered earlier showing them un-connected from national highway/principal road and thereafter registering smaller portion adjacent to bigger portion showing them situated on national highway/principal road. In remaining five cases of sale deeds, the concerned DSR did not consider actual spot verification report, though it was mentioned in the documents approved by the DSRs themselves. In two cases of lease deeds the concerned DSR did not detect undervaluation/misclassification of lease deeds for application of correct rate of stamp duty and registration fee. Similarly, in one case of gift deed of land the DSR did not consider the spot verification report containing nature of structure situated on land without recording any reasons. These irregularities resulted in undervaluation of property and consequent short levy of stamp duty and registration fee of ₹ 3.96 crore as detailed in **Annexure-3**.

In reply, the Department stated (January 2019) that in three cases an amount of ₹ 7.08 lakh was realised, two cases were impounded and referred to the concerned District Collector to realise the deficit stamp duty, notices of demand were issued in two cases, in one case the concerned party filed appeal against order of AIG, one case was pending at AIG level and in remaining cases the AIG stated (June 2019) that there were no loss of revenue while finalising the cases. Reply of the

¹⁶

(₹ in crore)

Area of land (in decimal)	Actual value of the land (at the rate of ₹ four lakh per decimal)	Value of land finalised by AIG (42 decimal at the rate of ₹ 55,000 per decimal, 343 decimal at the rate of ₹ 36,000 per decimal and 1065 decimal at the rate of ₹ 24,000 per decimal)	Leviable stamp duty (at the rate of six per cent and registration fee (at the rate of two per cent)	Stamp duty and registration fee levied	Short levy of stamp duty and registration fee
1,450	58.00	4.02	4.64	0.32	4.32

¹⁷ Araria, Bhojpur, Danapur, Gaya, Purnea and Sasaram

AIG is not acceptable as in instant cases both purchaser and seller were involved in commercial activities and the land was surrounded by commercial entities.

5.5 Government revenue not realised from the finalised referred cases

Failure of the seven Registering Officers to institute revenue recovery certificate cases in 155 cases for recovery of differential stamp duty led to non-realisation of Government revenue amounting to ₹ 2.02 crore.

Section 48 of the Indian Stamp (IS) Act, 1899 provides that all stamp duties, penalties required to be paid may be recovered by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force, for the recovery of arrears of land revenue. Further, as per instruction issued (January 2007) by the Secretary-cum-Inspector General of Registration to the Collector-cum-District Registrar/DSR, if the parties do not pay the stamp duty in finalised referred cases, a notice may be served to deposit the stamp duty within 30 days and list of their names should be published in the local newspaper and after 30 days revenue recovery certificate cases would be instituted under the Public Demand Recovery Act, 1914 (PDR Act).

During scrutiny of register of referred cases and information made available by seven DSRs/SRs¹⁸ for the period April 2012 to June 2017, Audit observed (between May and November 2017) that 361 cases, referred to the four AIGs,¹⁹ were finalised by them under Section 47(A) of the IS Act and sent back to concerned DSR/SR during April 2012 to June 2017. Further, on examination of all these cases, Audit observed that the AIGs determined an additional sum of ₹ 2.02 crore as payable stamp duty that was short levied in 155 cases finalised by them and sent these cases to the DSRs/SRs concerned for realisation of differential stamp duty. However, the DSRs/SRs neither realised the differential stamp duty nor filed the revenue recovery certificate, even after elapse of 60 days. It also indicates absence of monitoring mechanism to ensure realisation of differential amount of stamp duty from finalised referred cases.

In reply, the Department stated (January 2019) that ₹ 1.58 crore had since been recovered in 190 cases and certificate cases had been instituted in 105 cases for ₹ 1.84 crore.

5.6 Short realisation of Stamp duty and Registration fee on Mining lease of stone

Failure of the two Registering Officers to detect misclassification of mining lease of stone resulted in short realisation of stamp duty and registration fee of ₹ 1.91 crore.

Article 35 (b) of Schedule-1 of the Indian Stamp (IS) Act, 1899 provides that where the lease is granted for a fine or premium or for money advanced and where no rent is reserved, the stamp duty at the rate of six *per cent* and registration fee at the rate

¹⁸ Aurangabad, Bhojpur, Gaya, Paroo (Muzaffarpur), Saharsa, Sasaram and Simari Bhakhtiyarpur (Saharsa)

¹⁹ Magadh (Gaya), Patna, Tirhut (Muzaffarpur) and Koshi (Saharsa)

of two per cent on premium value would be payable treating them as conveyance. Further, Article 35 (a) of Schedule-I of the Act *ibid* stipulates rate of stamp duty *inter alia* in case of lease, for a term of not less than one year but not exceeding ten years, where rent is fixed and no premium is paid or delivered as conveyance on five per cent of the market value of the property based on Minimum Value Register.

Audit observed (between July and September 2017) during test-check of lease deeds in two District Sub-Registrar offices (Aurangabad and Banka) executed during the period January 2015 to July 2017 that two lease agreements of stone quarry were registered for a period of five years between April 2016 and March 2017 for an amount of ₹ 25.27 crore. The leviable stamp duty and registration fee in these cases was ₹ 1.52 crore and ₹ 50.54 lakh respectively as per the above schedule. However, the DSR Aurangabad levied stamp duty and registration fee on premium amount treating it as rent while DSR Banka levied stamp duty and registration fee on total land cost treating it as rent instead of premium amount and accordingly levied stamp duty and registration fee of ₹ 8.10 lakh and ₹ 2.70 lakh respectively. These misclassification of leases resulted in short realisation of stamp duty and registration fee of ₹ 1.91 crore²⁰.

After we pointed this out, DSR Aurangabad realised (May 2019) ₹ 1.63 crore and DSR Banka issued (December 2018) notice of demand for ₹ 29.03 lakh. Report on recovery from DSR, Banka was still awaited (September 2019).

The errors/omissions pointed out are on the basis of a test audit. The Department/Government may, therefore, undertake a thorough review of all units to check whether similar errors/omissions have taken place elsewhere and, if so, to rectify them; and to put a system in place that would prevent such errors/omissions.

²⁰

(₹ in lakh)

Sl No.	Name of District Sub Registrar	Premium amount	Stamp Duty			Registration Fee			Total short realisation (A+B)
			Leviable	Paid	Short realisation (A)	Leviable	Paid	Short realisation (B)	
1	Aurangabad	2,151.00	129.06	6.45	122.61	43.02	2.15	40.87	163.48
2	Banka	376.00	22.56	1.65	20.91	7.52	0.55	6.97	27.88
Total			151.62	8.10	143.52	50.54	2.70	47.84	191.36