PART-I

Performance Audit on Land Management in Tribal Areas

TRIBAL DEVELOPMENT AND LAND & LAND REFORMS AND REFUGEE RELIEF & REHABILITATION DEPARTMENTS

Performance Audit on Land Management in Tribal Areas

Snapshot

As per Census 2011, tribal population of West Bengal constituted 5.08 *per cent* of the total tribal population of the country, while the Scheduled Tribes (STs) population in West Bengal constituted 5.80 *per cent* of the total population of the State of West Bengal. Of the ST population in West Bengal, ethnic tribes namely, *Toto* (Jalpaiguri district), *Birhor* (Purulia) and *Lodha* (Paschim Medinipur), were notified as Particularly Vulnerable Tribal Groups (PVTGs), considering backwardness, across different development indicators.

The Tribal Development (TD) Department, (created in March 2014 by bifurcating the Backward Classes Welfare Department), acts as the nodal authority for tribal welfare related activities, in the State. The TD Department is assisted by one Directorate at State level and different district level functionaries, who are designated as Revenue Officers (ROs) in terms of West Bengal Land Reforms (WBLR) Act. The Directorate of Land Records and Surveys (DLRS), West Bengal, under the Land & Land Reforms and Refugee Relief & Rehabilitation Department (L&LR and RR&R) looks after the land reforms administration in each district. A Performance Audit covering the financial years (FYs) 2017-18 to 2021-22, was undertaken to assess the various aspects related to land management in tribal areas.

Audit observed that there were no notified tribal areas in the State of West Bengal. The existent system of identification of tribal population and their land holdings for flagging in land records was not foolproof, in the test-checked districts, as no topical survey was conducted by the Land Revenue authorities and identification of tribal land was being made based on the surname, and that too, without any comprehensive surname list.

(Paragraph 1.2)

Transfers of tribal holdings, by the tribal population, to non-tribal buyers, were regulated under Section 14 (C) of the WBLR Act. However, Audit noticed that there was no uniformity in dealing with the land transfer applications and the codal provisions were interpreted according to the wisdom of the individual PO-*cum*-DWOs, leading to an asymmetric approach in interpretation.

(Paragraphs 1.3.1.1 & 1.3.2.5)

The WBLR Act does not contain provisions regarding transfers of tribal holdings between the tribal population. Therefore, cases of transfers/ sale between tribal sellers and tribal buyers were not routed through the PO-*cum*-DWOs, leading to the extent of checking being diluted.

(Paragraph 1.3.2.1)

In the test-checked districts, there were instances of tribal lands being alienated through by-passing of the permission of the Revenue Officer as well as improper assessment of the Fair Market value of tribal lands by the Revenue officers, resulting in the tribal land owners receiving sale proceeds that were lower than the assessed fair market value.

(Paragraphs 1.3.3, 1.3.4.2 & 1.3.4.3)

Instances were noticed where Government failed to protect interests of the tribal people in case of acquisition of land in mineral rich areas by Eastern Coalfields Limited (ECL)/ Bharat Coking Coal Limited (BCCL) through inaction and non-involvement of district level functionaries (*i.e.*, ROs, Collectors of the respective districts, *etc*.). This resulted in short receipt of compensation by tribal land owners amounting to ₹ 15.25 crore during FYs 2017-18 to 2021-22 in 66 test-checked cases and deficiencies in rehabilitation and resettlement provided by these ECL/ BCCL offices to ST people whose lands were acquired. There was difference in price of land paid by ECL for vested land and land purchased from the STs. Audit found that for an acre of land, tribals were compensated at much lower rates ranging between ₹ 2.50 lakh and ₹ 12.63 lakh *vis-à-vis* the compensation allowed to the Government ranging between ₹ 19.77 lakh and ₹ 125.00 lakh. State functionaries were not involved in the preparation process of Rehabilitation Action Plan (RAP) despite provisions in the policy of these entities.

(Paragraph 1.4)

Further, deficiencies in implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Forest Rights Act, 2006) came to notice during audit as distribution of record of rights to the tribal dwellers of forest land was slow. It was noticed that in Paschim Medinipur and Jhargram districts, out of total 36,056 cases of rejection for granting record of rights, 52 *per cent* (18,894 cases) cases accounted for insufficient documentation or evidence of residence; while 24 *per cent* (8,464 cases) for not being forest land and rest 24 *per cent* (8,606 cases) for mulitiple applications against same piece of land.

(Paragraphs 1.5.1 & 1.5.2)

No habitat rights to Particularly Vulnerable Tribal Groups (PVTGs) were granted in contravention of Forest Rights Act, 2006. Further, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules 2007 stipulated that the State Government was to ensure that forest dwelling scheduled tribes and other traditional forest dwellers were extended benefits accruing from all government schemes including those relating to land improvement, land productivity, basic amenities and other livelihood measures. No reply, regarding the status on this account, was received from West Bengal Tribal Development Co-operative Corporation Limited (the nodal authority for implementation of Forest Rights Act in the State).

(Paragraphs 1.5.7 & 1.5.8)

1.1 Introduction

According to the Constitution (Scheduled Tribes) Order, 1950, promulgated under Article 342 of the Constitution of India, as amended till date, 40 Ethnic Tribes have been notified as Scheduled Tribes (STs), in West Bengal[1]. As per Census 2011, the ST population in West Bengal constituted 5.80 *per cent*[2] of the total population of the State, while the Tribal population of West Bengal constituted 5.08 *per cent* of the total tribal population of the country. Among the ethnic tribes of West Bengal, Toto (Jalpaiguri district), Birhor (Purulia) and Lodha (Paschim Medinipur), were notified as Particularly Vulnerable Tribal Groups (PVTGs), in terms of backwardness, across different development

[1] *Source: Annual Administrative Report of the Tribal Development Department 2017-18*
[2] *52,96,953 out of 9,12,76,115*

indicators. The ST population was highest in the Paschim Medinipur district (8.80 lakh), followed by Purulia (5.41 lakh), Bardhaman (4.89 lakh) and Bankura (3.69 lakh). There is, however, no Scheduled tribal area in West Bengal.

Convergence of Acts relating to management of tribal land, including issue of alienation: Alienation of land means dispossession of land of an individual or community, following transfer or change of ownership, title or possession. Section 14, Chapter IIA, of the West Bengal Land Reforms (WBLR) Act, 1955, is the fundamental legislation dealing with land alienation and restoration of alienated lands of tribal communities[3] in West Bengal, including various restrictions and stipulated ways of transfer of land by an ST *raiyat*[4].

The Project Officer-*cum*-District Welfare Officer (PO-*cum*-DWO), Backward Classes Welfare, of each district, has been designated as the 'Revenue Officer[5]' (RO) of the district, under the WBLR Act, 1955.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [Forest Rights Act (FRA), 2006], seeks to recognize and vest the forest rights and occupation, in forest land, in forest dwelling STs and Other Traditional Forest Dwellers (OTFDs), who have been residing in such forests for generations, without any recorded rights. It provides for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting, in regard to forest land. Out of the 23 districts of the State, 13 districts[6] were identified where there was scope of implementation of the provisions of FRA, 2006. The rules of business of the Tribal Development (TD) Department encompass all matters pertaining to the FRA and forest produce.

Reflection in land records: The Directorate of Land Records and Surveys[7] (DLRS), West Bengal, under the L&LR and RR&R Department is responsible

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[3] *Section 14E of Chapter IIA of the WBLR Act, 1955, inter-alia stipulates the powers of Revenue Officer to set aside improper transfers, by a ST raiyat, in contravention of the provisions of Section 14C, or if the permission for the transfer is found to have been obtained by misrepresentation or fraud. When the Revenue Officer has passed any such order, he shall restore the transferred plot of land or part thereof, to the transferor or his successor-in-interest. The word "restoration" shall mean restoration of the plot of land or part thereof, which has been transferred by a raiyat belonging to a Scheduled Tribe and include an equivalent quantum of plot of land or part thereof, of the same character, within the near vicinity of the transferred plot of land or part thereof.*

[4] *'Raiyat' means a person or institution holding land for any purpose.*

[5] *As per the WBLR Act, 1955, substantial powers, regarding the alienation and restoration of Tribal land, are vested in the "Revenue Officers". The matter of alienation of tribal land is specifically dealt with in the Backward Classes Welfare Department and the Tribal Development Department. The Officers of the Department i.e., PO-cum-DWOs/ Addl. DWOs/ BCWOs, in the districts, act as the "Revenue Officer" and discharge their duties for the purposes of implementing the provisions of Chapter IIA, Section 14 of the WBLR Act, in relation to transfer of tribal lands. Moreover, these Departments are also entrusted with the work of enforcement of restoration of alienated lands, to the Scheduled Tribes, under the extant Rules.*

[6] *Purulia, Bankura, Paschim Medinipur, Jhargram, Jalpaiguri, Alipurduar, Bardhaman, Cooch Behar, Hooghly, Birbhum, Darjeeling, Kalimpong and Murshidabad.*

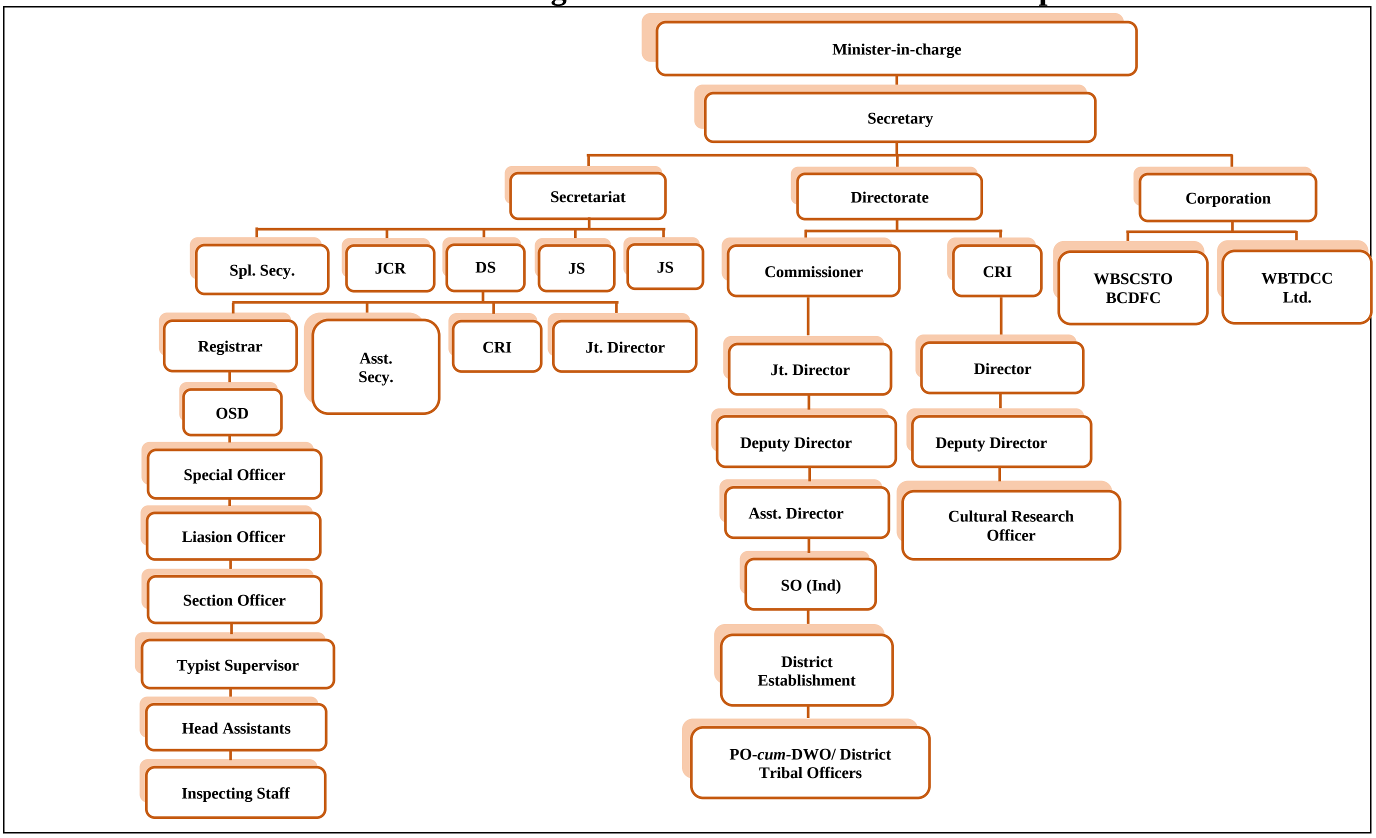
[7] *The DLRS and Joint Land Reforms Commissioner, WB, implements the integrated set-up of land reforms administration, at different administrative levels, in each district, and looks after the work relating to the set-up. He functions under the overall control, supervision and guidance of the Board of Revenue, in general, and the Land & Land Reforms Commissioner, in particular. He is also responsible for implementation of land reforms measures in the State. The DLRS, West Bengal, is authorised to issue technical instructions, subject to guidelines, if any, that may be issued by the Board of Revenue, from time to time, to be followed in technical matters, including preparation of maps, land surveys etc. The DLRS may issue such detailed instructions, as are not inconsistent with the provisions of the Act, or with the provisions of any act or Rules, or with any order or notification of the Government, or the Board of Revenue, for the time being, in force.*

for land reforms administration in each district. It flags the relevant plot numbers held by ST community as 'Section 14C applicable' in its database of land records. During the mutation process in "*Banglarbhumi*" (online portal of Land and Land Reforms Department to help citizens access land details and view all land related transactions in the State), the memo number of the permission order granted by the RO of the district is recorded. As per the records made available to audit, the L & LR and RR&R Department comes into the picture during the process of verification of land details, when it is to be ascertained if a particular plot of land belongs to a person from a Scheduled Tribe, and the mutation part, after the sale/ mortgage/ gift/ transfer deed, is made in the Registration offices, under the Directorate of Registration and Stamp Duty.

1.1.1 Organizational Structure

The Tribal Development (TD) Department, which had been created (March 2014) by bifurcating the Backward Classes Welfare Department, is assisted by the Directorate of Tribal Development (headed by the Commissioner of TD Directorate) and acts as the nodal authority for tribal welfare related activities, in the State. At the district level, the functions are managed by the PO-*cum*-DWO/ District Welfare Officer. The West Bengal Tribal Development and Co-operative Corporation Ltd. (WBTDCC), under the administrative control of the Department, was the nodal office for implementation of the Forest Rights Act, 2006.

Chart 1.1: Organisational Structure of the TD Department



Source: Data sourced from TD Department; Note: ***CRI:*** *Cultural Research Institute,* ***ACR:*** *Assistant Commissioner for Reservation,* ***JCR:*** *Joint Commissioner for Reservation;* ***JS:*** *Joint Secretary,* ***DS:*** *Deputy Secretary,* ***OSD:*** *Officer on Special Duty,* ***WBSCSTOBCDFC:*** *West Bengal Scheduled Castes, Scheduled Tribes and Other Backward Classes Development and Finance Corporation,* ***WBTDCC:*** *West Bengal Tribal Development Cooperative Commission and* ***SO:*** *Section Officer*

1.1.2 Audit Objectives

The audit objectives were to examine whether:

- an effective and efficient system, to identify tribal persons and tribal specified areas, in the State of West Bengal, was in existence.
- the procedures of alienation and restoration of land, belonging to the scheduled tribes, had been properly followed and modified, as required, in a timely manner, to protect the rights of the ST population.
- there were adequate internal controls in place, to monitor the management of tribal land.

1.1.3 Audit Criteria

Audit assessed various aspects of compliance, to the following Acts and Rules:

- West Bengal Land Reforms Act, 1955
- The Land Acquisition Act, 1894
- West Bengal LR Manual
- Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, and the Rules framed thereunder
- West Bengal Land Reforms Rules, 1965
- The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013
- Orders and notifications, issued from time to time, by the GoI and GoWB

In addition, Audit also examined the adequacy of land value/ compensation paid, and rehabilitation measures taken in regard to tribal lands acquired by the Eastern Coalfields Limited (ECL) and Bharat Coking Coal Limited, (BCCL) (both being subsidiaries of Coal India Limited), with regard to the Rehabilitation and Resettlement (R&R) policy/ schemes of Coal India Limited.

1.1.4 Audit Scope and methodology

Audit covered a period of five years, from FY 2017-18 to FY 2021-22. At the State level, records of the Tribal Development Department, its Directorate and the West Bengal Tribal Development and Co-operative Corporation Ltd. (WBTDCC), were scrutinised. Six districts, *viz*. Paschim Bardhaman, Birbhum, Paschim Medinipur, Jhargram, Jalpaiguri and Purulia, were selected, based on stratified sampling on the ST population, as per Census 2011. In these six test-checked districts, relevant records of PO-*cum*-DWOs, Divisional Forest Officers (DFOs), District Land and Land Reforms Officers (DL&LROs), Additional District Sub-Registrars (ADSRs) and Land Acquisition Officers (LAOs), were scrutinized. In addition, records of three Eastern Coalfields Limited offices[8] (ECL) and one Bharat Coking Coal Limited (BCCL) office[9], in the Paschim Bardhaman district, as well as one ECL office[10] in the Purulia district, were also checked, as these companies had acquired land from people belonging to ST communities, during the period covered by Audit.

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[8] *Salanpur Area, Sripur Area and Kunustoria Area*
[9] *Barakar Area*
[10] *Parbelia Area*

An entry conference was held in January 2023, with the Tribal Development Department and the Land & Land Reforms department, wherein the audit objectives, audit criteria, sampling and methodology were discussed. Responses received from various levels of functionaries, against audit communications, were also factored in, while arriving at the audit findings. Further, replies as received (May 2023) from the Land & Land Reforms and Refugee Relief & Rehabilitation Department have been suitably factored in the Report.

Audit Findings

The Performance Audit revealed various systemic and compliance deficiencies, as well as weaknesses in the internal control mechanism, in the management of Tribal Lands, in the selected districts. These have been discussed in the following paragraphs.

1.2 Absence of a foolproof system for identifying the tribal population and its land holdings

As already mentioned in *Paragraph 1.1* of this Report, there is no scheduled[11] tribal area in West Bengal. However, the same may be viewed in conjunction with the following facts:

(i) In the Directorate of Land Records and Surveys, Kolkata, no system of identification of tribal population, by the LR authorities, was in place. The test-checked DL & LRO offices could not furnish any data on the block-wise tribal population, for the period under Audit. The offices also stated that block-wise land holding areas could not be segregated for the tribal population and that no records were maintained by them, in respect of the number of block-wise landless STs.

(ii) No surveys had been conducted by the LR authorities, in the selected districts, to identify the tribal land. Tribal land was being identified on the basis of the surnames of the persons whose land was to be mutated and flagged under Section 14C[12]. In the absence of an exhaustive list of surnames for determining tribal identity, prescribed by the TD Department, the comprehensiveness of the process of identification of STs, and their land holdings, was doubtful and incomplete. Thus, chances of tribal land remaining unflagged by the L&LR and RR&R Department could not be ruled out. Absence of an exhaustive database of the tribal population and their land holdings, led to non-protection of ST land rights, as highlighted later in this report (*vide Paragraphs 1.4.2 and 1.4.3)*.

(iii) In cases involving alienation of land from tribal communities (*i.e.* transfer of land from tribals to non-tribals) it was essential that specific guidance was in place for the Registering Authorities to ensure that the price of land actually paid to tribals, on sale of their landholdings, was not lower than

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[11] As per the Constitution of India, the President of India, may, by order, declare an area to be a Scheduled Area.

[12] Section 14C of Chapter II A the WBLR Act, 1955, deals with the various modes of transfer of land, by Scheduled Tribe communities, which includes sale or gift to the Government, for public or charitable purpose and with the ST persons- complete usufructuary mortgage for a period not exceeding seven years, sale, gift, will or exchange with another ST person. It is also provided that, any such ST raiyat may, with the previous permission, in writing, of the ***Revenue Officer,*** *transfer, by sale, his plot of land, or any part thereof, to a person not belonging to any Scheduled Tribe, on fulfillment of certain conditions.*

the prevalent market rates of land in the vicinity. Audit observed that in absence of such guidance, apart from the scanned copies of deeds, no tribal-wise details were maintained in relation to price/ consideration of land actually paid with reference to the market value, in the Registering offices. Audit also observed that no comments/ observations had been made by the Registering Authorities in cases involving price/ consideration of land actually paid being lower than market value. This meant that there was no mechanism to safeguard the financial interest of the tribals.

The ADSR offices stated that there was no role of the Registering Authorities, in cases where the price of land payable was found/ discovered to be lower than the prevalent market rates of land in the vicinity.

In reply, the L&LR and RR&R Department stated (May 2023) that identification of tribal population on the basis of surname of the *raiyats* and flagging their lands in the system of mutation, has been done in most of the cases and the work in respect of the left-out cases was going on. This was not exhaustive but covered a high percentage of the lands of tribal people. A holistic and comprehensive survey may not be feasible for identification of lands of each of the persons belonging to Scheduled Tribe. Moreover, no area in West Bengal is Scheduled area in terms of the Fifth Schedule of the Constitution.

The reply though did not enclose any details regarding actual identification of tribal population based on surname of the *raiyats* and flagging their lands in the system of mutation & did not offer any reason as to why a holistic and comprehensive survey was not feasible. Hence, Audit was not able to gain assurance regarding the authenticity of the furnished reply. Further, the Departmental reply did not touch upon the issue of protection of financial interest of the tribal population.

Recommendation:

1.1 State Government may consider putting in place a system of identification of the tribal population and its land holdings, by way of extensive surveys.

1.3 Alienation of land by the Scheduled Tribes under Section 14C

As per Section 14C of Chapter IIA of the West Bengal Land Reforms Act, 1955, a *raiyat*, belonging to ST, may transfer his holding or part thereof, *inter alia*, by sale or exchange, in favour of any person belonging to an ST. It was provided that any such *raiyat* may, with the previous written permission of the Revenue Officer (PO-*cum*-DWO), transfer, by sale, his holding, or any part thereof, to a non-ST person. It was further provided that no such permission shall be granted by the RO, unless he is satisfied that no purchaser, belonging to ST, is willing to pay the fair market price of the holding or any part thereof, and that the proposed sale is intended to be made for one or more of the following purposes, namely:

a. for the improvement of any part of the holding,

b. for investment, or

c. for such other purposes, as may be prescribed.

1.3.1 Transfer of land by ST raiyats

1.3.1.1 Absence of specific conditions for sale/ transfer of land by STs, resulted in different decisions by different PO-cum-DWOs

As sub-section (e) of Section 14C stipulated that sale may be permitted by the RO "for such other purposes as may be prescribed", it was imperative that the Government prescribed the admissible purposes for granting permissions. Government, however, had not specified the same, as of date (March 2023). In the test-checked districts, it was noticed that, out of the total 191 permissions, granted during 2017-22, in 106 cases (55 *per cent*), transfer of land, from the ST *raiyats* belonging to non-tribal buyers, was permitted, for other purposes excluding prescribed ones by invoking sub-section (e), as detailed in **Table 1.1**.

Table 1.1: Purposes for which permissions were granted under Section 14C during 2017-22

Sl. No.	District	No. of permissions granted (2017-22)	Permissions granted for						Remarks
			Buying a new piece of land	Buying a new house/ flat	Construction/ repair of dwelling houses	Medical Treatment	Daughter's marriage	Other purposes	
1	Paschim Bardhaman	151	12	03	15	17	19	85	Out of the 85 permissions granted for "Other purposes", 51 permissions had been issued for transfer of tribal land to ECL and BCCL, for mining activities.
2	Paschim Medinipur	10	0	0	0	0	0	10	Permissions were granted only when there had been a prior exchange of land, from the non-tribal buyer to the tribal *raiyat*.
3	Jhargram	3	0	0	1	0	0	2	--
4	Birbhum	12	5	1	5	1	0	0	Most of the applicants cited a host of reasons for sale of their land, sometimes citing up to three reasons.
5	Purulia	0	-	-	-	-	-	-	No permissions were granted during 2017-22
6	Jalpaiguri	15	2	3	1	0	0	9	For other purposes, applicants cited reasons such as old age/ Fixed deposit/ barren land sale/ to return loan amount/ business purpose *etc.*
Total		**191**	**19**	**07**	**22**	**18**	**19**	**106**	

Source: Data furnished by PO-cum-DWO of respective districts

Scrutiny also showed variance in the approaches adopted by different ROs. In Paschim Bardhaman, Birbhum, Jalpaiguri and Jhargram, permissions were granted not only for purposes like buying a new piece of land or house (investment) and construction/ repair of their dwelling houses (improvement) but also for purposes like medical treatment, daughter's marriage, urgent work *etc.* It was further observed that the PO-*cum*-DWOs of these districts did not call for any documents in support of investments, or improvements of any part of the holdings to be made by these tribal persons, while granting permissions. In Paschim Medinipur, however, permissions had been given only for the purpose of investment and on six occasions, permissions had been denied on the ground that they were sought for daughter's marriage, treatment, business and purchase of land.

Non-issuance of clear instructions was not in consonance with the spirit of Section 14C and the extant Act, therefore, could not be a deterrent against alienation of tribal land, in favour of non-tribal purchasers.

On this being pointed out, PO-*cum*-DWOs, Birbhum and Paschim Bardhaman, confirmed (January 2023) non-availability of any clear directions from the higher authorities, in regard to the applicability of the phrase "for such other purposes as may be prescribed". PO-*cum*-DWO, Birbhum, further stated that the same would be brought to the notice of the higher authorities, for directions. PO-*cum*-DWOs, of the other test-checked districts, had not furnished any reply (September 2024).

1.3.1.2 Absence of guidelines for averting full land alienation

It was observed that there was no system of pre-permission check, in place, either for the PO-*cum*-DWOs, or for the Land Authorities, who were the custodians of land records and where the final mutations took place, to ensure, before granting permission under Section 14C, that the tribal person alienating (through exchange/ gift/ mortgage) land did not become completely landless in the process.

A good practice was observed in Paschim Medinipur, where the PO-*cum*-DWO granted permission for alienation of land, under Section 14C, on the pre-condition that the non-tribal person (intended buyer) transferred another piece of land, of at least the same value, in favour of the tribal person (intended seller). In the other five test-checked districts, there was no system in place to ensure this, in the absence of protective regulations.

However, no such protection existed in the cases where sale/ exchange/ gift/ mortgage was made between tribal sellers and tribal buyers, which, as per the position of law, were not routed through the PO-*cum*-DWO. In the absence of any protective regulations, the intended tribal sellers were exposed to the risk of becoming landless.

Audit observed, in Birbhum, that, out of 12 permissions issued during 2017-22, in six cases, the tribal sellers had become entirely landless, in their respective *mouzas*[13], due to sale of their small land-holdings to non-tribals.

On this being pointed out in audit, the PO-*cum*-DWO, Birbhum, stated (January 2023) that: (i) in the absence of any systemic checks having been prescribed, care was being taken to avert such cases of landlessness, while conducting hearings, on a case-to-case basis and (ii) since cases of tribal to tribal land transfer were not routed through the RO, chances of the seller becoming landless could not be identified and prevented by the RO. The PO-*cum*-DWO, Paschim Bardhaman, also clarified (February 2023) that no such guidelines, for averting full land alienation, had been prescribed by Government.

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[13] *'Mouza' is a geographical expression of a unit of landmass for revenue settlement and revenue collection.*

In reply, the L&LR and RR&R Department stated (May 2023) that the matter of assessment of feasibility of guidelines for averting full land alienation has been referred to the Tribal Development Department and it is under their examination.

Recommendation:

> ***1.2 State Government may assess the feasibility of putting in place guidelines for averting full land alienation among tribals.***

1.3.2 Lack of control on transfer of land among tribal individuals

1.3.2.1 Exploitation of marginalized tribals by affluent tribals

Scrutiny of case records and files relating to mutation (change in Record of Rights), in the office of the Block Land & Land Reforms Officer (BL&LRO), Neturia, in Purulia district, revealed that a permission order had been issued, in February 2016, by the PO-*cum*-DWO, Purulia, to an individual A[14], belonging to the ST community, for sale of 19.3375 acres of land, to a private limited company, namely M/ s Shakambhari Ispat and Power Ltd. (Company).

Case records/ files, related to the aforesaid permission order, were not furnished to Audit, by the PO-*cum*-DWO, Purulia, though called for. Subsequently, out of 19.3375 acres of the above-mentioned land, 11 sale deeds, involving 9.432 acres, were scrutinized by Audit, in ADSR, Raghunathpur and the District Registrar, Purulia. Detailed scrutiny of the 11 purchase deeds and the corresponding sale deeds, revealed that, at first, land had been bought from tribals, on several occasions (during 2012-14), by the tribal individual 'A'. Subsequently, the entire parcel of land had been sold to the Company, against a single permission order, issued in February 2016.

The recitals of the deeds and scrutiny of connected records showed:

- Since these transactions of sale of lands were done within the ST community, such cases, where the sale/ exchange/ gift/ mortgage had been made between tribals to tribals, had not been routed through the PO-*cum*-DWO, as per the position of law.
- There was no mechanism, in place, to ensure payment of fair market price, to the ST seller, by an ST buyer. In the 11 test-checked cases, tribal land had been transferred, in favour of individual A (ST buyer), at a value lower than the assessed market value determined by the ADSR, Raghunathpur (as per the registered deeds), under the Directorate of Registration and Stamp Revenue. The *raiyats* belonging to the ST community were, thereby, wrongfully deprived of ₹ 8.40 lakh, while transferring lands to the ST buyer, at prices below the assessed market rate (details shown in ***Appendix 1.1***). Had the cases been routed through the Revenue Officer, and a system of cross-verification of the data/ information, available with the Registration Directorate been in place, due receipt of the "fair market value" of land, to the tribal seller could have been ensured. Had there been such a system in place, such short-payments, to the tribal sellers, could have been avoided**.**

Going by the spirit of Section 14C of the WBLR Act, 1955, provisions have been made in this section to safeguard the tribal *raiyats*, against any kind of land

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[14] Shri BXXXu Baski, District: Paschim Bardhaman, PS: Jamuria

alienation, by force, greed, inducement, deceit *etc*. However, exploitation of small marginalized tribals, at the hands of affluent and influential tribal individuals, cannot be ruled out, in these types of intra-community transactions.

On this being pointed out in audit, PO-*cum*-DWO, Purulia, stated (January 2023) that the matter was out of his knowledge, as no permission was required, during transfer of land from one tribal *raiyat*, to another tribal *raiyat*.

Recommendation:

1.3 ***In view of instances of exploitation of marginalized tribals by affluent tribals, State Government may consider introducing a suitable mechanism to ensure that transfer of land from one tribal raiyat, to another tribal raiyat, is permitted with due authorisation.***

1.4 ***State Government should develop effective checks and validation controls in e-nathikaran/ banglarbhumi portals in cases involving alienation of land from tribal communities.***

1.3.2.2 Land was eventually transferred to a private company, without payment of fair prices to the original tribal land owners, due to lack of checks exercised by the PO-cum-DWO

Scrutiny of sale deeds, registered in the ADSR, Raghunathpur, in the Purulia district, revealed that several plots of land (total area of 7.855 acres), were bought by a single ST individual (same individual 'A', referred to in *Paragraph 1.3.2.1*), from other tribal people, during 2016 to 2022, resulting in alienation of land from tribals, without any control or checks having been exercised by the concerned authorities. Details of the sale deeds registered are as shown in ***Appendix 1.2***. This entailed a loss of ₹ 21.01 lakh to the original tribal landowners owing to payment being made to them at rates below the fair price.

In this context, it is noteworthy that the same tribal person (individual A) had earlier been involved in purchase of land, from small and marginalized tribals in the area, thereby avoiding the permission of the PO-*cum*-DWO, and had later transferred the whole chunk of land, to a private company *(as discussed in Paragraph 1.3.2.1)*. The land finally ended in the hands of a private company, on the basis of a single permission accorded by the PO-*cum*-DWO of the district. There were no records available to indicate that the concerned PO-*cum*-DWO had assessed, in the instant case, the justifications, merits and *modus-operandi* of accumulation of land, by the tribal person A, by purchasing smaller pieces of land, from other tribal persons. Thus, the PO had failed to exercise such checks, which could have ensured that the selling tribals received fair market value of their lands and used the sale proceeds for "improvement" or "investment" purposes.

On this being pointed out in audit, the PO-*cum*-DWO, Purulia, replied (January 2023) that the matter was out of his knowledge, as no permission was required, during transfer of land, from one tribal *raiyat*, to another tribal *raiyat*.

1.3.2.3 Indirect acquisition of tribal land by Private Company at concessional rate

During scrutiny of Long term settlement (LTS) case records & files maintained in the O/o the DL&LRO, Purulia, Sale Deeds registered in ADSR Raghunathpur & related conversion files maintained in the BL&LRO, Neturia, it was revealed that three number of permission orders were issued by the PO-*cum*-DWO, Purulia to two individuals (married couple) belonging to ST community (Individual A and his wife)[15] for sale of 29.4975 acre of land to Shakambhari Ispat and Power Ltd. (SIPL) in mouza –Radhamadhabpur[16] in Purulia district in February 2016. The whole quntum of land was sold to SIPL in March 2016 and details of sale deeds registered (ADSR Raghunathpur) in favour of SIPL against the respective Permission Orders are shown in the table below:

Table 1.2: Details of acquisition by SIPL

Sl. No.	Permission order/ Date	Name of the seller	Name of the purchaser	Deed No/ Year & (Date of Registration)	Area (Acre)
1	172/ BCWP Dt.12.02.2016	BXXXu Baski	Shakambhari Ispat and Power Ltd. (SIPL)	140300748/ 2016 (17.03.2016) 140300766/ 2016 (21.03.2016) 140300767/ 2016 (21.03.2016)	19.3375
2	260/ BCWP Dt 26.02.2016			140300749/ 2016 (17.03.2016)	4.51
3	261/ BCWP Dt. 26.02.2016	NXXXli Baski; W/o BXXXu Baski		140300739/ 2016 (17.03.2016)	5.65
				Total Area	**29.4975**

Source: Data obtained from office of DL&LRO, Purulia

Firstly, small plots of land were bought from marginalized tribals on several occasions (during 2012-15) by this couple belonging to the ST community. Later the whole parcel of land was sold to SIPL as mentioned earlier in the *Paragraph 1.3.2.1*.

Moreover, the quantum of land held in the name of the tribal individual 'A' & his wife (29.4975 acres) crossed the prescribed land ceiling area[17] prescribed under section 14 M of the WBLR Act, 1955, before it was ultimately sold to SIPL in March 2016. However, the title of land (ROR) was not in their name, nor were any documents found on record regarding the steps taken by the concerned LR authority (DL &LRO Purulia) for vesting of excess of ceiling area.

Further scrutiny of LTS cases and case files related to vesting of excess of ceiling area, under Section 14 Y of the WBLR Act, 1955, in DL&LRO, Purulia, revealed that SIPL had applied for LTS of 72.83 acres of land. Detailed scrutiny revealed that, out of 72.83 acres, the company had purchased 52.53 acres of land, without prior permission of the State Government. The L&LR and RR&R Department, in its communication in April 2018, stated that 52.53 acres of tribal *Raiyati* land (beyond the ceiling area as per Section 14 Y) had been mutated in the name of the company. The company agreed to obtain permission, under section 14Y of the WBLR Act, 1955, in respect of 63.35 acres of land (including 10.82 acres of Govt. vested land apart from those 52.53 acres of tribal *Raiyati* land). Audit observed that the residual 9.48 acres (3.53 acres of tribal *Raiyati*

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[15] *BXXXu Baski & NXXXli Baski; W/o BXXXu Baski)*
[16] *JL no. 117 & in mouza – Madandi, JL no. 120 of Neturia Block*
[17] *24.22 Acres*

land for which requisite permission was not available and 5.95 acres of non-tribal *Raiyati* land), was still to be purchased.

Permission was, therefore, granted under the provisions of Section 14Y of the WBLR Act, 1955, in September 2019, by the L& LR Department, to SIPL, for the acquisition and holding of the 63.35 acres of land, as per the following conditions.

i) LTS of 52.53 acres of land on payment of concessional *Salami*[18], at the rate of two *per cent* of the current market value and the usual annual rent of 0.3 *per cent* of the current market value.

ii) LTS of 10.82 acres of Govt vested land on payment of *Salami*, at the rate of 95 *per cent* of the current market value and the usual annual rent of 0.3 *per cent* of the current market value.

iii) The Company was not to acquire the said land illegally or forcibly, in any circumstances, whatsoever.

SIPL requested (September 2019) the DL&LRO, Purulia, for grant of LTS, for 63.65 acres and the formal proposal for LTS was sent, to the L&LR and RR&R Department, by DL&LRO, Purulia, in December 2019, stating that the market value of 63.35 acres was ₹ 5.64 crore, as per the valuation, assessed by Inspector General, Registrations (IGR) West Bengal.

The possession of the aforesaid land (63.35 acres) was given to the SIPL, in March 2020, as communicated by BL &LRO, Neturia, to the DL&LRO, Purulia.

Further scrutiny of LTS case records revealed that a sanction of LTS of 5.28 acres[19] of land was again accorded to SIPL, in August 2021, the possession of which was given to SIPL in September 2021.

Audit scrutiny and cross-verification of the land schedule attached with the aforementioned two Sanction Orders, with the land schedule attached with the Permission Orders given by the PO-*cum*-DWO, Purulia, revealed that 52.53 acres and 5.28 acres of land included all the plots of tribal land (*i.e.* 29.4975 acres) purchased against three Permission Orders issued by the PO-*cum*-BCW, Purulia. Detailed analysis revealed the following:

a) Even though the titles of the various tribal plots had not been transferred in the couple`s name, nor had the ROR been framed in their favour, permission had been granted, for sale of these plots, by this couple, by the PO-*cum*-DWO, Purulia. The extant rules and regulations, in regard to vesting of excess of ceiling area under Section 14 M of the WBLR Act, 1955, failed to act as deterrent against this mass acquisition of ST land by two tribal individuals (married couple) at the first instance and its consequent sale to a private company.

b) SIPL could purchase and acquire such a large parcel of tribal land (*i.e.* 29.4975 acres), belonging to several number of small and marginalised tribals, from two tribal individuals (couple), against only three permission orders of PO-*cum*-DWO, Purulia. As such, the entire

[18] *The premium payable/ paid in connection with acquisition of land is called as salami*
[19] *2083-GE(M)/3M -40/15 (Pt-I) dt 25.08.2021*

system put in place for safeguarding the interests of tribals, as envisaged under the provisions of Section 14C of the WBLR Act, was defeated.

c) The private company was accorded sanction for LTS of 52.53 acres and 5.28 acres (inclusive of 29.4975 acres of tribal land) of such land, on payment of concessional *Salami*, at the rate of two *per cent* of the current market value, as against the usual *salami* of 95 *per cent*, while the interests of the tribal *raiyats*, who might have been rendered landless, was ignored. Due to this indirect acquisition of land, the company was completely absolved from the responsibility of making any provisions for rehabilitation of Project Affected Persons (PAPs), among whom, the majority were tribals. The LR authorities, that accorded the sanction for LTS, against tribal land, failed to initiate any corrective measures, with regard to ensuring proper compensation.

On the contrary, the private company was allowed to retain the land in excess of ceiling area, through grant of LTS, at much lower rates, as compared to the LTS against original government vested land, as illustrated in **Table 1.3**.

Table 1.3: Difference in rate of land for Government vested land and land purchased from the STs

Sl No.	Details of Land Schedule	Land value received by the marginalised Tribals by sale of land to affluent tribal, *i.e.* finally sold to company (₹ per acre)	Value of land paid by SIPL as salami at the rate of 95 *per cent* to Government on Government vested land (₹ per acre)
1	Mouza - Madandi, Jl No. 120 Neturia Block in Purulia	84,292[20]	9,20,000

Source: Data obtained from DL&LRO, Purulia

1.3.2.4 Permission issued to sale tribal land without ascertaining the Ownership/ title of land in favour of the seller

A Permission Order was granted to Bxxxu Baski, by PO-*cum*-DWO, Purulia in February 2016, for sale of land to Shakambhari Ispat and Power Ltd. (SIPL). During scrutiny of one sale deed registered (in 2017), in favour of Bxxxu Baski, in the ADSR, Raghunathpur, and its cross-verification with the plots of land mentioned in the schedule attached with the Permission order, it was observed that 0.25 acres of land (Plot no. 38, Khatian no 361; Area 0.13 acre & Plot no. 38, Khatian no. 170; Area 0.12 acre), was included in the permission order referred above. However, the purchase deed of the plot concerned was registered in name of Bxxxu Baski, only in May 2017, after the issuance of Permission Order.

This raises a question on system of verification of land titles of the plots of land included in the schedule, annexed with the aforesaid Permission order, as Bxxxu Baski was accorded permission to sell tribal land plots (*i.e.* 0.25 acres), though the title of land was not in his favour at that point of time. Details are given in **Table 1.4**.

[20] *purchase value per acre of land as calculated from Appendix 1.1*

Table 1.4: Details of Purchase Deed of Bxxxu Baski

Deed No./ year and Name of Registration Office	Date of Registration	Buyer Name/ Buyer's Address	Seller Name	Seller Address	Plot & Khatian No and Area of each plot	Total Area of Land (Acres)
140300968/ 2017 Raghunathpur	04.05.2017	Bxxxu Baski,	Axxl Murmu & Mxxxxeb Murmu, Sxxxxeb Murmu, Sxxxxan Murmu,	Village: Madandi, District: Purulia, PS: Neturia, Pin: 723121	Plot No.: RS-38 Khatian No.: 291 Area: 0.12 acre Plot No.: RS-38 Khatian No.: 361 Area: 0.13 acre Plot No: RS-38 Khatian No.:170 Area: 0.12 acre Plot No.: RS-35 Khatian No.: 170 Area: 0.02 acre Plot No.: RS-39 Khatian No.: 170 Area 0.05 acre	0.44

Source: Data obtained from Office of DL&LRO, Purulia

1.3.2.5 Absence of a time limit for processing of applications

As per the extant Rules, a tribal seller has to apply to the Revenue Officer of the District, for obtaining permission, for sale/ transfer of his plot of land, to any non-tribal person. Scrutiny of records revealed that there had been delays in the processing of applications by the PO-*cum*-DWOs (Revenue officers), of the test-checked districts, as shown in **Table 1.5**.

Table 1.5: Delays in processing of applications by PO-*cum*-DWOs, during 2017-22

Sl. No.	District	Total number of applications received during 2017-22	Applications not processed	Permissions granted	Permissions denied	Status of application under process (pendency)				
						for less than one year	for one year to less than two years	for two years to less than three years	for three years to less than four years	for more than four years
1	Paschim Bardhaman[21]	193	11	151	2	9	6	0	0	8
2	Paschim Medinipur	77	24	10	6	13	6	7	4	7
3	Jhargram	3	0	3	0	-	-	-	-	-
4	Birbhum	31	0	15	0	12	1	0	2	1
5	Purulia	15	0	0	0	6	8	1	0	0
6	Jalpaiguri[22]	75	0	15	0	8	9	3	5	7
	Total	**394**	**35**	**194**	**8**	**48**	**30**	**11**	**11**	**23**

Source: Data obtained from Offices of PO-cum-DWO of respective districts

It was observed that no time limit was stipulated, either under the Act, or under the Rules, for disposal of applications received by the PO-*cum*-DWOs, for permission. No subsequent notifications or orders were also found on record, prescribing any time limit for disposal (acceptance/ rejection) of such applications. This position was detrimental to the welfare of the tribal populace, as such delays made the entire process of the sale of tribal land very

[21] *For Paschim Bardhaman, the dates of application for six cases were not available; hence, the status of the same has not been included in the above table*

[22] *Out of 75 cases of permission, received in the office of the PO-cum-DWO, between 2017-22, 15 permissions had been granted, and 60 cases of permissions had remained pending. Out of the 60 pending cases, 32 had been checked in audit*

cumbersome, leading to deterioration of the demand and price of tribal land. This was likely to have acted as a disincentive for tribal persons in getting their land property flagged under Section 14C.

On this being pointed out in audit, PO-*cum*-DWOs, Birbhum and Paschim Burdwan, reiterated (January 2023 and February 2023 respectively) that no time limit had been prescribed in the rules, for disposal of cases under Section 14C. PO-*cum*-DWO Purulia, stated (January 2023) that the delays were caused due to the time taken for ascertaining the genuineness of the transfer of ST land, in light of various allegations of non-ST persons, motivating STs, for selling their land, for various purposes, including business. The remaining test-checked districts did not furnish any reply (September 2024).

1.3.3 Tribal land was alienated, by-passing permission of the Revenue Officer

In the office of the PO-*cum*-DWO, Purulia, it was observed that one application, of one intended tribal seller B[23], had remained pending, for the purpose of permission of sale to a non-tribal person, under Section 14C. Further scrutiny of the application showed that a sale deed of the land, with the same particulars (*viz*. area, plot no., khatian *etc*.), had been executed and registered, in favour of a non-tribal person, in the office of the DSR, Purulia, in April 2022, at a rate less than the prevailing market rate, even though the application for permission had still remained undisposed at the PO-*cum*-DWO's end, as of date (January 2023).

Moreover, in the instant case, the *raiyat* was wrongfully deprived of ₹ 1.67 lakh[24], while transferring lands to a non-ST buyer, at a price below the market rate.

On further cross-verification of the land schedule, available in the registered sale deed, and the corresponding details of Plot & Khatian, as per the land records of the LR department (*i.e.* DL & LRO, Purulia), it was revealed that the above-said plot had been mutated in favour of a non-tribal person[25].

It was evident that DSR, Purulia, had failed to apply the necessary checks, while processing the application for the sale of land, belonging to an ST person, without obtaining, the requisite permission of the RO, in terms of Section 14 C of the WBLR Act. Moreover, the Record of Rights (ROR) was framed in the name of the non-tribal buyer, even though the said plot should have been flagged as tribal land, in the LR records, under Section 14C of the WBLR Act.

On this being pointed out in audit, PO-*cum*-DWO, Purulia, replied (January 2023) that the matter was not in his knowledge, as the applicant had sold his land without permission and had not communicated this matter. The DL&LRO Purulia did not furnish any reply (September 2024).

Thus, the authorities responsible for safeguarding the interests of the tribal persons had failed in doing so. Owing to such failure in safeguarding the interests of the tribal persons, the TD Department may contemplate introducing a mechanism for ensuring that defaulting Officers are held accountable for such failure in discharging their duties.

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[23] *Shri Mxxxb Txxxey*
[24] *Market Value- ₹ 4.67 lakh and Set Forth Value- ₹ 3.00 Lakh*
[25] *Shri Sxxxxsh Mxxxxrjee, of Chunabhatti Rani Road, Purulia*

1.3.4 Absence of a system of cross-verification of data available with other departments

Cross-verification of permission orders, from the offices of the PO-*cum*-DWOs of the selected districts, with the corresponding sale deeds, from the offices of the Districts Registrar/ ADSR offices concerned, revealed several irregularities, as described in the following paragraphs:

1.3.4.1 Receipt of sale proceeds was less than the assessed fair market value, in Birbhum and Jhargram

Scrutiny of permissions, granted by the PO-*cum*-DWOs, in two districts, *viz*.: Birbhum and Jhargram, for sale of land to non-tribal persons, revealed that 15 permissions had been accorded by the said offices, during the period between December 2019 and May 2022. Study of the corresponding 15 sale deeds and their recitals, obtained from the offices of the District Registrars, Birbhum and Jhargram, revealed that, in 10 cases (out of these 15 cases), the tribal sellers had actually received amounts lower than the amounts sanctioned by the concerned ROs. As a result, the tribal sellers had received short-payment of fair market prices amounting to ₹ 83.51 lakh, in these 10 cases, as detailed in ***Appendix 1.3***.

On this being pointed out in audit, the PO-*cum*-DWO, Birbhum, stated (January 2023) that cross-verification of the data available with the Registration Department was being done and valuation reports of the land in question were being taken. It was being ensured that the tribal seller received the due fair market value, as assessed by the RO, through examination of deeds and otherwise. The PO-*cum*-DWO, Jhargram, stated (December 2022) that, due hearings of the ST sellers had been conducted, to ascertain that the lands were proposed to be sold without any fear, coercion or entrapment. Disposal of the cases were done after considerable duration of time and there were sufficient opportunities for availing prospective buyers. However, the above instances, found by Audit, were contrary to the replies of the PO-*cum*-DWOs.

1.3.4.2 Improper assessment of Fair Market value by the Revenue Officer in Paschim Bardhaman

In Paschim Bardhaman, scrutiny revealed that permissions of sale, of land belonging to tribal persons, to non-tribal buyers, were being issued after holding enquiries and ensuring, *inter alia*, that no ST buyer was willing to pay the fair market price of the holding. However, this was not enough to protect the interests of the tribal sellers, as the actual payment of fair market prices, by non-ST buyers, was not being ensured. Consequently, it was observed that, in 20 test-checked cases, in the district, during 2017-22, permissions had been issued, by the PO-*cum*-DWO, for transfer of holding or part thereof, by a *raiyat* belonging to an ST person, to a private person not belonging to ST, at rates lower than the market values, as determined through e-assessment[26], by the Directorate of Registration and Stamp Revenue. The short payments, *vis-à-vis* the market rates, amounted to ₹ 94 lakh, in these 20 cases, as detailed in ***Appendix 1.4***.

On this being pointed out in audit, the PO-*cum*-DWO, Paschim Bardhaman, stated (February 2023) that documents had been requisitioned (October 2022)

[26] *The market value of the land, at the time of registration, is assessed through e-assessment, by the Directorate of Registration and Stamp Revenue.*

from the respective ADSRs, but the same had not been received. The reply was not tenable, as the PO-*cum*-DWO, Paschim Bardhaman, had verified the valuations of land, received from the respective ADSRs, while granting permissions under Section 14C of the WBLR Act, 1955.

1.3.4.3 Non-receipt of any valid proof of the total amount of transaction

In Paschim Bardhaman district, the permission orders, issued by the PO-*cum*-DWO, in exercise of the powers vested under Clause 12 of Section 2 of the WBLR Act, 1955, directed the applicants to submit valid proof of total amount of transaction, within one month of the transfer of property.

However, no such valid proofs, of the total amounts of the transactions made, had been received by the PO-*cum*-DWOs (ROs), in any of the cases, with regard to permissions accorded, during 2017-22. Subsequent efforts, if any, on the part of the district authorities, for receiving the same, were not found available on records. Consequently, the PO-*cum*-DWOs were not in a position to ascertain whether the transfer of land, by a *raiyat* belonging to a ST community, had been made by registered instruments, and at the agreed price mentioned in the permission letter. On this being pointed out in audit, the PO-*cum*-DWO, Paschim Bardhaman, stated (February 2023) that the same would be communicated to the concerned sellers/ purchasers.

Audit observed that the extant Rules and Regulations were silent on the aspect of role of the RO, in regard to ascertaining the actual quantum of receipt of value, for the land sold by the tribal seller and its subsequent usage. Also, Standard Operating Procedures had not been framed, in regard to the registering authorities, for counter-verification of records from the ROs. No checks were available in the designated software of e-Nathikaran[27], in cases involving alienation of land for tribal communities. There was no specific arrangement, in e-Nathikaran, for entry of specific comments or observations by the registering officers, in cases where the valuation of land was found/ discovered to be lower than the prevalent market rates of land in the vicinity.

It was noticed, in audit, that there was no system for cross-verification of the data/ information available with other departments, which could have avoided instances of short payment to tribal sellers.

In reply, L&LR and RR&R Department stated (May 2023) the matter of assessment of feasibility of installing a system of cross-verification of data to ensure proper receipt of the sale proceeds by the tribals was under examination.

Recommendations:

1.5 While processing the application for sale of land, belonging to an ST person, State Government may consider introducing a mechanism to ensure that responsible officers are held accountable for failing to ensure compliance with the provisions under Section 14 C of the West Bengal Land Reforms Act.

1.6 State Government may consider installing a system of cross verification of the data available with other departments, to ensure proper receipt of sale proceeds by tribal sellers.

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[27] *'E-Nathikaran' is an online portal of the Finance Department, that allows property owners to complete the process of registering a property in Kolkata and other cities in West Bengal*

1.4 Transfer of land to ECL and BCCL

Prayers were submitted (February 2021) by the General Managers of the Eastern Coalfields Limited (ECL) and Bharat Coking Coal Limited (BCCL), to PO-*cum*-DWO, Paschim Bardhaman and Purulia, for acquiring tenancy land belonging to persons from ST community to revive and boost up coal mining activities in different areas in Paschim Bardhaman and Purulia districts. Applications were also received, by the PO-*cum*-DWOs, from person(s) belonging to the ST community, for transfer of their lands, in the said areas, to ECL/ BCCL. On the basis of the same and after holding enquiry and hearing, the PO-*cum*-DWO of Paschim Bardhaman district, being the RO, in exercise of the powers vested under clause 12 of Section 2 of the WBLR Act, 1955, issued (between March 2018 and January 2021[28]) permissions to 74 applicants, to transfer their lands to ECL/ BCCL. It was mentioned in the permission orders that compensation was to be provided to the land owners, as per the Rehabilitation and Resettlement Policy (R&R Policy), 2012, of Coal India Limited.

As mentioned above, permissions were issued by the RO of Paschim Bardhaman, in 74 cases, for transfer of holding or part thereof, by a *raiyat* belonging to the ST community to ECL or BCCL. Scrutiny, however, showed that there were instances of lack of governance and control, in the form of inadequate involvement of the concerned government functionaries (*i.e.* ROs, Collectors of the respective districts, *etc*.) in the process, leading to short-receipt of compensation by the tribal land owners and deficiencies in the implementation of the Rehabilitation and Resettlement scheme, as elaborated in the succeeding paragraphs.

1.4.1 Short payment of land compensation

As per Section 26 of the Act of 2013, the Collector shall determine the market value of land, following the criteria stipulated under the said Section, for assessing and determining the market value of land. In the above test-checked cases, the valuation of land under transfer, had not been mentioned in any of the permission letters and, instead, it had been mentioned that the same was done “As per Coal India norms”.

It was observed, from the records of the four ECL offices and one BCCL office at Barakar, that land had been purchased, by the test-checked offices, directly from ST *raiyats*, at negotiated rates, which were much lower than the fair market prices for those plots of land, as determined by e-assessment by the Directorate of Registration and Stamp Revenue. Neither the provisions of the Act of 2013, nor the provisions of the R&R Policy, 2012, had been followed by any of the test-checked ECL and BCCL offices, in determining the amount of land compensation. It was also noticed that there had not been any involvement of the District Collector in the process.

Scrutiny further revealed that, in the order sheets for granting permission under Section 14C of the WBLR Act, 1955, the market valuation reports of the ADSR, had been reviewed by the PO-*cum*-DWO, along with other documents. It was mentioned, in the order sheet of the PO-*cum*-DWO, Paschim Bardhaman, that compensation would be provided to the land owners, as per the R & R Policy of Coal India Limited. It was evident that the absence of any proactive pursuance,

[28] *Order dates were not available for 14 applicants*

on the part of the PO-*cum*-DWO (*i.e.* the RO), had led to deprivation of the tribal *raiyats* by ₹ 15.25 crore, in 66 test-checked cases, during FYs 2017-18 to 2021-22. **Table 1.6** gives an overview of the short payment, to the tribal *raiyats*, by the test-checked ECL/ BCCL offices, due to payment of land compensation (detailed in ***Appendix 1.5***), below the market rates.

Table 1.6: Short payment to tribal *raiyats*, by the ECL/ BCCL offices, due to payment of land compensation below the market rate

Sl. No.	Name of the ECL/ BCCL office	Number of cases test-checked, involving sale by tribal *raiyats*	Market value of land (₹ in lakh)	Set forth value[29] (₹ in lakh)	Deed Sale Value (₹ in lakh)	Short payment *vis-à-vis* market rate (₹ in lakh) *(percentage of short payment)*
1.	ECL, Salanpur Area	37	767.29	127.30	127.30	639.99 *(83.41)*
2.	ECL, Sripur Area	22	592.15	61.79	61.79	530.36 *(89.57)*
3.	ECL, Kunustoria Area	04	312.20	15.71	15.71	296.49 *(94.97)*
4.	BCCL, Barakar Area	01	82.10	45.12	45.12	36.98 *(45.04)*
5.	ECL, Parbelia group (Sodepur Area)	02	25.86	4.80	4.80	21.06 *(81.44)*
Total		**66**	**1,779.60**	**254.72**	**254.72**	**1,524.88 *(85.68)***

Source: Data obtained from offices of ECL/ BCCL and PO-cum-DWO

It is seen from **Table 1.6** that there was short payment against the market value of land, ranging between 45 to 95 *per cent*, in the 66 test-checked cases.

The General Manager, ECL Kunustoria Area, stated (November 2022) that, as the land acquisition had been made by the direct purchase mode, there was no provision of involvement of the Collector for determining land compensation. It was further stated that, in the direct purchase mode, ECL management had negotiated directly with the landowners, for suitable compensation against land and employment. BCCL, Barakar, replied (February 2023) that the set forth value as land compensation, as offered by BCCL, had been decided after negotiating with the tribal person from whom the land was acquired. The replies were not tenable, as such sale of land violated the provisions of the R&R Policy, 2012, and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013). No reply was furnished by the other test-checked ECL offices (September 2024).

1.4.2 Differences in the prices of land paid by ECL for vested land and land purchased from STs

Scrutiny of records of ECL, Sripur Area and Salanpur area, revealed that, during the period between 2016 and 2021, ECL had acquired or proposed to acquire land, from private landowners, including ST landowners, as well as Government, for mining purposes. Scrutiny of records of ECL, Sripur and ECL Salanpur areas, however, revealed that there were considerable differences in the rates of land paid by ECL, for vested land[30] and land purchased from ST landowners, as shown in **Table 1.7**.

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[29] It is the value set forth in the instrument

[30] As per Section 3A (1) of the WBLR Act, 1955, the rights and interests of all non-agricultural tenants and under- tenants, under the West Bengal Non-Agricultural Tenancy Act, 1949, shall vest in the State, free from all encumbrances, and the provisions of Sections 5 and 5A of the West Bengal Estates Acquisition Act, 1953, shall apply, with such modifications as may be necessary, mutatis mutandis, to all such non-agricultural tenants and under-tenants, as if such non-agricultural tenants and under-tenants, were intermediaries and the land held by them were estates and person holding under a non-agricultural tenant or under tenant were a raiyat.

Table 1.7: Differences in the rates of land paid by ECL for vested land and land purchased from ST land owners

Sl. No.	ECL office	Site	Land value provided to the *Raiyats* (₹ in lakh per acre)[31]		Land value provided to Government (₹ in lakh per acre)
			Rate with job	Rate without job	
1.	ECL, Sripur Area	Kalipahari – OC patch A	2.50	12.00	62.57
2.		Bhanora – OC patch	2.50	12.00	102.59
3.		Kalipahari – OC patch B (proposed rate)	3.00	12.60	125.00
4.	ECL, Salanpur	Gourandi	2.50	12.63	19.77

Source: Data obtained from ECL Offices; Note: Raiyats are initially inducted on training basis for six months mainly as Security Guards. On successful completion of training period they would be considered for regularization as permanent employees.

Analysis of the table indicated that for an acre of land, tribals were compensated at much lower rates ranging between ₹ 2.50 lakh and ₹ 12.63 lakh *vis-à-vis* the compensation allowed to the Government ranging between ₹ 19.77 lakh and ₹ 125.00 lakh.

Evidently, there was lack of pursuance, by the concerned, PO-*cum*-DWO of the district in ensuring that the ST landowners received fair prices for the lands transferred by them, to ECL.

1.4.3 Deficiencies in tribal land acquisition, rehabilitation and resettlement, by ECL/ BCCL, facilitated by lack of involvement of Government

As per the Rehabilitation and Resettlement (R&R) Policy, 2012, in addition to compensation for land, the coal companies were required to provide R&R packages, for Project Affected Persons (PAPs), to compensate them for the loss of their livelihood. Apart from compensation for house sites, houses, trees, cow sheds, costs of shifting *etc*., employment was also to be provided, to the land oustees. In addition to this, efforts were also to be made to rehabilitate them, by construction of houses, roads, streets, schools and provision of water *etc*., wherever feasible. The provisions of Act of 2013 were also applicable, when the appropriate Government acquired land for its own use, hold and control, including for public sector undertakings, public purposes projects for industrial corridors and mining activities. The R&R Policy, 2012, *inter alia*, provided for just and fair compensation to the affected families, whose land had been acquired, or was proposed to be acquired, or were affected by such acquisition. Adequate provisions for loss of livelihood of such affected persons, including their rehabilitation and resettlement, were required to be made under this policy.

Scrutiny of records, made available to Audit, in the offices of the PO-*cum*-DWOs of the respective districts and the General Managers of four[32] ECL areas and one BCCL area at Barakar, regarding transfer of land belonging to ST landowners to ECL/ BCCL, as well as other rehabilitation and resettlement measures undertaken during 2017-22, revealed the following:

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[31] *As per the R&R Policy 2012, all the land losers, who are not eligible for employment, shall be entitled to receive monetary compensation, in lieu of employment. Land losers who are offered employment will have the option to either opt for employment, or to forego employment and opt for monetary compensation.*

[32] *Salanpur, Sripur, Kunustoria and Parbelia*

1.4.3.1 Non-conduct of socio-economic survey

As per the R&R Policy 2012, a baseline socio-economic survey was to be carried out, to identify the PAPs who were enlisted to receive benefits, in line with Coal India's R&R Policy. The basic objective of such socio-economic studies, was to generate baseline data on the social and economic status of the population that was likely to lose its means of livelihood or homestead land, due to acquisition of the land for such projects. The assistance of reputed independent institutional agencies that were well versed with the social matrix of the concerned areas was to be taken, in conducting such socio-economic surveys. The database created in the survey was to be used to formulate a viable and practical Rehabilitation Action Plan, for the affected persons, in line with their entitlements.

Scrutiny revealed that no socio-economic or social impact assessment survey, as mentioned above, had been conducted in ECL, Kunustoria area, or in ECL, Parbelia area. Whether such survey was conducted in ECL, Sripur area was neither forthcoming from the available records nor stated by the respective authority of the office. ECL, Parbelia area, however, replied (January 2023) that the Act of 2013 had still not been implemented by GoWB, and, hence, no socio-economic survey/ social impact assessment survey had been conducted. The reply was not tenable, as the Act of 2013 was already applicable for the State. ECL, Kunustoria area, stated (November 2022) that all the mines of Kunustoria Area had been operational from the pre-nationalization period, so the said survey had not been carried out, as there was no change in the socio-economic condition of the area. It was further stated that, for new projects, it would be carried out, in future, as per the R&R Policy. BCCL, Barakar stated (February 2023) *inter alia* that since the land occupied was uninhabited, therefore no socio-economic survey/ social impact assessment was conducted.

1.4.3.2 Preparation of Rehabilitation Action Plans (RAPs), without consultation with the State Government

As per the R&R Policy, 2012, viable and practicable Rehabilitation Action Plans (RAPs) were to be formulated, by ECL/ BCCL, for the affected persons, in line with their entitlements, based on the socio-economic studies conducted. The Rehabilitation Action Plans were to *inter alia*, refer to socio-economic survey and activities, to ensure restoration of incomes of the PAPs, in line with the R&R Policy; Project specific arrangements were also to be made, to deal with the grievances of PAPs. Time tables, benchmarks and arrangements for monitoring the resettlement and rehabilitation efforts, were also to be formulated, in consultation with the PAPs and the State Government.

Scrutiny revealed that, though ECL, Salanpur area, Sripur area and BCCL, Barakar, had prepared project reports, in respect of the mining projects undertaken, the State Government had not been consulted during their preparation. In reply to an audit observation in this regard, ECL, Kunustoria, stated (November 2022) that, as the land, under its area, was non-residential and had been acquired by the direct purchase mode, no RAP had been prepared. ECL, Parbelia, and BCCL, Barakar stated (January and February 2023 respectively) that RAP had not been formulated, as no homestead existed on the plots acquired.

The replies of the authorities of ECL, Kunustoria and Parbelia, were not tenable, as they were in contravention of the provisions of the R&R Policy, 2012. As per the said policy, the RAPs were to, *inter alia*, address the description of the institutional and other mechanisms, for provision of entitlements, as well as project-specific arrangements, to deal with the grievances of the PAPs. The same was not dependent on whether the land was residential or non-residential.

1.4.3.3 Non-formation of resettlement and rehabilitation committee

As per the R&R policy 2012, a committee was to be constituted at the project level, under the Chairmanship of the Collector, to be called the 'Rehabilitation and Resettlement Committee', for monitoring and reviewing the progress of implementation of the rehabilitation and resettlement scheme and also carrying out post-implementation social audits, in consultation with the village panchayats in rural areas and municipalities in urban areas, in the manner decided by the concerned State Government. The said Committee, *inter alia*, was to approve the detailed rehabilitation plan for the project, in consultation with the displaced persons and gram sabhas; expedite issue of domicile certificates and other necessary documentation, required for the state authorities; monitor and review the progress of the rehabilitation scheme; grant benefits and hand over possession of land, in a smooth manner; and carry out post-implementation social audits, in consultation with the authorities.

Scrutiny revealed that no such committees had been formed in any of the test-checked ECL offices. There had also not been any involvement of the State Government in the process. In the absence of any such committees, the issue of rehabilitation and resettlement, where homesteads had been acquired, were limited to only one-time lumpsum payment of ₹ 3.00 lakh, in lieu of alternate house sites, assistance in designing, shifting allowance, compensation for construction of cattle sheds, monetary compensation for construction of work sheds *etc*. Consequently, many stipulations in the R&R policy, relating to the functions of the Resettlement and Rehabilitation Committee, as aforesaid, remained unachieved, thereby depriving the PAPs of the related benefits.

Scrutiny of the files, in ECL, Salanpur area, revealed that, at various points of time, the villagers were unwilling to vacate their existing hutments/ structure/ households, without plots of land to be provided by ECL, wherein they could construct their new houses or structures. In response to the strong demands of the villagers, the ECL authorities stated (March 2020) that there was no provision of providing land for rehabilitation in the Salanpur area, as the life of the mining activity was very less. Thus, the resettlement efforts of ECL were largely guided by the profitability aspect and not by the provisions of the R&R Policy, 2012, or the Act of 2013. Further, the tribals were rendered landless in the process, in the absence of any effective supervision, on the part of the concerned district authorities.

1.4.3.4 Absence of community facilities

As per the R&R policy, 2012, ECL/ BCCL should have provided, at each site, a school, road with street light, pukka drain, pond, dugwell or tubewell for drinking water supply, community centre, place of worship, dispensary and grazing land for cattle and playground. Further, the approach, for operation of community facilities, was to be flexible and all efforts were to be made, to involve the state and local self-government or Panchayat, for operating the facilities. In the preamble to the R&R Policy, 2012, it had been highlighted that greater emphasis needed to be given to community requirements, like schools, hospitals *etc*. It had further been highlighted that, only proper resettlement and rehabilitation would elicit the required co-operation of the PAPs.

Scrutiny revealed that, in the absence of any rehabilitation and resettlement of the PAPs in separate areas, the stipulated provisions, as mentioned above, had not been adhered to. BCCL, Barakar replied (February 2023) that as the land was uninhabited therefore no community facilities as envisaged in the R&R Policy 2012 were envisaged.

1.4.3.5 Non-extension of option to land losers regarding Rehabilitation and Resettlement Benefits

As per the R&R Policy, 2012, the land losers would have the option for Rehabilitation and Resettlement benefits, in accordance with the awards for each affected family, in terms of the entitlements passed by the concerned District Collector, or as per the policy, with his consent. The policy laid emphasis on giving the land losers the option to choose which methods of compensation best suited their needs.

Scrutiny revealed that no options had been provided to the land losers, to choose from the awards determined by the Collector, or as per the R&R policy, with the consent of the Collector. Further, the Rehabilitation and Resettlement benefits, determined by the test-checked ECL/ BCCL offices, did not have the consent of the concerned Collectors. Lack of supervision on the part of the Collectors resulted in offering of benefits, by these ECL/ BCCL offices, that were much below the entitlements of the land losers, in terms of the provisions of the R&R Policy, 2012.

In reply to the above, General Manager, ECL, Kunustoria area, stated (November 2022) that, as the land acquisition of non-residential land, had been done by the direct purchase mode, exercising of the Rehabilitation and Resettlement process and involvement of the District Magistrate, was not applicable. The contention was not acceptable, as it violated the stipulations of the Coal India's R&R Policy, 2012, and the Act of 2013. BCCL, Barakar stated (February 2022) that no rehabilitation benefit would be provided to the PAPs as the land was uninhabited. It was also stated that in case any habitation was identified prior to completion of the project, then rehabilitation entitlements would be provided to the PAPs as envisaged in the R&R Policy 2012. No reply was furnished by ECL, Salanpur area; ECL Parbelia and Sripur area; though called for (September 2024).

1.4.3.6 Non-involvement of Collector in the Census and identification of displaced families

The R&R Policy, 2012, stipulated that for acquisition of land for projects, a census would be undertaken, in a manner to be decided by the Collector or project authority, for identification of the displaced families, preparation of their socio-economic profile and preparation of list of persons eligible for the purpose of receiving rehabilitation and resettlement benefits. A photo identity card was to be issued to each entitled PAP, under the signature of the Collector or the project authority concerned.

Scrutiny revealed that, though census had been undertaken by the ECL authorities, where homesteads had been acquired, the Collectors had not been involved in the process and no photo identity cards had been issued, under the signature of the Collector or project authority concerned, to the entitled PAPs. BCCL, Barakar, replied (February 2023) that, as the land occupied for projects was uninhabited, therefore no census, under the R&R Policy, 2012, was undertaken. Due to non-inclusion of the Collector in the process, the PAPs were deprived from the rehabilitation and resettlement benefits, as enshrined in the R&R Policy, 2012, as well as in the Act of 2013. Further, the PAPs were also deprived of the market value, for sale of land to the ECL/ BCCL.

1.4.3.7 Non-payment of solatium

Under Section 26 of the Act of 2013, solatium amount, equivalent to 100 *per cent* of the compensation amount, in addition to the market value of the land, was to be provided. In every such case, the Collector was to award an amount, calculated at the rate of 12 *per cent* per annum on such market value, for the period commencing on and from the date of publication of the notification of the social impact assessment study, under Section 4 (2), till the date of the award of the Collector or the date of taking possession of the land, whichever was earlier. Provisions for payment of solatium, under the Act of 2013 and escalation of land compensation, were also stipulated under the R&R Policy 2012.

Scrutiny of records, of the four ECL and BCCL offices, revealed that there had been no payment of solatium, in any of the test-checked cases, in contravention of the stipulations of the Act of 2013 and the R&R Policy, 2012. Further, there had also not been payment of any amount, at the rate of 12 *per cent* per annum, in any of the cases. If solatium at 100 *per cent* of the compensation amount, in addition to the market value of the land, is considered, the tribal *raiyats* were deprived of ₹17.80 crore[33] in 66 test-checked cases, during FYs 2017-18 to 2021-22, in the five test-checked ECL and BCCL offices.

Best Practices: Land acquisition, under the project "Improvement/ Upgradation of NH 60 to four lane[34]," under Section 3G under National Highway Act, 1956, in the Paschim Medinipur district, was reviewed in audit. In the said case, the award statement, signed by the Special Land Acquisition Officer[35], Paschim Medinipur, showed that the compensation amount included the: (a) amount allowed for the land itself, without trees, buildings *etc*., if any (b) amount allowed for trees, crops, houses, huts, or any such immovable objects (c) solatium at the rate of 100 *per cent* of the market value and (d) additional compensation, at the rate of 12 *per cent*, on the value of the land.

1.4.3.8 Payment of monetary compensation in lumpsum without any option of annuity

As per the R&R Policy, 2012, all the land losers, who were not eligible for employment, were entitled to receive monetary compensation, in lieu of employment, at the rate of ₹ 5.00 lakh for each acre of land, on *pro-rata* basis.

[33] Calculated as 100 per cent of the market value of land, payable to the tribal raiyats, in 66 test-checked cases, as per Table. 1.6

[34] Notification No.: S.O.5028E; Date of Notification: 28.09.2018; Declaration No.: S.O.1566E; Date of Declaration: 09.04.2019

[35] Competent Authority u/ s 3(a) of the NH Act, 1956

Further, they could opt for payment of such compensation amount, in the form of annuity payable to them, either monthly, annually, or at such intervals, as may be opted for, by them. The annuity was to be paid for a maximum period extending up to 60 years of age or the life of the project for which the land had been acquired, whichever was earlier.

Scrutiny revealed that, in all the test-checked ECL and BCCL offices, the monetary compensation, received by the PAPs, on this count, had been paid in lumpsum and not in the form of annuity. There was no material available on records to indicate that any option for payment of monetary compensation, in the form of annuity, had been provided to the land losers, by these offices.

1.4.3.9 Non-provision for shifting of the tribal community as a unit

It had been stipulated, in the R&R policy 2012, that the tribal communities were to be shifted as a unit and that they were to be provided facilities to meet the specific needs of the tribal communities that would allow them to maintain their unique cultural identity.

Scrutiny revealed that, in the absence of rehabilitation and resettlement of the tribal land losers, shifting of the project affected tribal communities as a unit, to maintain their unique cultural identity, had not been achieved, in two ECL areas.

In reply to the audit observations included under the *Paragraph 1.4.3*, the L&LR and RR&R Department stated (May 2023) that anomalies were related to cases of procurement of land by the ECL and other subsidiaries of the Ministry of Coal, GoI. However, it remained silent on whether the State Government had flagged these issues to ECL and other subsidiaries or the Ministry.

Recommendation:

> ***1.7*** ***State Government may consider ensuring more proactive involvement and monitoring on part of the District Collectors, as per Rehabilitation and Resettlement Policy, 2012, in cases where land is purchased directly by companies/ Eastern Coalfields Limited/ Bharat Coking Coal Limited for any purpose.***

1.5 Implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [Forest Rights Act (FRA), 2006], was notified for operation, with effect from December 2007. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007[36], were notified in January 2008, for implementing the provisions of the Act. The Act enlisted certain forest rights, of forest dwelling STs and Other Traditional Forest Dwellers (OTFDs), on all forest land, which, *inter alia*, included: (i) the right to hold and live in the forest land, under individual or common occupation, for habitation or for self-cultivation for livelihood, by a member or members of a forest dwelling ST or OTFDs, (ii) community rights and (iii) other rights, including community tenures of habitat and habitation, for primitive tribal groups and pre-agricultural communities *etc*. The recognition and vesting of

[36] These Rules were subsequently amended by the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012

forest rights, under this Act, was subject to the condition that such STs had occupied forest land before the 13th day of December 2005. The land was to be restricted to the area under actual occupation and was, in no case, to exceed an area of four hectares.

The PO-*cum*-DWOs, in the districts, were the nodal officers under FRA, 2006, and the WBTDCC, under the TD department, was the nodal authority for implementation of FRA in the State. The Gram Sabha was to be the authority for initiating the process for determining the nature and extent of individual or community rights, or both, that may be given to the forest dwelling STs and OTFDs, within the local limits of its jurisdiction. The Gram Sabha was to send the claim to the Forests Rights Committee (FRA), who was to verify the same, with the supporting evidence. Subsequently, the Gram Sabha was to pass a resolution and forward the same to the SDLC. The SDLC was to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it to the DLC, for a final decision. The decision of the DLC, on the record of forest rights, would be final and binding.

Table 1.8 depicts the position of issue of individual and community forest *pattas*, to the forest dwelling STs, in the six test-checked districts, since the inception of the Act.

Table 1.8: Status of issue of individual and community forest *pattas*, to the forest dwelling STs, in the six test-checked districts

District	Claims received		Claims Accepted		Claims rejected		Claims pending		Area of land distributed (in acres)	
	Individual	Community	Individual	Community	Individual	Community	Individual	Community	Individual	Community
Paschim Bardhaman	2,110	172	2,110	172	Nil	Nil	Nil	Nil	345.44	31.56
Paschim Medinipur	28,648	1,096	5,216	17	23,432	1,079	Nil	Nil	1,233.72	3.75
Jhargram	20,753	164	9,300	72	11,453	92	Nil	Nil	2,308.68	38.87
Birbhum[37]	656	32	498	13	158	19	Nil	Nil	73.81	8.61
Purulia	21,921	648	7,983	76	13,938	572	Nil	Nil	3,992.11	58.87
Jalpaiguri[38]	1,817	172	1,731	163	86	9	0	0	3,155.74	244.06
Total	**75,905**	**2,284**	**26,838**	**513**	**49,067**	**1,771**	**0**	**0**	**11,109.50**	**385.72**

Source: Data provided by the PO-cum-DWOs of the concerned districts

In the Paschim Medinipur and Jhargram districts, out of total 36,056 cases of rejection, rejection in 18,894 cases (52 *per cent*) was attributable to insufficiency in documentation/ evidence of residence; 8,606 cases *(24 per cent)* were rejected due to receipt of multiple applications against the same land; while 8,464 cases *(24 per cent)* were not allowed due to the land against which the claims had been made, not being forest land. The above three factors were also cited by the PO-*cum*-DWOs of Purulia and Birbhum, as reasons for rejection of claims. In the district of Jalpaiguri, the claims which pertained to non-forest land were rejected.

Recommendation:

1.8 State Government may consider introducing a suitable mechanism to ensure that a hassle-free verification process to grant recognition and vesting of forest rights to tribal persons is in place.

[37] *On the basis of the reply of the PO-cum-DWO, Birbhum*
[38] *On the basis of Memo No: 1744 / PO-DWJ/ BCW dated: 27/ 09/ 2022, of the PO-cum-DWO, Jalpaiguri*

1.5.1 Committees for vesting of Forest Rights remained non-functional

Under Section 6(1) of the Act, the Gram Sabha was the designated authority, for initiating the process of determining the nature and extent of individual or community forest rights, or both, that may be given to the forest dwelling STs and OTFDs, within the local limits under the Act, by receiving claims; consolidating and verifying them; and preparing a map, delineating the area of each recommended claim, in such a manner as may be prescribed, for exercise of such rights. The Gram Sabha was to, thereafter, pass a resolution to that effect and forward a copy of the same to the Sub-Divisional Level Committee (SDLC), constituted by the State Government. The SDLC was to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward the same, through the Sub-Divisional Officer, to the District Level Committee (DLC), for a final decision. The DLC was to consider and finally approve the record of forest rights, prepared by the Sub-Divisional Level Committee. The decision of the DLC, on the record of forest rights, was to be final and binding.

It was noticed that meetings of these committees were not held in any of the test-checked districts during the audit period. Consequently, there was no question of receiving claims, consolidating and verifying them, preparing the record of forest rights, according final approval of the record of forest rights and granting of *patta*[39] to the forest dwelling STs, during 2017-22. In reply to an audit query, PO-*cum*-DWO, BCW and TD, Paschim Bardhaman, stated (November 2022) that such committees, as detailed above had been non-existent, since the creation of the district in 2017. It was further stated that new SDLCs as well as DLC, would be constituted in the district at the earliest, following FRA guidelines.

It was also not clear whether the *pattas* had actually been distributed to the respective claimants, as there was no evidence of receipt of the *pattas*, by the claimants, in the Paschim Bardhaman district. Consequent upon directions (June 2019) from TD department, the Additional District Magistrate, BCW&TD, Paschim Bardhaman, had directed (June 2019) all BDOs, in the Paschim Bardhaman district, to cause to find all the registers for the year 2008-11, of Gram Sabha meetings and applications under FRA, 2006, in the Gram Panchayat Offices, having forest areas in their jurisdiction. No developments in this regard, were however, noticed during audit.

Audit noticed that records were not available at any level with regard to the number of claims, for issue of individual and forest *pattas*, received during 2017-22, from the forest dwelling STs and that were pending finalisation. It was also noticed from a complaint received in the Paschim Bardhaman district, that the STs of the Raniganj Block had submitted 17 applications, to the respective Block office, between July 2019 and August 2019, for individual and community *pattas*, but no action had been taken thereagainst.

In an advisory to the District Magistrates of the districts regarding disposal of claims received under the FRA, 2006, the TD department stated (November 2016) that the process of receipt and disposal of claims is dynamic subject to provisions of the ST & OTFD (Recognition of Forest Rights), Act 2006 and Rule 11 of the ST & OTFD (Recognition of Forest Rights) Rules 2007

[39] *A document evidencing lawful possession of land by a person*

and hence this process should continue in appropriate cases. It was also stated in the instant advisory that in areas where the Gram Sabha felt confident that there would be no further claims, in regard to rights (individual, community and community resources), a certificate to the effect that FRA operation was totally complete, in the area under the Gram Sabha, may be obtained by the District Magistrates.

It was revealed that no such certificate had been obtained, from the Gram Sabhas, in any of the selected districts. Consequently, it was evident that the FRA operation had not been completed, in any of the areas under the Gram Sabhas. In the Entry Conference of the instant Performance Review (January 2023), the representative of the L&LR and RR&R Department stated (May 2023) that a considerable number of applications for forest *pattas* had been received by the Department, in the "Duare Sarkar" programme, that had commenced from September 2022.

1.5.2 Slow progress in distribution of RoRs to the patta recipients under FRA

As per Section 3(1)(g) of FRA, 2006, forest *pattas*, on forest land and title (Records of Rights or RoR), were to be mandatorily issued to the forest dwellers. The Ministry of Tribal Affairs, GoI, in a letter (April 2015) addressed to the Principal Secretaries of the States, stated that the FRA process would only be completed when RoRs had been created. Further, the purpose of rights recognition would be realized only when permanent RoRs were entered in the records. In this regard, the Directorate of Land Records and Surveys, West Bengal, informed (July 2015) the TD Department, that titles (RoRs) had been issued after a thorough survey of the areas and their mapping, in accordance with the earlier recorded forest villages[40] (which had been converted into revenue villages). **Table 1.9** shows the position of issue of RoRs, to the *patta* recipients, in the six test-checked districts.

Table 1.9: Status of issue of RoRs, to the *patta* recipients, in the six test-checked districts

Sl. No.	District	Number of claims accepted		Number of RoRs issued		Percentage of issue of RORs *vis-à-vis* claims accepted	Reasons for delay in issue of RoRs
		Individual	Community	Individual	Community		
1	Paschim Bardhaman	2,110	172	0	0	00	No clear report of RORs was available with the district.
2	Paschim Medinipur	5,216	17	3,944	0	75	-do-
3	Birbhum	498	13	No break-up was available. The LR office, in the district, stated (January 2023) that a total of 498 RoRs had been issued under the FRA.		97	-

[40] *Forest villages mean the settlements which have been established inside the forests, by the Forest Department of any State Government, for forestry operations or which were converted into forest villages, through the forest reservation process. They include forest settlement villages, fixed demand holdings, all types of taungya settlements, by whatever name called, for such villages, as well as lands for cultivation and other uses, permitted by the Government. On conversion of the forest village to revenue village, the legal status of land would be altered from "forest" to "revenue".*

Sl. No.	District	Number of claims accepted		Number of RoRs issued		Percentage of issue of RORs *vis-à-vis* claims accepted	Reasons for delay in issue of RoRs
		Individual	Community	Individual	Community		
4	Jhargram	9,300	72	No break-up was available. The LR, as well as BCW office, in the district, stated (January 2023) that a total of 2,639 RoRs had been issued under the FRA.		28	-
5	Purulia	7,983	76	Under process		00	Reply from DL&LRO not received.
6.	Jalpaiguri	1,731	163	The Dy. DL & LRO, Jalpaiguri stated (January 2023) that a total of 1,894 RoRs had been issued under the FRA.		100	-

Source: Data obtained from Directorate and District offices

Table 1.9 indicates that the process of issue of RoRs, against the *pattas* issued, was still in progress, in the Paschim Medinipur, Purulia and Jhargram districts, even after a lapse of more than 15 years from the implementation of the FRA and the rules made thereunder. Thus, the objective of vesting of forest rights, in a time-bound manner, was not achieved.

On this being pointed out, the PO-*cum*-DWO, Birbhum, stated (January 2023) that RoRs had been issued to the forest dwellers (individuals and community), who were found eligible. In reply to an audit query, the PO-*cum*-DWO, BCW and TD, Paschim Bardhaman, stated (November 2022) that there was no evidence available with the office to indicate as to whether RoRs had been granted against the forest *pattas*, in the Paschim Bardhaman district. It was further stated that survey and mapping had not been done to identify the forest areas in respect of which RoRs were to be issued to tribal forest dwellers. This indicated that no RoRs had been issued, in the district of Paschim Bardhaman, against the *pattas* issued.

In reply, the L&LR and RR&R Department *inter alia* stated that issuance of RoRs was slow in districts of Paschim Bardhaman and Jhargram only. It was further stated that for Jhargram district, there was an error in the number of accepted claims, and that for almost all the eligible cases, RoRs have been issued. While, for the district of Purulia, the Department stated that since then (January 2023), 6,364 RoRs have been issued. However, no details to substantiate their response in respect of Jhargram & Purulia were furnished.

1.5.3 Geo-referencing for assessment of potential areas and re-examination of rejected claims under FRA, 2006

Keeping in view the need to proactively pursue progress of vesting of rights in a time-bound manner, the Ministry of Tribal Affairs (MoTA), GoI, had requested States (July 2015) to create geo-referenced databases[41]. As per Rule 6(b) of the Forest Right Rules, district administration, in general, and the SDLC, in particular, were expected to assist the Gram Sabhas and the Forest Rights Committees (FRCs), by providing forest and revenue maps. In this context, MoTA, GoI, directed (July 2015) the State that geo-referenced forest and revenue maps were to be generated, which were to be provided to the Gram

[41] *A Geo-referenced database is a database of vesting of individual and community forest rights, with associated geographic location coordinates.*

Sabhas and the FRCs. Accordingly, claims which had been rejected on the ground of insufficient evidence, or which *prima facie* required additional examination, could be re-examined. The FRCs and Gram Sabhas could consider the evidence from these maps and lists together with other evidence, while deciding the claims, including the area to be approved. PO-*cum*-DWOs were responsible for ensuring the generation of geo-referenced maps.

In response to the audit queries the following were replied by the PO-*cum*-DWOs of the districts:

- The PO-*cum*-DWO, Jalpaiguri, did not furnish any reply.
- PO-*cum*-DWO, Birbhum, stated (January 2023) that the rejected claims had already been re-verified under geo-referenced data; the latitude and longitudes of the places had also been identified.
- PO-*cum*-DWOs, of Paschim Bardhaman and Paschim Medinipur, stated (between November 2022 and January 2023) that no geo-referenced satellite images/ maps had been provided to the Gram Sabhas and FRCs.
- PO-*cum*-DWOs, of Jhargram and Purulia, stated (December 2022 and January 2023 respectively) that the work was under progress.

Thus, in five out of six test-checked districts, either geo-referencing had not been done/ details had not been made available/ geo-referenced data had not been provided. As such, the objective of use of technology, for evidencing the claims under FRA, was hardly fulfilled.

1.5.4 Preparation of final maps and incorporation of forest rights

MoTA, GoI, vide its letter (March 2014) addressed to the TD Department, stated that, as per the Forest Rights Rules, on completion of the process of settlement of rights and issue of titles, as specified in Annexures II, III and IV of the Rules, the Revenue and Forest departments were to prepare a final map of the forest land so vested, and the concerned authorities[42] were required to incorporate the forest rights, so vested, in the revenue and forest records, as the case may be, within the specified period of record updation under the State laws, or within a period of three months, whichever was earlier.

Scrutiny revealed that the final maps of the forest land, so vested, had not been prepared (as of January 2023) in any of the six test-checked districts, even after passage of almost nine years from GoI's letter of March 2014. The process of incorporation of the forest rights, so vested, in the revenue and forest records, had also not been completed.

In reply to audit queries in this regard:

- The PO-*cum*-DWO, Paschim Bardhaman, attributed (November 2022) the same to non-completion of the process of settlement of rights and issue of titles.
- The PO-*cum*-DWO, Birbhum, stated (January 2023) that the final map would be prepared after joint inspection by the Forest department and L&LR department.
- PO-*cum*-DWOs, of Jhargram and Purulia, stated (December 2022 and January 2023 respectively) that the work was under progress.

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[42] *The Land & Land Reforms and Refugee Relief Rehabilitation Department and Forest Department*

Non-preparation of final maps, in any of the test-checked districts, was indicative of the fact that the objective of completion of the process of settlement of rights and issue of titles, in a time-bound manner, remained unachieved.

1.5.5 Non-identification of hamlets or settlements and the process of their consolidation

As per Rule 2A of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 the State Government was to ensure that:

(a) every panchayat, within its boundaries, prepared a list, of the group of hamlets or habitations, unrecorded or un-surveyed settlements or forest villages or taungya[43] villages, that were formally not part of any Revenue or Forest village records, and to have this list passed, by convening the Gram Sabha of each such habitation, hamlet or habitation, included as villages, for the purpose of the Act, through a resolution in the Panchayat, and to submit such lists to the Sub Division Level Committees.

(b) The SDOs, being members of the SDLCs, were to consolidate the lists of hamlets and habitations, which, at present, were not part of any villages, but had been included as villages, within the Panchayat, through a resolution, and had been formalised as a village, either by adding to the existing village, or otherwise, after following the process, as provided in the relevant State laws these lists were then to be finalised by the District Level Committees, after considering public comments, if any.

(c) On finalisation of the lists of such hamlets and habitations, the process of recognition and vesting of rights, in these hamlets and habitations, had to be undertaken, without disturbing any rights that had already been recognized.

No material was, however, found available on records, in regard to implementation of Rule 2A of the Rules, in the districts of Paschim Bardhaman, Jhargram and Purulia. On this being pointed out in audit, PO-*cum*-DWO, Birbhum, stated (January 2022) that the hamlets were well identified in the local blocks and gram panchayat areas, where such tribals lived in the forest areas. The basis/ rationale of such a reply, was, however, not clear to Audit. PO-*cum*-DWO, Paschim Medinipur, stated (December 2022) that only those claims had been considered by Gram Sabha, for which the applicant had applied for *patta* under FRA. The PO-*cum*-DWO, Jalpaiguri, did not furnish any reply on the issue (September 2024).

1.5.6 Inadequate awareness generation and capacity building programmes on FRA

The Action Plan of the TD department, for recognition of Forest Rights, under FRA, 2006, *inter alia*, included arrangement for building awareness, regarding the provisions of the Act, as well as process of its implementation, by holding camps at the State level, Divisional level, district level and sub-divisional level, as also by arranging training programmes. MoTA, GoI, directed that a kit of standardized stationery, like copies of Act and Rules, in the local language; important circulars; forms; maps; sample verification reports; and land category

[43] The 'taungya' is a system whereby villagers and sometimes forest plantation workers are given the right to cultivate agricultural crops, during the early stages of forest plantation.

checklists, were available at Gram Sabha level. Similarly, a kit for the implementing officials was also to be provided. Audit, however, observed documents/ records, on awareness generation/ capacity building programmes, on FRA, if any, undertaken by the district administration, were not available in the Paschim Bardhaman and Paschim Medinipur districts. Documentary evidence for availability of such kits, with the implementing authorities, was not furnished, though called for. FRA, 2006, had, however, been translated in the Santhali, Bengali and Hindi languages, for wide publicity.

Table 1.10: Status of awareness generation/ capacity building programmes undertaken in the six test-checked districts

Sl. No.	District	Awareness generation/ capacity building programmes undertaken
1.	Birbhum	Advertisements in local newspapers, as well as notices in public places, local panchayats and block offices.
2.	Jalpaiguri	Records were not available and reply to audit query was not furnished.
3.	Jhargram	The PO-*cum*-DWO of the district stated (December 2022) that various awareness programmes had been conducted, including meetings, distribution of forms *etc*., at the block level. However, documents/ records, in support of the same, could not be furnished.
4.	Paschim Bardhaman	No awareness generation/ capacity building programmes, on FRA, were undertaken, since the creation of the district in 2017.
5.	Paschim Medinipur	Training and workshops were undertaken at the time FRA was first implemented in the district.
6.	Purulia	The PO-*cum*-DWO of the district stated (January 2023) that meetings had been conducted at the district level, with the forest officials, DL&LRO, Land Reforms officials, SDOs and BDOs. Further, instructions had been issued to BDOs, to convene meetings at their level, for awareness programmes. However, documents/ records, in support of the same, could not be furnished.

Source: Records of PO-cum-DWO offices & Audit queries

It was, thus, evident from the above table that the desired awareness generation and capacity building, on FRA had not been in place, in the manner envisaged during the audit period.

1.5.7 Rights to Particularly Vulnerable Tribal Groups (PVTG)

As per FRA, 2006, in view of the differential vulnerability of the PVTGs among the forest dwellers, the DLCs were expected to play a proactive role in ensuring that all PVTGs received habitat rights, in consultation with the concerned PVTG's traditional institutions and also that their claims for habitat rights were filed before the concerned Gram sabhas. In the state of West Bengal, Toto (Jalpaiguri district), Birhor (Purulia) and Lodha (Paschim Medinipur), were notified as Particularly Vulnerable Tribal Groups (PVTGs), in terms of backwardness, across different development indicators.

Scrutiny, however, revealed that no such exercise, as envisaged in FRA, 2006 had been carried out in the district of Paschim Medinipur even though the "Lodha" tribe existed in the district. Nothing was found on record in Jalpaiguri and Purulia districts in respect of the PVTGs in those districts.

Recommendation:

1.9 State Government may expedite the grant of habitat rights to Particularly Vulnerable Tribal Groups.

1.5.8 Post-claim support and handholding to holders of forest rights

As per Rule 16 of the ST & OTFD (Recognition of Forest Rights) Rules 2007, the State Government was to ensure through its departments, especially the tribal and social welfare, environment and forest, revenue, rural development, panchayati raj and other departments relevant to the upliftment of forest dwelling scheduled tribes and other traditional forest dwellers, that the benefits accruing from all government schemes, including those relating to land improvement, land productivity, basic amenities and other livelihood measures, were to be extended to such claimants and communities, whose rights had been recognized and vested under the Act.

No reply, regarding the status on this account, was received from WBTDCC (which was the nodal authority for implementation of FRA in the State), though called for (October 2022). However, at the district level, the PO-*cum*-DWO, Birbhum, stated (January 2023) that support, through various Government schemes, was being provided to the forest *patta* holders, in accordance with their eligibility. PO-*cum*-DWOs, of Paschim Bardhaman, Paschim Medinipur and Jhargram, stated (November and December 2022) that no records were available with them, in regard to any upliftment measures for forest dwelling scheduled tribes or for such claimants and communities, whose rights had been recognized and vested, under FRA, 2006, in the relevant districts. PO-*cum*-DWO, Jhargram, further stated that post-claim support and handholding to the holders of forest rights would be done subsequently.

Recommendation:

> ***1.10 State Government may ensure that the benefits accruing from Government schemes are duly passed on to the forest dwelling scheduled tribes, as per extant Rules & Regulations.***

1.6 Internal Control Mechanism

Internal control is an integral component of an organisation's management processes and is established in order to provide reasonable assurance that the organisation's operations are carried out effectively, economically and efficiently. It aims to ensure compliance of rules and regulations and therefore, provides safeguards against mismanagement or loss.

Audit observed several internal control mechanism deficiencies in the administrative, operational and monitoring controls, in the management of tribal lands in the State. Internal audit arrangements were found to be non-existent and did not provide complete assurance against irregularities. Deficiencies in the internal control mechanism are discussed in the following subparagraphs:

1.6.1 Absence of a Standard Operating Procedure for disposal of cases under Section 14C

Scrutiny revealed that no Standard Operating Procedures had been prescribed, by the GoWB, to dispose of cases pertaining to Section 14C of the WBLR Act. Also, no checklists had been prescribed by the Government, regarding the records and documents to be seen by the ROs, while making enquiries, or passing orders relating to land alienation or restoration. It was also observed that no Manual of Standing Orders had been prescribed for the working of the ROs.

The Act was also silent on any uniform processes to be taken up, while making enquiry, inspection or hearings, or in regard to any official format of permission orders, in cases of land alienation.

In the absence of any Standard Operating Procedures (SOPs)/ guidelines/ Check-list *etc.*, as mentioned above, for proceedings under Chapter IIA, Section 14, granting permission orders of land alienation, to tribal persons, was at the discretion of the ROs in the district. Consequently, arbitrariness in decision making, on part of the ROs, could not be ruled out.

On this being pointed out in audit, PO-*cum*-DWO, Birbhum, replied (January 2023) that there were no standard operating procedures or guidelines, in regard to proceedings under Section 14C. However, the matter was being forwarded to the higher authorities, for directions. No reply in this regard, was received from the other PO-*cum*-DWOs in the remaining, test-checked districts (September 2024).

The West Bengal Land Reforms Rules, 1965, were notified under the WBLR Act, 1955. In respect of Section 14C, the said Rules, prescribed only the form of application for redemption of usufructuary mortgage[44], the manner of enquiry on such applications; and the manner of execution of final orders. However, the Rules, were silent on the procedures of enquiry, and the records and documents to be checked, while granting permission to a tribal *raiyat*, for transferring, by sale, his holding or any part thereof, to a person not belonging to any ST, under Section 14C of the Act.

In reply, L&LR and RR&R Department stated (May 2023) that it has taken up the issue of prescribing the specified purposes in respect of section 14C of the WBLR Act and the time limit for disposal of permissions u/s 14C of the WBLR Act. It was also stated that the SOP for disposal of cases under Section 14C of the WBLR Act was under process.

Recommendation:

> ***1.11 State Government may consider prescribing Standard Operating Procedures/ Guidelines, for disposal of cases under Section 14C of the West Bengal Land Reforms Act, 1955, in a time bound manner.***

1.6.2 Absence of monitoring and evaluation mechanism in regard to the ST land transferred to ECL and BCCL

It was mentioned in the R&R Policy, 2012, of Coal India Limited, that the Rehabilitation Action Plans **(**RAPs) would be monitored and evaluated periodically, after the completion of the land acquisition process. Resettlement and rehabilitation activities were the responsibility of a separate group[45]. It was also stipulated in the policy that the said project group would closely interact with the State authorities, during implementation of the RAP.

Scrutiny of records of the test-checked ECL offices did not indicate that such a project group had been created. Consequently, there was no monitoring or evaluation mechanism, in regard to issues of resettlement and rehabilitation of tribals whose land was acquired for mining activities.

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[44] *A type of mortgage where the mortgagor delivers the possession and the right to enjoy income of and from the property, to the mortgagee*

[45] *A separate group was to be constituted, both at the project and corporate level, for planning, implementation, monitoring and evaluation of the RAP.*

The matter was referred to Government in March 2023; reply from the Tribal Development Department awaited (September 2024).

Recommendation:

1.12 State Government may ensure that Coal India constitutes the Project Group as envisaged in its Rehabilitation & Resettlement Policy to oversee resettlement and rehabilitation activities of tribals whose land was acquired for mining activities.