

Chapter VI

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There was absence of an effective system to monitor cases of non-development of plot/obtaining Building Completion Certificate (BCC) within the stipulated time limit. MIDC did not initiate prompt action for resumption of plots and timely issue of notices for recovery of extension charges.

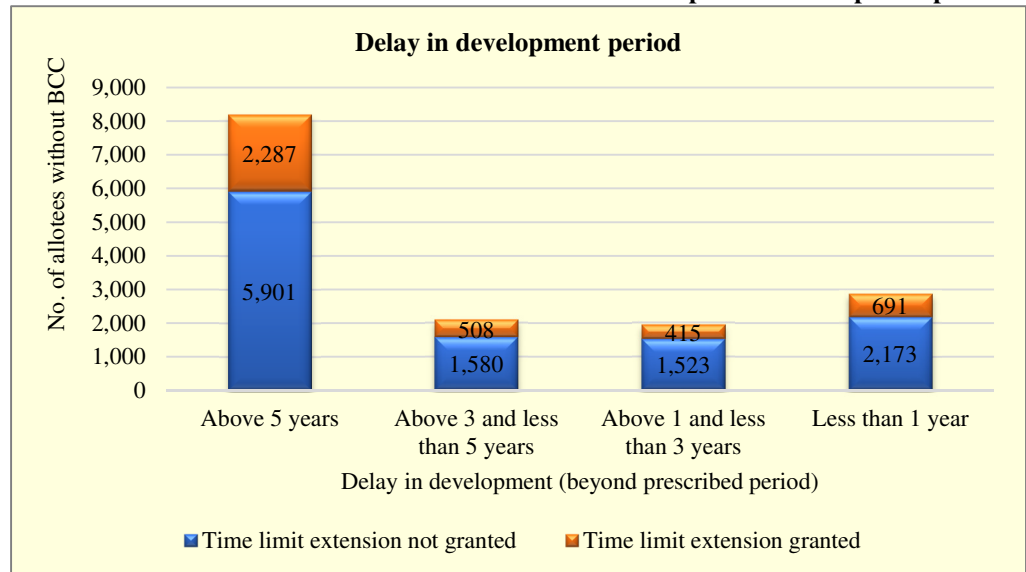
Instances of unauthorised sub-lease and change in use of allotted plots, lack of system for monitoring, removal of encroachments and irregular allotment of land to encroachers was observed.

6.1 As per prevailing policy, an allottee was required to develop allotted plot and obtain Building Completion Certificate (BCC)/Occupancy Certificate (OC) within prescribed development period as per the industrial zone. In case of non-development of plot, MIDC was required to take action for resumption of plots where time limit extension was not granted.

Lack of monitoring system for non-development of plots by allottees

6.1.1 As per information made available to Audit, it was observed that 15,078 allottees in 225 IAs had not obtained BCC (upto March 2021) within the prescribed development period as depicted in **Chart 6.1**.

Chart 6.1: Allottees who have not obtained BCC within stipulated development period



(Source: Information furnished by MIDC)

As could be seen from the table above that while 3,901 allottees had obtained time limit extension, there were 11,177 allottees who did not develop the plots, but continued to occupy the plots without obtaining any time limit extension. This included 5,901 allottees, whose development period had expired for a period beyond five years from the stipulated date. Audit observed that MIDC had not taken action for resumption of plots in these cases. Thus, there was lack

of an effective system to monitor such cases and initiate prompt action for resumption of plots.

MIDC stated (December 2021) that a periodic review of such cases was taken at higher level and MIDC had resumed back 1,492 plots during May 2016 to November 2021. Reply indicated that no action was taken in remaining 9,685 cases, although prescribed development period had expired.

Case Study 6.1:

MIDC executed (April 2007) a MoU with Indiabulls Real Estate Limited for development of a multiproduct SEZ on Joint Venture (JV) basis within a period of five years in Additional Sinnar IA. Accordingly, a special purpose vehicle (Indiabulls Industrial Infrastructure Limited (IIIL)) was formed and land admeasuring 1,047.82 hectare was allotted (September 2007 to February 2012) to IIIL. The GoI notified (October 2009/April 2012) 1,011.26 hectare land, which included processing area of 512.07 hectare and non-processing area of 499.19 hectare.

Audit observed that no development was carried out in the processing area of 512.07 hectare, which was lying vacant till date (October 2021). Though MIDC had issued (July 2014) a show cause notice for resuming possession of undeveloped land, no further action for re-possession of land was taken till date (August 2022). Further, in respect of non-processing area, IIIL sub-leased (October 2010) 433.04 hectare for setting up thermal power plant and constructed buildings on 14.17 hectare land without approval of MIDC. MIDC, however, did not initiate any action for recovery of sub-letting charges including penalty and compounding charges for unauthorised sub-leasing and construction respectively till date (August 2022).

MIDC stated (December 2021) that in principle decision for resumption of plot had been taken and this issue would be brought to logical conclusion at the earliest. It was further stated (August 2022) that resumption notice has been issued (February 2022) and process will be completed in due course of time.

Lack of system for timely issue of notices for recovery of extension charges

6.1.2 Audit observed that there was no provision in the LMS for automatic generation of show-cause notices/demand notices to the allottees for payment of extension charges immediately on expiry of stipulated development period. There was also no policy for recovery of interest/ penalty in case of delayed applications. During the period from 2014-15 to 2020-21, MIDC granted time limit extension in 2,236 out of 2,848 cases analysed (78.50 per cent), where applications were made by allottees after expiry of stipulated development period (delay upto 1,870 days).

MIDC stated (December 2021/ August 2022) that proposal would be submitted before Board to make it mandatory for allottee to apply for time limit extension prior to expiry of development period with provision for recovery of interest/penalty for delay and provision for issue of automated show cause notices to allottees will be made in LMS.

Case Study 6.2:

MIDC executed (July 2004) a lease agreement with International Biotech Park Limited (IBPL) for allotment of land admeasuring 4.13 lakh sqm at Rajiv Gandhi Information Technology Park (RGITP), Hinjawadi, Pune (Phase-II) on Joint Venture basis. The allottee, however, failed to develop residential buildings within the prescribed milestones⁵⁵ besides unauthorisedly sub-leasing plots to third parties. The RO, Pune-II submitted (December 2016) a proposal to MIDC Head Office for recovery of charges of ₹ 13.09 crore towards time limit extension and unauthorised sub-lease of plots. Audit, however, observed that MIDC did not recover applicable charges till date (August 2022) despite lapse of nearly five years since the date of proposal.

Recommendation No. 11: MIDC may implement an efficient and effective IT based monitoring system for automatic generation of notices to allottees who had failed to develop land/obtain BCC within the stipulated development period.

Unauthorised change in use of allotted plots

6.2 MIDC allotted (August 1978) land admeasuring 133 acre in Nashik (Satpur) IA to Nashik Industrial Co-operative Estate Limited. As per terms and conditions of lease agreement, land was not to be used for any other purpose except as a factory for manufacturing. In this respect, Audit observed the following irregularities:

MIDC noticed (May 2016) that there was unauthorised residential use on 33 plots sub-leased by the allottee. While MIDC had filed legal cases against 15 plot holders (pending before courts) for unauthorised use, no action was taken against remaining 18 plot holders. Audit observed that the Board approved (April 2021) regularisation of residential use on such plots and authorised CEO to take final decision in the matter after due scrutiny as per Development Control Regulations (DCR), 2009. Thus, approval of Board for regularisation of residential use on plots allotted for industrial use was irregular and in violation of terms and conditions of lease agreement.

The allottee constructed an unauthorised commercial complex consisting of 46 commercial galas on a plot admeasuring 3,824 sqm allotted for providing common amenities⁵⁶ and created third party interest. RO, Nashik issued (October 2018) a notice to the allottee regarding termination of lease for unauthorised commercial galas. Audit observed that no further action was taken in this matter for unauthorized commercial use on industrial plot.

⁵⁵ Complete development of land during the period from 2004 to 2017 in three phases of four year (Phase I), four year (Phase II) and five year (Phase III) respectively.

⁵⁶ Banks, police out posts, canteen post and telegrams office and such other amenities.

Audit observed that the allottee without obtaining prior permission also constructed 183 industrial galas on two industrial plots and created third party interest which was not allowed as per lease agreement.

In the above cases, MIDC had not taken action for termination of lease and resumption of possession of these plots as per terms of lease agreement and prevailing policies. Reply of MIDC while reiterating the facts was silent (August 2022) on the lack of action against the allottee for irregularities pointed out above.

6.3 MIDC granted (August 1991) possession of land admeasuring 77,435 sqm in Dombivali IA to Kalyan Dombivali Municipal Corporation (KDMC) for the purpose of playground and sports complex. KDMC, however, apart from sport complex constructed a commercial complex (14,795 sqm) having a hotel, mall, theaters, shops *etc.* in violation of terms of allotment. MIDC granted (October 2014) *post-facto* approval to KDMC for change in use on the plot on recovery of applicable charges. During measurement of land, MIDC observed that actual area in possession of KDMC was 79,810 sqm and decided (May 2017) to grant permission for commercial use on increased land area of 2,375 sqm, subject to recovery of applicable compounding charges on construction carried out thereon. Audit observed that MIDC did not take any further action for recovery of compounding charges as well as lease premium for land being used for commercial purpose till date (August 2022). Besides, permission for sub-lease/sub-letting of galas in the commercial complex admeasuring 14,795 sqm was also not sought by KDMC. MIDC had not taken any action for unauthorised commercial utilisation (since 2003) in this regard till date (December 2021).

MIDC stated (December 2021/August 2022) that detailed survey would be conducted and necessary action would be taken for recovery of applicable charges as per policy at the earliest.

Lack of system for monitoring and removal of encroachment

6.4 The GoM acquired land under provisions of the MID Act and placed them at disposal of MIDC for establishment/development of IAs. The MID Act provided for eviction/demolition of unauthorised encroachments/ constructions. There was no provision for regularising encroachment on land acquired for industrial purpose.

As per Section 44 and 45 of the MID Act, MIDC was required to institute prosecution proceedings against such persons who at their own instance or at the instance of other persons undertook or carried out unauthorised construction of buildings in the IAs. MIDC was also required to issue order to such persons to demolish unauthorised buildings within a period not exceeding two months and in case of failure thereof, demolish buildings with recovery of expenses of demolition from such persons.

6.4.1 As per MIDC policy circular (1999), concerned Regional Officers and Area Managers were primarily responsible for identification and removal of encroachments on plots in IAs. The Division Offices (Deputy Engineers/

Executive Engineers) were solely responsible for identification and removal of encroachments on roads, road sides, pipeline roads *etc.* Further, MIDC issued a policy circular (January 2020) which provided that joint responsibility will be fixed in case of fresh/new encroachments on concerned Regional Offices, Area Managers, Surveyors, Executive Engineer, Deputy/ Assistant Engineer and Technical Assistant.

Audit observed that as on 31 January 2021, 37.09 lakh sqm land in 39 IAs (valuing ₹ 4,614.40 crore⁵⁷) was encroached by illegal occupants. Of this, 31.41 lakh sqm land was in 34 developed IAs having shortage of plots, which could have been allotted to prospective entrepreneurs for industrial development in the State. MIDC did not initiate any action for removal/recovery of fines in respect of existing encroachments till date (August 2022).

MIDC stated (December 2021/August 2022) that a policy had been framed (January 2020) for removal of encroachment and fixing joint responsibility on officers of concerned industrial area. Further MIDC was taking all efforts towards protecting the land from encroachments.

Irregular allotment of land to encroachers and regularisation of illegal constructions

6.4.2 Audit observed that MIDC approved (September 2015 to August 2019) allotment of encroached land admeasuring 8,553 sqm to the encroachers⁵⁸ and regularised unauthorised buildings constructed thereon which were being used for residential/educational and commercial purposes.

MIDC, in respect of Bhartiya Gramin Punarachna Sanstha (Aurangabad IA) and Savitribai Phule Sikshan Sanstha (Thane IA) stated (December 2021/August 2022) that Board being empowered to take such decision had approved allotment considering the fact that educational institutes were constructed on the land. No reply is received in respect of Shri Chhatrapati Shivaji Maharaj Sahkari Gruhnirman Santhsa, Khalapur case.

Reply is not acceptable as MIDC was not empowered to allot land to encroachers and regularize unauthorised buildings constructed thereon in violation of express provisions of the MID Act.

Recommendation No. 12: MIDC may formulate time bound action plan for eviction of encroachments and demolition of illegal constructions from encroached properties and responsibility needs to be fixed for failure to prevent/demolish encroachments and irregular allotment of land to encroachers.

⁵⁷ At prevailing industrial rates.

⁵⁸ Shri Chhatrapati Shivaji Maharaj Sahkari Gruhnirman Santhsa, Khalapur for residential purpose (Offer letter issued), Savitribai Phule Sikshan Sanstha, Thane (allotment letter issued) for school and Bhartiya Gramin Punarachna Sanstha, Aurangabad for school (offer letter issued).

Deficiencies in Management Information System/Information Technology System

6.5 The Management Information System (MIS)/Information Technology (IT) System in MIDC was deficient in the following areas:

- Land Management System (LMS) implemented (January 2010) by MIDC recorded plot wise history of all transactions of allottees from date of issue of offer letters. MIDC also implemented two independent systems namely Building Plan Approval Management System (BPAMS) and Single Window Clearance (SWC) System for processing of applications of allottees for grant of BCC and plot related permissions (time limit extension, sub-letting, transfer, sub-lease *etc.*) respectively.

Audit observed that SWC and BPAMS were not integrated with LMS. Consequently, plot wise details of BCC and various permissions granted to the allottees were not automatically updated in the LMS.

MIDC stated (December 2021/August 2022) that integration of LMS with SWC is almost completed.

- The LMS did not record/update details of plot wise encroachment in the IAs. Details of land acquisition (in progress/completed), compensation amount paid to State Land Acquisition Officers (SLAO) and land owners as per court awards were not recorded in the MIS. No effective mechanism was in place for ensuring timely payment of compensation to the land owners.

MIDC stated (August 2022) that facility to mark plot status as encroached has been made available in LMS and Regional Offices are updating the status of such plots in LMS. It was further stated that MIDC is exploring a new system for Land Acquisition which will have updated database regarding land under various stages of acquisition and payments made by MIDC to SLAOs for reconciliation thereof.

- Database of plots allotted on lease rental basis and galas given on monthly rental basis in the buildings constructed by MIDC were also not maintained in the system. There was no database of galas/units which were sub-leased/sublet in IT Parks.

MIDC stated (December 2021) provision of updation of IT Parks galas was made in LMS and data was being updated by the respective ROs. Further, provision to enter details of rented properties will be developed in LMS.

Non-submission of statutory progress reports

6.6 As per Section 26 of the MID Rules, the annual report detailing programme of work of MIDC for the year *vis-a-vis* progress thereof with particular reference to the land acquired, development carried out, amenities provided, industries established in the IAs *etc.* was required to be submitted to GoM within three months of the date of closing of each year.

The annual reports were, however, not submitted regularly and was last submitted (September 2020) for the year upto 2016-17. Similarly, quarterly reports containing progress report based on its working were to be submitted to GoM which were not submitted during the period 2014-15 to 2020-21.

MIDC stated (December 2021/August 2022) that due care would be taken in future to submit the statutory annual and quarterly Reports to the Board/GoM in time.



Nagpur
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The 08 August 2023

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