

---

---

## EXECUTIVE SUMMARY

### *About the Report*

Article 244 of the Constitution has made provision for the administration of Scheduled Areas. The purpose of Scheduled Areas is to preserve the Tribal Autonomy and Culture, as well as to promote their economic development, to ensure social, economic and political justice, preservation of peace and good governance. In this direction, both the Government of India and Government of Odisha, have enacted various legislations and framed rules thereunder, from time to time. These Acts/ Rules aim to: (i) make the decision making process, on acquisition of land, participatory, by taking consent of the Gram Sabhas, (ii) maintain fairness and transparency in valuation of land acquired for public purposes, (iii) ensure the rehabilitation and resettlement of families affected/ displaced, due to land acquisition, (iv) safeguard the property rights of Scheduled Tribes and Scheduled Castes, (v) ensure grant of forest rights and (vi) ensure equitable distribution of land, by taking over the ceiling surplus land and distributing the same among the landless population *etc.* These aspects have been discussed in the Report.

### *Why did we take up this Audit?*

According to the 2011 Census, the tribal population of the State was 95.91 lakh. This constituted 22.85 *per cent* of the total population of the State and 9.20 *per cent* of the total tribal population of the country. There are 62 different tribal communities, including 13 Particularly Vulnerable Tribal Groups in the State. Odisha has the third largest concentration of tribal population in the country, after Madhya Pradesh and Maharashtra. The population of Scheduled Tribes, in the Scheduled Areas, accounts for about 68.09 *per cent* of the total tribal population of the State.

Acquisition of land in Scheduled areas should be a last resort, as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013. However, Government acquires land in Scheduled areas, for public purposes, such as construction of irrigation projects or establishment of industries. Determination of the compensation amount and Rehabilitation and Resettlement (R&R) grants constitute risk areas for audit and audit findings, in the past years, as well as media reports, have highlighted the risk of possible undervaluation of land or non-implementation of R&R packages.

In order to ascertain the effectiveness of implementation of the various land reform measures, undertaken for protecting the rights of the ST population and compliance issues relating to the acquisition of land in Scheduled areas, Audit specifically considered whether:

- Land acquisition, for developmental activities, had been undertaken, by following due procedure and ensuring fair compensation and R&R benefits.
- Land rights of the people of Scheduled areas had been safeguarded, as per the extant legal and regulatory provisions.

- Institutional arrangements for implementation of different provisions, relating to management of land, were adequate and effective.
- A monitoring mechanism and internal control system were in place and were effective.

### ***Major Audit Findings***

Social Impact Assessment (SIA) is an exercise to determine, *inter alia*, the exact number of people to be affected or displaced, as well as the impairment of their livelihood, based on which R&R packages are given shape. In Scheduled areas, consent of the Gram Sabha (GS) is a must for acquisition of land. Thus, it is imperative to conduct GS in all the villages where land has been identified for acquisition and the acquisition is required to be done as per the consent, obtained in a fair manner, of the GS. The following Audit findings emerged in this regard:

- Audit test-checked 312 Land Acquisition (LA) cases, which included 58 LA cases, relating to irrigation projects, for which SIA was not required. Of the remaining 254 LA cases, SIA had not been done in case of 44 LA cases (17 per cent).
- Preliminary notification for acquisition of land, under Section 11 of the RFCTLARR Act, 2013, is to be issued within 12 months from the date of appraisal of the SIA report by an Expert Group. In the acquisition of 82.852 acres of land, for three projects, preliminary notifications had been issued after lapse of about one and half years from the stipulated date.
- Although obtaining the prior consent of the GS is a pre-requisite for acquisition of land in Scheduled areas, in 126 (43 per cent) out of 294 LA cases, preliminary notifications for acquisition of land had been issued without conducting GS meetings, conducting GS meetings without the requisite quorum, in the absence of consent of GS and by means of *post facto* conduct of GS meetings.

The manner of assessment of market value and procedure, for payment of compensation, have been outlined in the RFCTLARR Act, 2013, to safeguard the interests of the land owners. Significant audit observations in this regard, include the following:

- In 74 (36 per cent) out of 203 test-checked LA cases, the sales data of the adjoining villages had not been obtained, for determination of the market value of the land notified for acquisition. In six LA cases, involving acquisition of 43.48 acres of land, Audit assessed the extent of undervaluation of land, as being ₹ 10.07 crore.
- In Sundargarh district, the Bench-Mark Value (BMV), despite being higher than the average sales value of similar category of land in adjoining villages, had not been considered for determination of the market value of land. Resultantly, the amount of compensation had been under-assessed by ₹ 5.27 crore.
- For acquisition of land for private entities, consent of the land owners, for the amount of compensation, had not been obtained. Besides, the

valuation of land had been done in an unfair manner, resulting in short payment of compensation, by ₹ 63.76 crore.

- Computation of the additional market value of land, had not been done as per the provisions of the Act, resulting in short payment of compensation, amounting to ₹ 4.03 crore, in 120 cases, involving acquisition of 1,061.109 acres of land.
- In 179 cases, involving acquisition of 3,055.583 acres of land, the compensation amount of ₹ 120.94 crore, could not be disbursed, due to non-updation of the land records.
- In 114 LA cases, land measuring 2,449.594 acres, had been physically taken over, after making payment of 83 *per cent* of the compensation amount due, against the stipulation of paying full compensation amount.
- Land measuring 57.453 acres, had been taken over by the Government, without initiating LA proceedings and also without paying any amount towards compensation, in disregard of the provisions of the RFCTLARR Act, 2013.

In regard to the R&R benefits extended to the affected/ displaced families, Audit found that:

- As per the provisions of the RFCTLARR Act, 2013, although the affected families were entitled to R&R benefits, 13,415 affected families had been denied the same, amounting to ₹ 737.82 crore. Only the displaced families were being provided with R&R benefits.
- 2,208 affected/ displaced families had not been disbursed their R&R entitlements of ₹ 176.51 crore, even after their displacement or acquisition of their land.
- R&R benefits had not been extended to 2,390 families, displaced due to land acquisition for four projects, even after lapse of 5 to 60 years.
- In three projects, 1,915 families eligible for RR benefits had been given short payment of R&R benefits, with the short payment amounting to ₹ 10.28 crore.
- In R&R colonies, basic amenities, like all-weather roads, piped drinking water, drainage, individual toilets, Anganwadi centres and public lighting systems, were found lacking.

The Orissa Scheduled Areas Transfer of Immovable Property (OSATIP) (by Scheduled Tribes) Regulation, 1956, amended in 2000, is aimed at protecting the property rights of the ST population. Audit found the following lapses in enforcement of the OSATIP Regulation:

- In the absence of fixation of a time limit for disposal of cases filed under OSATIP Regulations, out of the total 2,134 pending cases, 1,347 cases had remained pending beyond 10 years and 391 cases had been pending for 6 to 10 years.
- In 20 test-checked cases, involving 66.57 acres of land, despite receipt of enquiry reports from the Tahasildar, between July 2008 and September 2021, the OSATIP cases had not been settled by the Sub-Collectors concerned.

- In eight sampled Sub-Collectorates, 90 out of 104 warrants, issued for restoration of 46.141 acres of land, in the names of STs, had not been executed by the Tahasildars.

Audit observations, in regard to implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, or the FR Act, included the following:

- The pace of disposal of forest claims was found to be tardy in the Baripada Tahasil, where 1,154 claims had been pending for disposal, since March 2019.
- Of the 2,20,494 Individual Forest Right titles, issued in the six sampled districts, in 59 *per cent* cases, Records of Rights, had not been corrected and in 15 *per cent* cases, demarcation of allotted lands had not been made.
- On conversion of forest villages into revenue villages, 217 (92 *per cent*) out of 236 forest villages, in the sampled districts, had not been converted into revenue villages.
- In the Sundargarh and Koraput districts, certificates under the FR Act (or FRA certificates) had been issued for diversion of 1,409 Ha of forest land, for non-forest use, without obtaining consent of the concerned GSs or by disregarding the views of GS.

The Orissa Land Reforms (OLR) Act, 1960, aims, *inter alia*, at equitable distribution of land, by taking over of Ceiling Surplus land, for eventual distribution among landless households, as well as regulating the sale of SC land. The significant audit observations thereon, were as follows:

- As many as 50 cases, involving 1,220.16 acres of land, were pending for disposal in five sampled districts. Four of these cases had been pending since 1973-74.
- Out of 44,251.943 acres of Ceiling Surplus land, vested with the Government, possession of 1,462.622 acres had not been taken (as of December 2022).
- Government had taken possession of Ceiling Surplus land, measuring 42,789.321 acres. Of this, 3,460.678 acres had not been distributed among landless households.
- In the eight sampled Sub-Collectorates, out of 2,626 applications, received during the FYs 2017-18 to 2021-22, from SC land owners, seeking permission for disposal of their land, 635 applications were pending, as of March 2022.
- During the FYs 2017-18 to 2021-22, 249 cases had been instituted, in the eight sampled Sub-Collectorates, for restoration of SC land. Of this, 142 cases were pending for disposal, as of March 2022.
- In the six sampled districts, 898 out of 21,659 identified landless households, had not been provided with homestead lands, under the Vasundhara Scheme. Moreover, no survey had been carried out for identification of landless households since 2018, though the same was to be done in each quarter, as mandated by the RDM Department,

despite the fact that there were 7,462 landless households in the Permanent Waiting List of PMAY-G.

Significant audit observations, on Monitoring and Enforcement by the RDM Department, were as follows:

- Out of 12,982.381 acres of land, acquired between 1963-64 and 2018, for public purposes, 9,864.231 acres had remained unutilised for the intended purposes, as of December 2022. Though the unutilised land should have been restored back in the names of the persons, from whom the land had been acquired, this had not been done.
- There were 31,730 cases, involving encroachment of 12,013.90 acres of Government land, pending in the six sampled districts, as of March 2022.
- 14,71,998 land records were pending for digitisation in the six sampled districts, as of December 2022.

***What do we recommend?***

It is recommended that:

- 1. Social Impact Assessment Studies, being vital for identification of the population to be affected/ displaced, due to land acquisition, should be conducted in all required cases and preliminary notifications for acquisition of land, should be issued within the stipulated period. Responsibility should be fixed in cases of non-conduct of Social Impact Assessment Studies.***
- 2. The Department may fix responsibility against the officers concerned for lapses in conducting Gram Sabha (GS) i.e., acquisition of land without conducting GS, without obtaining consent of GS, land acquisition despite disagreement of GS and getting signature of GS members, without disclosing the names of the projects.***
- 3. Valuation of the land notified for acquisition, should be made with due regard to the average sales price in the adjoining villages and the governing Bench Mark Value, as provided in Section 26 of the RFCTLARR Act, 2013.***
- 4. Valuation of the land, notified for acquisition for private entities, should be made based on the consent of the land owners. For Scheduled areas, Government should fix the floor price of the land, for the benefit of the land owners.***
- 5. Additional market value may be calculated, considering the dates of issue of preliminary notifications and dates of awards, as provided in Section 30 of the RFCTLARR Act, 2013.***
- 6. In case of direct purchase of private land through bilateral negotiation, the market value of land may be fixed, as per Sections 26 to 30 of the RFCTLARR Act, 2013.***
- 7. Records of Rights of land parcels, notified for acquisition, should be updated, as per the schedule prescribed in the RFCTLARR Act, 2013.***

8. *No land should be acquired without following the procedure provided under the RFCTLARR Act, 2013, and physical possession of land should be taken only after ensuring payment of full compensation.*
9. *R&R benefits should be made available to all affected families, within six months from the date of award of compensation, as per the provisions of the RFCTLARR Act, 2013.*
10. *Basic civic amenities, as provided under Section 32 of the RFCTLARR Act, 2013, should be provided in the R&R Colonies, for the socio-economic upliftment of the displaced families.*
11. *Responsibility may be fixed on the Tahasildars for default in submitting enquiry reports, as well as for non-execution of warrants, issued by the Competent Authorities, for restoration of land, in favour of the legally entitled ST persons.*
12. *The timeframe for disposal of cases, filed under the OSATIP Regulations, 1956, may be fixed and measures may be taken to ensure that the Competent Authorities dispose of the pending cases, within the specified timeframe.*
13. *Pending Forest Right Claims, may be settled, expeditiously.*
14. *In regard to Individual Forest Rights (IFRs) issued, the corresponding RoRs should be corrected in the names of the IFR holders and the allotted forest lands should be demarcated.*
15. *Responsibility may be fixed on the Collectors concerned, for issue of FRA certificates, disregarding views of Gram Sabhas.*
16. *Cases instituted for taking over of the Ceiling Surplus land, should be disposed of at the earliest. Government should take possession of the Ceiling Surplus land, settled in its favour and ensure its distribution, among the eligible population, at the earliest.*
17. *Surveys of landless households should be carried out periodically and the identified households should be provided with homestead land, for construction of dwelling units.*
18. *Unutilised acquired land should be returned to the previous land owners, as per the statutory provisions and the regulations, framed thereunder.*
19. *Village-wise Land bank, as envisaged under Rule 42 of the Odisha RFCTLARR Rules, 2016, may be formed to ensure minimum acquisition and to facilitate utilisation of unutilised public land.*
20. *Cases of encroachment of Government land should be disposed of within the prescribed time frame.*
21. *The land records, pending for digitisation, should be digitised at the earliest.*
22. *Land Commission may be reconstituted, District Executive Committees may be formed and monitoring mechanism may be strengthened for disposal of pending land revenue cases and implementation of land reform measures.*