

CHAPTER IV : MINISTRY OF URBAN DEVELOPMENT

Delhi Development Authority

4.1 Allotment of Land to Educational Institutions

DDA allots land to educational institutions at concessional rates for setting up of educational institutions subject to certain mandatory terms and conditions. The primary purpose of such allotment is provision of educational facilities particularly to weaker sections of society. However, 133 out of the 381 societies which had been allotted land at concessional rates failed to provide the stipulated 25 per cent reservation for children from the weaker sections as of March 2004 while 343 schools hiked their tuition fees by five per cent to 44 per cent as of March 2004 without the requisite approval of the Directorate of Education in violation of the terms of allotment. Further, instructions of the Central Government for 25 per cent reservation for wards of Central Government employees were ignored. Moreover, 46 out of 90 schools test checked in audit were yet to be functional despite lapse of the stipulated period of two years. This was partly attributable to the failure on the part of DDA to ensure sufficiency of funds by societies before allotting land as required under the Nazul Rules. Lastly, DDA failed to initiate any action to recover outstanding dues of Rs. 1.88 crore from 89 societies despite adequate powers to recover the dues as arrears of land revenue. Both the DDA as the land owning agency as well as the Directorate of Education as the sponsoring department had failed to fulfill their joint responsibility of ensuring adherence to the terms of concessional allotment of land. No established mechanism for ascertaining breaches of terms of allotment existed so as to enable remedial action.

4.2 Introduction

The Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981, provide for allotment of Nazul lands to educational institutions, i.e. schools, colleges and universities at concessional rates. Rule 20 stipulates inter alia that allotment of land at concessional rates may be made to a society which is registered under the Societies Registration Act, 1860, is of a non profit making character and is sponsored or recommended by a Department of the Delhi Government or a Ministry of the Central Government. Such allotment of land to educational institutions is made subject to certain mandatory terms and conditions. The primary purpose of such allotment of land at concessional rates is to serve

a public purpose of facilitating establishment of or extending educational facilities particularly for the weaker sections of society.

4.3 Allotment procedure

The allotment of land is looked after by the Land Disposal Department of DDA which is headed by the Commissioner (Land Disposal). He is assisted by the Director (Lands), the Deputy Director (Institutional Land) and other subordinate staff.

Applications for allotment of land at concessional rates for setting up educational institutions are considered initially by the Land Allotment Advisory Committee of the Directorate of Education, Government of NCT of Delhi, in accordance with the extant guidelines. The Committee is headed by the Commissioner-cum-Secretary (Education) of the Government of Delhi. The recommendations of this Committee are submitted to the Institutional Allotment Committee (IAC) of DDA which is headed by the Commissioner (Lands) DDA. Once an allotment is approved by the IAC, land allotment letters are issued by the Institutional Branch of DDA. The entire procedure of allotment is to be completed within a period of three months from the date of application to handing over of possession. The societies are thereafter required to complete the construction of the school buildings and commence functioning within two years from the date of taking possession of the land. It is the responsibility of these Committees to ensure that the applicant society fulfills the prescribed conditions before approving the allotment.

4.4 Scope of audit

An audit exercise was carried out from April to July 2004 to assess the extent to which the stated public objective of the allotment of land at concessional rates to educational institutions was achieved. The principal audit objective was to review compliance with the terms of the allotment. For this purpose, audit scrutinized the records of the Institutional Land Branch of DDA relating to allotment of land to educational institutions during the period 1990-91 to 2003-04. Audit also called for and examined relevant linked records from the Directorate of Education, Government of NCT of Delhi, which was the sponsoring department for the allotment of land at concessional rates. During the period 1990-91 to 2003-2004, DDA allotted land to 381 registered societies for constructing buildings to establish schools. Of these, audit selected 90 cases for detailed scrutiny. In

70 cases the stipulated period of two years, after taking possession of land by allottees, had elapsed. Forty six of these schools were non-functional.

4.5 Deficiencies in allotment of land – failure to ensure sufficiency of funds before approving allotment

Rule 20(d) of Nazul Rules stipulates that no allotment shall be made unless the institution is in possession of sufficient funds to meet the cost of land and the construction of buildings. This provision was made to ensure that construction of buildings by the institution is completed within a reasonable time so that the purpose of the allotment is achieved. Despite this clear stipulation, DDA failed to ensure the financial status of the societies to meet the cost of land and construction of buildings, before allotting the land. As a result, the following irregularities occurred:

- a) Out of the selected cases, the declared financial resources of 27 societies were not enough to even meet the cost of land. The stipulated two year period had lapsed in 15 of these 27 cases.
- b) On grounds of inadequacy of funds, 27 societies sought and were granted time extensions.
- c) Seventeen societies were granted permission to mortgage the allotted land to raise loans to meet the cost of construction.

Thus, land was allotted at concessional rates to societies which were otherwise ineligible as they did not possess the necessary resources.

4.6 Non-enforcement of terms of allotment

4.6.1 Non-enforcement of conditions relating to reservation for weaker sections of society

One of the primary conditions stipulated in the terms of allotment of land at concessional rates is that they will ensure admission to students belonging to weaker sections of society to the extent of 25 *per cent* and grant freeships from the tuition fees in accordance with the rules prescribed by the Government of Delhi from time to time.

Audit ascertained that of the 24 functional schools selected for audit, 19 schools were extending no reservation or freeships to the students from the weaker section while five schools had provided reservation/freeships only to the extent of three *per cent* to 20 *per cent* against the mandatory 25 *per*

cent as of 31 March 2004. Hence, none of these functional schools complied with the conditions. Consequently, not only was the social objective of allotment of land at concessional rates to provide educational opportunities to the weaker sections defeated, but the DDA also had to unnecessarily forgo additional revenue of Rs. 125.15 crore in these 24 plots which it could have earned had the plots been allotted at commercial rates.

In addition to the above 24 cases, the Directorate of Education identified another 109 cases where the condition of reservation of seats for the weaker sections was violated. No reservation had been provided in 69 cases while it varied between one *per cent* to twenty four *per cent* in the remaining 40 cases. Thus, 66 *per cent* of the total of 133 functional schools were not adhering to the terms and conditions of the allotment relating to reservation for the weaker sections as of March 2004.

Audit also ascertained that there existed no established mechanism for identifying breaches of terms of allotment so as to enable remedial action. It was clearly the joint responsibility of both the DDA as the land owning and allotting agency as well as of the Directorate of Education as the sponsoring department to ensure adherence to the terms of allotment of land which was being allotted at concessional rates, forgoing possible revenue, in order to achieve a public purpose.

In pursuance of the directions of the Delhi High Court of 20 January 2004, the Directorate of Education forwarded in April 2004 a list of 133 schools to DDA for taking necessary action. Subsequently, DDA issued show cause notices to 55 defaulting societies in June 2004 and to 76 societies in September 2004 directing them to respond within 15 days from the date of issue of notice failing which the allotments would be liable to be cancelled. However, no further action had been taken though none of the 131 defaulting schools responded to the notices (November 2004).

Hence, neither the DDA nor the Directorate of Education initiated any action to enforce the terms of allotment till compelled to take notice of the breaches by the Hon'ble High Court.

4.6.2 Enhancement of tuition fees in disregard of the terms of allotment

According to the terms and conditions of allotment of land at concessional rates, no increase in the rates of tuition fees would be effected without the

prior approval of the Director of Education, Government of Delhi. The institutions were also to follow the provisions of the Delhi School Education (DSE) Act 1973 and the rules framed thereunder in this regard.

Audit ascertained that 11 schools had increased their tuition fees by 10 *per cent* to 13 *per cent* without the prior approval of the Directorate of Education. As a consequence of the PIL filed in the Delhi High Court, the Directorate of Education identified 332 additional schools in March 2004 which had similarly hiked their tuition fees without the prior approval of the Directorate or had violated the provisions of the DSE Act by levying higher fees and other charges. The quantum of hike ranged from five *per cent* to 44 *per cent*. However, show cause notices could be issued in May 2004 to only 185 out of the total of 343 defaulting schools, by the Directorate of Education and their further reply is awaited as of December 2004. Hence, neither DDA nor the Directorate monitored the adherence of the terms of the allotment and the provisions of the DSE Act by the societies. Further, even after receiving information from the Delhi Government of non compliance, DDA did not take effective action.

4.6.3 Non-inclusion of conditions relating to reservation of seats for children of Central Government employees

In July 1990, the Central Government instructed DDA to evolve a policy to allot land for public schools only to such organizations which were prepared to reserve 25 *per cent* of seats for wards of Central Government servants posted in Delhi. It was also directed that a Central Government representative should be included in the board of management or admission committee of such schools. Both these conditions were to be incorporated in the lease deed. In case the organization failed to admit the required minimum percentage of children of Central Government employees, the land allotted by the Government would be liable for resumption.

Audit ascertained that this stipulation had not been included in any of the allotment letters issued nor incorporated in the lease deeds. Thus, Central Government employees were deprived of the intended benefit.

4.7 Outstanding dues of Ground Rent and License Fees

The Director (Land Costing) in DDA is responsible for maintaining proper records of recoveries due on account of premia, ground rent and license fee in respect of land allotted to educational societies for establishing

schools. The ground rent and license fee are payable by the allottee in advance failing which interest at the rate of 10 *per cent* per annum is leviable. Arrears of ground rent and license fee may be recovered as arrears of land revenue under the DDA Act, 1957.

Audit noted that an amount of Rs.1.88 crore (Rs. 1.70 crore ground rent and license fee + Rs.18.05 lakh interest) was outstanding against 89 societies as on 31 March 2004. The outstanding ground rent, license fee and interest thereon related to the period 1997-98 to 2003-2004. No action had been initiated by the DDA to recover these dues (July 2004).

4.8 Conclusion

The terms and conditions for allotment of land to educational institutions at concessional rates were not enforced by either the DDA as the land owning agency or the Directorate of Education as the sponsoring Department. Consequently, 133 out of 381 societies allotted land at concessional rates, failed to fulfill their obligation of reservations for the weaker sections. Tuition fees were hiked in violation of the extant rules without prior permission of the Directorate of Education while instructions relating to reservation for wards of Central Government employees were not even incorporated in the agreement. The allotments themselves were flawed in as much as the pre-condition of ensuring sufficiency of funds for construction and commencement of the school was not ensured before approving allotment. There was no coordination between the Directorate of Education and the DDA to ensure adherence by the allottees to the obligatory terms and conditions of the allotment of the land nor was there any mechanism to detect deviations, monitor adherence or take action against defaulters.

The matter was referred to the Ministry in August 2004; its reply was awaited as of December 2004.