

# CHAPTER I

## INTRODUCTION

### 1.1 General

Land is a premium asset and an important resource which contributes significantly to the economy of the State. Government lands not required for immediate use are given on lease to various individuals/institutions for various purposes such as residential, industrial, commercial and others. The leased lands also enable the Government to augment their revenue by levy of lease rent, premium/unearned income for change in use of the leased lands, development charges, transfer charges, etc.. Different Government organisations are dealing with leasing of Government land at Mumbai and Pune. These are through the Collectors of Mumbai City, Mumbai Suburban and Pune, Mumbai Metropolitan Region Development Authority (MMRDA), Maharashtra Housing and Area Development Authority (MHADA), Municipal Corporation of Greater Mumbai (MCGM) and Pune Municipal Corporation (PMC). The grant of lease of land is governed by various provisions of the Maharashtra Land Revenue Code, 1966 (MLR Code), Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971, Government Resolutions, Circulars, Memoranda, etc. and concerned Acts of the various development agencies such as MHADA, MMRDA and Municipal Corporations.

The powers of Collectors in respect of leased lands are vested in the following Sections of the MLR Code:

1. Section 38 confers upon the Collector the power to lawfully lease under grant or contract any unalienated unoccupied land to any person for such period for such purpose and on such conditions as he may, subject to rules made by the State Government, determine.
2. Section 53 confers upon the Collector the power to evict, after giving a reasonable opportunity of being heard, any person unauthorisedly or wrongfully occupying the Government land by reason of expiry of lease period or termination of lease or breach of conditions of lease.

### 1.2 Organisational set-up

The monitoring and control of Government land given on lease at Government level is done by Additional Chief Secretary, Revenue & Forest Department (R&FD), Government of Maharashtra, Mumbai. The superintendence of the leasing of land is vested with the 35 Collectors in the State. They are assisted by the Sub Divisional Officers and Tahsildars in their respective districts. The District Plan<sup>1</sup> is prepared by Town Planning Department under the Urban Development Department (UDD) in consultation with other Government Departments. The same record is maintained by City Survey Officer working

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<sup>1</sup> A District Plan is prepared by a committee constituted for this purpose at the district level for planning at the district and below. The Committee in each district should consolidate the plans prepared by the Panchayats and the Municipalities in the district and prepare a draft development plan for the district.

under the Director of land records and Settlement Commissioner, Revenue Department, Maharashtra State.

In respect of development agencies viz. MMRDA, MCGM and PMC (under the UDD) and MHADA (under the Housing Department (HD)), the details of organisational set up are given in the respective chapters, viz. VI, VII and VIII respectively.

### **1.3 Audit objectives**

For this performance audit three major districts<sup>2</sup> in Maharashtra were taken up as the land cost in these cities has been increasing, so as to ascertain whether the grant of Government land on lease was in accordance with the existing Act, Rules and Regulations, Government Resolutions (GRs), etc.

Test check of the records of Government land given on lease was conducted with a view to ascertain whether:

- the grant of Government land on lease was in accordance with the existing provisions of the concerned Act(s), Rules and Regulations, GRs, etc., framed by the Government from time to time;
- there exists a proper monitoring/mechanism to ensure that the process of allotment was transparent, terms and conditions of lease of the land/renewal of lease exist and were being followed uniformly;
- system and procedures in the Department to ensure correct assessment and timely collection of the lease rent and renewal of expired leases are adequate;
- action was taken for resumption of non-utilised land allotted on lease and breach of conditions of lease agreement/renewal of leases are followed up and dealt with as per the provisions of the MLR Code; and
- action was taken by the concerned competent authority to evict the encroachments found on the leased Government lands.

### **1.4 Audit criteria**

The audit criteria for Performance Audit were derived from the provisions of the following Acts, Rules, GRs and notifications/orders issued there under:

#### **For grant of lease by the Collectorates**

- Maharashtra Land Revenue Code, 1966
- Maharashtra Land Revenue (Disposal of Government Lands) MLR (DGL) Rules, 1971
- Maharashtra Land Revenue (Conversion of use of land and non-agricultural assessment) Rules, 1969
- Village, Town and City Survey Rules, 1969
- GRs, orders, circulars, etc. regarding leased lands and its assessment, levy and collection of revenue

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<sup>2</sup> Mumbai City, Mumbai Suburban District and Pune.

**For grant of lease by MHADA**

- Maharashtra Housing and Area Development Authority Act, 1976
- Maharashtra Housing and Area Development (Disposal of Land) Rules, 1981
- Maharashtra Housing and Area Development (Disposal of Land) Regulations, 1982
- Any general policy matters communicated through GRs, circulars, etc.

**For grant of lease by MMRDA**

- MMRDA Act, 1974, for planning and co-ordination of development activities in the Mumbai Metropolitan Region
- MMRDA (Disposal of Land) Regulations, 1977, as amended from time to time
- Any general policy matters communicated through GRs, circulars, etc.

**For grant of lease by MCGM**

- Mumbai Municipal Corporation (MMC) Act, 1888
- Any general policy matters communicated through GRs, circulars, etc.

**1.5 Definitions**

The definitions of the various terms as per the MLR Code used in the Performance Audit are given in **Appendix-I**.

**1.6 Procedure of allotment in the Collectorates**

On receipt of application from individual/trust/institution/co-operative society etc., for grant of land on lease for any specified purpose (education, residential, industrial, commercial and other purposes), the Collector initially ascertains the availability of land and its status as per development plan from the Tahsildar and Survey Officer and on receipt of the same prepares a proposal after obtaining the necessary documents and submits the same to the Government for obtaining sanction. On receipt of the sanction from the Government, the Collector issues an allotment order to the lessee spelling forth the terms and conditions of lease and the purpose, area, lease rent, period, etc., which is followed in the execution of lease agreement.

The procedures followed by MHADA, MMRDA and MCGM are brought out in the respective chapters.

**1.7 Scope and methodology of Audit**

The Performance Audit of the records of leases granted by the District Collectors of Mumbai City, Mumbai Suburban and Pune up to 31 March 2012 was conducted between May and September 2012. The records of other agencies such as MCGM, PMC, MHADA and MMRDA which are also responsible for grant of land on lease were selected for the Performance Audit.

Selection of these three districts was based on the cost of the land that has shown a steep rise in these districts as compared to other districts. Selection of the cases was based on analysis of parameters such as the value of the land, locality, area, usage, duration of lease, etc.. The leases granted before and after independence, which are in operation, or lands that are in occupation of the lessees after the expiry of the lease periods, have also been selected for this audit.

The number of lease cases as provided by the various offices selected for test check and the sample cases test checked are as follows:

Name of office selected for test check	No. of lease cases	Sample selected	Remarks
Collector, Mumbai City	1,257	320	All relevant records relating to 223 cases were produced whereas for the remaining 97 cases, only copy of lease deeds, property cards and extract of the land lease information system were furnished.
Collector, Mumbai Suburban	295	74	All cases produced.
Collector, Pune	214	55	22 cases fully produced. The balance 33 cases were incomplete.
MHADA	112	40	All cases produced, except two.
MMRDA	152	53	All cases produced.
MCGM	184	52	All cases produced.
PMC	2	2	Only one case produced.
<b>Total</b>	<b>2,216</b>	<b>596</b>	

The draft Performance Audit Report was forwarded to the Government in November 2012. The audit conclusions and recommendations in respect of Collectorates were discussed in the exit conference held in January 2013 which was attended by the Additional Chief Secretary, R&FD, Dy. Secretaries, respective Collectors and other senior officials from the Department. The audit conclusions and recommendations in respect of MMRDA, MHADA and MCGM were discussed in the exit conference held in February 2013 which was attended by the Principal Secretary, UDD, Vice President and Chief Executive Officer/MHADA, Additional Metropolitan Commissioner/MMRDA, Additional Municipal Commissioner/MCGM and other senior officers from the respective Departments. The replies given during the exit conferences and at other points of time have been appropriately included in the relevant paragraphs.

## **1.8 Audit constraints**

After examining the files at the Collectorates of Mumbai City, Mumbai Suburban and Pune, it was found necessary to examine the records of some cases at Government level for which records were requisitioned from the R&FD in Mantralaya. However, the R&FD informed that all the records were destroyed in the fire which took place on 21 June 2012. Due to non-availability of records in respect of the above cases at Mantralaya, we could

not examine the considerations based on which the sanctions, relaxations in conditions, concessions/discounts/rebates in lease rents, etc., were allowed.

## **1.9 Acknowledgement**

Indian Audit and Accounts Department acknowledges the co-operation of the R&FD, UDD and the HD as well as Collectorates, MHADA, MMRDA, MCGM and PMC for providing necessary information and records to audit. The criteria for selection of records of leased cases for scrutiny is explained in the Paragraph “Scope and methodology of Audit” *ibid.* Entry conferences for the Performance Audit were held on 7 August 2012 with Additional Chief Secretary, R&FD and the Collectorates and on 23 August 2012 with Principal Secretary, HD, Municipal Commissioners and other senior officers of MHADA and MMRDA. The Executives were informed about the scope, objective and criteria for selection of cases and methodology of audit. The Additional Chief Secretary, R&FD, the Principal Secretary, HD and the Municipal Commissioners explained the various aspects of Government land which are given on lease and its administration and implementation.