

DEVELOPMENT OF RAILWAY LAND FOR COMMERCIAL
USE BY RAIL LAND DEVELOPMENT AUTHORITY

MINISTRY OF RAILWAYS

PUBLIC ACCOUNTS COMMITTEE
(2023-24)

ONE HUNDRED AND THIRTEENTH REPORT

SEVENTEENTH LOK SABHA



सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

PAC NO. 2343

**ONE HUNDRED AND
THIRTEENTH REPORT REPORT**

**PUBLIC ACCOUNTS COMMITTEE
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BY RAIL LAND DEVELOPMENT AUTHORITY**

MINISTRY OF RAILWAYS



Presented to Lok Sabha on: 08.02.2024
Laid in Rajya Sabha on: 08.02.2024

**LOK SABHA SECRETARIAT
NEW DELHI**

February, 2024 /Magha, 1945 (Saka)

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*Will be appended at the time of printing

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE
(2023-24)

Shri Adhir Ranjan Chowdhury - Chairperson

MEMBERS

LOK SABHA

2. Shri Subhash Chandra Baheria
3. Shri Thalikkottai Rajuthevar Baalu
4. Shri Bhartruhari Mahtab
5. Shri Jagdambika Pal
6. Shri Pratap Chandra Sarangi
7. Shri Vishnu Dayal Ram
8. Shri Rahul Ramesh Shewale
9. Shri Gowdar Mallikarjunappa Siddeshwara
10. Dr. Satya Pal Singh
11. Shri Brijendra Singh
12. Shri Rajiv Ranjan Singh alias Lalan Singh
13. Shri Jayant Sinha
14. Shri Balashowry Vallabhaneni
15. Shri Ram Kripal Yadav

RAJYA SABHA

16. Shri Shaktisinh Gohil
17. Dr. K Laxman
18. Shri Derek O'Brien¹
19. Shri Tiruchi Siva
20. Dr. M. Thambidurai
21. Shri Ghanshyam Tiwari
22. Dr. Sudhanshu Trivedi

SECRETARIAT

1. Shri Sanjeev Sharma - Joint Secretary
2. Smt. Bharti Sanjeev Tuteja - Director
3. Ms. Malvika Mehta - Under Secretary

¹ Elected w.e.f. 19.08.2023 consequent upon retirement of Shri Sukhendu Sekhar Ray, MP on 18.08.2023.

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(2022-23)

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15. Shri Shyam Singh Yadav

RAJYA SABHA

16. Shri Shaktisinh Gohil
17. Shri Bhubaneswar Kalita
18. Dr. Amar Patnaik
19. Dr. C. M. Ramesh
20. Shri V. Vijayasai Reddy[†]
21. Dr. M Thambidurai
22. Dr. Sudhanshu Trivedi

[†] Shri V. Vijayasai Reddy was elected as Member of Public Accounts Committee w.e.f. 13.12.2022.

INTRODUCTION

I, the Chairperson, Public Accounts Committee (2023-24), having been authorised by the Committee, do present this One Hundred and thirteenth Report (Seventeenth Lok Sabha) on “Development of Railway Land for Commercial use by Rail Land Development Authority” based on Para 7.1 of C&AG Report No. 5 of 2018 Union government (Railways) pertaining to the Ministry of Railways.

2. The Report of Comptroller and Auditor General of India was laid in Lok Sabha and in the Rajya Sabha on 20 Jul, 2018.

3. The Public Accounts Committee (2022-23) selected the subject for detailed examination and report. The Committee took oral evidence of the representatives of the Ministry of Railways at their sitting held on 05.04.2023. The Public Accounts Committee (2023-24) obtained detailed information in connection with the examination of the subject. The Committee considered and adopted this Report at their sitting held on 06.02.2024. The Minutes of the sittings of the Committee are appended to the Report.

4. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in **bold** and form Part-II of the Report.

5. The Committee thank their predecessor Committee for taking oral evidence and obtaining information on the subject.

6. The Committee would like to express their thanks to the representatives of the Ministry of Defence, Department of Military Affairs for tendering evidence before them and furnishing the requisite information to the Committee in connection with the examination of the subject.

7. The Committee also place on record their appreciation of the assistance rendered to them in the matter by the Committee Secretariat and the office of the Comptroller and Auditor General of India.

NEW DELHI:
06 February, 2024
17 Magha, 1945 (*Saka*)

ADHIR RANJAN CHOWDHURY
Chairperson,
Public Accounts Committee

Part –I

Report

A. Introduction

The Public Accounts Committee decided to take up for detailed examination and report, Para 7.1 of C&AG Report No. 5 of 2018 Union government (Railways) on the subject "Development of Railway Land for Commercial use by Rail Land Development Authority". This Chapter pertained to the Ministry of Railways (Railway Board). Audit conducted a study to assess the extent to which RLDA was able to achieve its main objective of development of railway land for commercial use to generate revenue by non-tariff measures.

2. Audit reviewed development of 17 sites, which were entrusted to RLDA in 2007 when it was constituted and observed that none of these sites have been developed so far. It was noticed that there were delays in engagement of consultants, delay in submission of reports by the consultants, delay in taking permission from State Government for change of land use, deficiencies in entrustment of land to RLDA by the concerned Zonal Railways by providing encumbered land, identifying wrong site or site with incomplete papers etc. which resulted in non-development of 17 sites of 166.996 acres, reviewed in Audit. Since being set up, RLDA has been able to earn Rs. 67.97 crore from development of Multi-Functional Complexes (MFCs) at railway stations, which is other than the earnings from commercial development of entrusted lands.

3. The Public Accounts Committee took oral evidence of the representatives of the Ministry of Railways (Railway Board) on the aforementioned para at their sitting held on 05.04.2023 and also obtained written information on various aspects of the issues under consideration. Based on the oral evidence and written submissions made, the Committee have carried out in-depth examination of the subject as detailed in the succeeding paragraphs.

4. Rail Land Development Authority (RLDA) is a statutory authority under the Ministry of Railways. It was set-up by an amendment to the Railways Act, 1989, for the development of Railway land, as entrusted by the Central Government for commercial use and for the purpose of generating revenue by non-tariff measures.

5. The main functions of RLDA are:-

- (i) to prepare scheme(s) for use of railway land in conformity with the provisions of this Act;
- (ii) to develop railway land for commercial use as may be entrusted by the Central Government for the purpose of generating revenue by non-traffic Measures;
- (iii) to develop and provide consultancy, construction or management service and to undertake operation in India in relation to the development of land and property; and
- (iv) to carry out any other work or function as may be entrusted to it by the Central Government, by order in writing.

6. The Commercial development of vacant railway land by RLDA involves the following:-

- (a) Inspection of the sites entrusted by Railway to ensure that these are free from any encumbrances or encroachments and suitable for commercial development.
- (b) Appointment of real estate Consultant to get the survey of each plot of land for its valuation and to identify the potential use of the land to provide maximum revenue.
- (c) Calling for an expression of interest/request for proposals from developers for commercial development through Public Private Partnership (PPP), and
- (d) Selecting a suitable developer based on specific technical and financial parameters, after seeking financial bids from shortlisted developers.

7. The Executive Board of RLDA consists of Member Engineering at Railway Board as ex-officio Chairman, one Vice-Chairman and four Members i.e. Member/ Finance, Member/ Planning, Rail Traffic Co-ordination, Member/ Planning, Infrastructure Development and Member/Real Estate and Urban Planning. Each member is assisted by a General Manager, Joint General Manager and other subordinates. Ministry of Railways provides grant to meet the administrative and establishment expenses of RLDA. The entire earnings generated from development of railway land are transferred to the Ministry. Audit reviewed the records of RLDA in respect of 20 commercial sites entrusted by the Railways since year 2007.

8. In this regard, the Ministry submitted the following in their background note:-

“After entrustment of the sites, the Architectural & Financial Consultants are appointed by RLDA for ascertaining & verification of the land title records, obtaining revenue records from revenue authorities, verification of railway land boundaries, existing land use as per Master Plan of the area, potential for different product mixes as per surrounding commercial developments and demand in the local market etc. and permissible development as per local bye laws. The financial consultants after undertaking market demand survey assess the potential of the site and suggest the best model for commercial development along with proposed product mix & lease period to maximize revenue from the site. RLDA has adopted a standard method for undertaking valuation in line with the practices being adopted by consultants & institutions of repute. Accordingly, feasibility report is submitted to RLDA which include the following heads:

- a) Verification of boundaries, title and permitted land use;
- b) Possible usages of land;
- c) Model of development for maximizing returns;
- d) Phasing of development
- e) Period of lease; and
- f) Valuation of the returns expected from the development of the railway land.

Railway land entrusted to RLDA can be developed for purposes like commercial, institutional, hospitality, entertainment etc. In case the phased development is considered to be more beneficial based on market assessment, RLDA may also develop railway land in a phased manner. Commercial development shall conform to the development control norms of the area where land is located. Land for commercial development is leased out through open, transparent and competitive bidding processes.

Based on the feasibility study and market survey, RLDA decides the period of lease for railway land based upon the specific requirement of the site, project or local real estate market. The extent of development may be decided by RLDA based on the laws of the land to achieve revenue maximization based on location, time, market conditions etc. RLDA also may have an agreement with the Developer for multiple sub-leases of the assets made by the Developer on the Railway land. However, ownership of the land continues to vest with the Railway Administration and no mortgage of land is permitted at any time. After expiry of the lease period, the entire railway land together with the buildings or structures existing there-on shall revert and vest upon the Railway Administration.

After entrustment of land by Railways, site visit is conducted by RLDA team in order to make initial feasibility report with regard to ascertaining prima-facie viability of plot, obtaining land title records and other associated issues. In order to have a feasibility study & market survey, Architectural & Financial consultants are appointed for ascertaining & verification of the land title records, obtaining revenue records from revenue authorities, verification of railway land boundaries, existing land use as per Master Plan of the area, potential for different product mixes as per surrounding commercial developments and demand in the local market etc. and permissible development as per local by laws. The financial consultants after market demand survey assess the potential of the site and suggest best model for commercial development along with proposed product mix & lease period to maximize revenue from the site."

B. Non-development of sites handed over to RLDA

9. Indian Railways had entrusted 49 commercial sites to RLDA during the period from 2007 to 2017. Out of 49 sites, eight sites were found encumbered i.e. proper land papers were not available for some of them, there were encroachments on some of the sites, in respect of some sites there was litigation going on or State Government clearances were pending in some cases.

10. When asked to comment on the fact that 8 out of 49 commercial sites handed over to RLDA by Indian Railway (from 2007 to 2017) were found encumbered with encroachment, litigations, pending clearance by State Governments and /or improper land papers/records; the Ministry submitted the following written reply:-

“Initially when land was entrusted to RLDA, the procedure for entrustment was evolving and adequate emphasis on checking of various features including encumbrance/encroachment, litigations, pending clearances by state government and improper land papers/records, proper approach etc was not there. Subsequently, Railway Board issued instructions to all General Managers to ensure title of the railway land parcel in Railway’s name and encumbrance/encroachment free land before entrustment to RLDA.

11. One site at Jaipur in NWR was proposed for de-entrustment to Railway Board, as NWR had proposed the construction of Holiday Home on the subject land. When the Committee enquired about the Rules under which RLDA can give away a land site for de-entrustment and also to indicate as what was proposed to be developed on the said land site in Jaipur by RLDA, the Ministry in its written reply submitted as follows:-

“The site was entrusted by Railway Board to RLDA for commercial development on 27.02.2014. Later on, North Western Railway requested Railway Board to de-entrust the site for construction of Holiday Home. Accordingly, site was de-entrusted by Railway Board on 15.12.2017.

The site was de-entrusted before commencement of planning stage and therefore no expenditure was incurred by RLDA.”

12. The remaining 40 sites (covering total area of 498 hectares) were found commercially viable as on 31 March 2017. Out of these 40 sites, developers were short listed/fixed in six sites located at Gaya, Bangalore Platform Road, Daba Gardens Visakhapatnam (Ambedkar circle), Vijaywada, GolakaMandir, Gwalior and Old Steam Loco Shed, Sarai Rohilla, Delhi. However, Development Agreements could not be entered into and Letter of Acceptance had to be cancelled in respect of two sites viz. Daba Gardens (Ambedkar circle)/Visakhapatnam (April 2017) and Vijaywada (August 2017) as the first instalment of lease premium was not deposited by them. The details given to the Committee on the reasons thereof are as under:-

- (i) “In respect of one site at Gola ka Mandir/Gwalior, the Development Agreement was terminated (11 April 2012) as the Developer refused to take the land offered by RLDA in exchange of land originally identified by the Railway and railways had to pay back the lease premium of Rs.43.12 crore along with interest.
- (ii) Three sites at Old Steam Loco Shed, Sarai Rohilla/Delhi, Gaya and Bangalore Platform Road were under litigation since 19 September 2013, 11 May 2015 and 15 January 2016 respectively. At the end of 2016-17, an amount of Rs.1,189.89 crore was collected as lease premium from these three sites. In respect of site at Gaya, the developer failed to complete the work in extended period of completion and RLDA issued notice for

intention to terminate the agreement. The developer moved to Court seeking relief. In respect of sites at Sarai Rohilla and Bangalore, the developers failed to pay the third/fourth instalment of the lease premium and obtained stay against encashment of bank guarantee by RLDA. RLDA terminated the agreement as the project was not completed within the targeted date of completion.

- (iii) Consultancy/valuation/commercial bids etc. were in-progress in respect of 37 sites, excluding three cases under litigation.”

13. Audit sought reasons for non-development of six of remaining 40 sites leading to termination of agreement owing to gross failure on the part of RLDA, the Ministry submitted reply as under:-

“The commercial development of land depends on the real estate market forces which are dynamic. Moreover, the railway land is given on lease basis wherein the developer can sublease the built-up space only and end buyers are reluctant to buy such products. RERA Act 2013 also mentions transfer of undivided share of land along with Built Up Area. The present RLDA regulations restrict developers for subleasing built-up area only. RLDA has now proposed for change in regulations to enable the developers to improve liquidity of properties. It is expected that once RLDA regulations are amended/revised, the rate of disposal of property will further go up. Furthermore, there is less acceptability of leasehold property in southern states which has affected commercial development in such regions.”

14. The Committee have learnt that none of the commercial sites entrusted to RLDA has been fully developed so far, even after 10 years. Audit reviewed the position of development of 17 selected sites (plots of land). These were entrusted to RLDA in year 2007 by Railways for development. Three sites were kept out of the purview of the study as the same were under litigation since September 2013, May 2015 and January 2016 respectively. Audit analyzed the reasons for non-development of 17 sites over eight Zonal Railways. These are discussed below:

C. Delay in appointment of Consultants

15. RLDA appoints Consultants to get the survey of each plot of land for its valuation and to identify the potential use of the land to provide maximum revenue. Under the consultancy contracts, the Consultants are required to study and survey the site, collect and verify the records, prepare feasibility report, Master Plan including land use, urban design and associated parameters; preliminary design and architectural concept plans for commercial development of the project site, architectural concept plans for the redevelopment works, developing / suggesting the financial model, customize bid documents, marketing the projects, assisting RLDA in managing the bid process for commercial development of the projects and selection of developer/bidder etc. As per

rules, RLDA has to carry out the necessary market survey to assess the potential use of the land to work out the best mode of commercial development from the angle of revenue returns and accordingly proceed with the bidding process.

16. Thus, before undertaking the financial valuation of the site, it is necessary to undertake feasibility study and market survey to ascertain the land title, verification of boundaries, possible uses of land, suggesting best model for development, period of lease and valuation of returns etc. RLDA engages consultants where the value of land is estimated to be more than Rs.10 crore during the inspection conducted by RLDA's officials. Audit observed that:

- For engagement of consultant, RLDA invites offers through open tenders. Audit noticed that RLDA had no panel of Government approved consultants till September 2015. In October 2015, RLDA prepared a list of Financial and Marketing Consultants empanelled for financial consultancy service for commercial development of vacant land of Indian Railways.
- RLDA does not have a specific or prescribed methodology for valuation of land. Though RLDA has prepared a broad check list and parameters for various methods, Consultants are free to choose the methodology for valuation of land and give their recommendation based on adequate justification.
- RLDA has not fixed any time frame for appointment of consultant after entrustment of land. Audit noticed that in three case, Consultants were appointed after a lapse of about three years from the entrustment of land, reasons for which were not available on record. In two cases, Consultants were appointed after eight years of entrustment, as land details were not available with the concerned Zonal Railway and there were delays in conducting inspection of land. In one case Katra, Ferozpur Division, land area 42775.72 sqm, the plot was entrusted to RLDA in 2007, no suitable offer for appointment of consultant was received (August 2011). RLDA took another five years to appoint (in January 2015) the consultant.

17. When asked as to why and how RLDA worked for several years without any panel of Government approved Consultants, the Ministry replied as under:

“In the initial years, RLDA was having limited experience of real estate. Over a period of time, RLDA has gained experience and modalities to handle commercial utilisation of railway land. The process of empanelment of Financial & Marketing consultants has been standardized and being updated regularly.”

18. On being asked to account for the inordinate delay of more than eight years in appointment of Consultants by RLDA, the Ministry submitted the following reply:-

“After entrustment of land by Railways, site visit is conducted by RLDA team in order to make initial feasibility report with regard to ascertaining prima-facie viability of plot, obtaining land title records and other associated issues.

RLDA has now fixed timeframe for consultancies works and disposal of land parcels. The development control regulations vary from state to state and within state and also requires consultation with state authorities/ railways and other stakeholders. There were delays earlier in a few cases, however, now the position is improving.”

19. On the query as to how many consultants have been engaged since the constitution of the Railway Development Authority, the Ministry submitted the following information:-

“After entrustment of land to RLDA from Railway Board, Architectural and Marketing & Valuation consultancy is done through reputed consultants and fair market value of land parcels are arrived before going for bidding of the site. This is a standard practice of RLDA and has been followed since it was set up.”

D. Non-preparation of plan for development

20. RLDA (Constitution) Rule provides that the Authority may prepare a Five Year Plan of the Commercial Development Projects proposed to be taken up for execution. The Authority may also prepare a Five Year Plan for consultancy, construction or management services and operation proposed to be executed by it in relation to development of land and property. Audit observed that Five Year Plan for development of commercial land was not prepared by RLDA till 2015-16.

21. The Ministry submitted the following in their ATNs:-

“Five year plan of authority has been prepared and was approved by RLDA board in its 29th meeting held in January 2017. RLDA is actively pursuing the various activities for fixing developers of various sites as per the approved 5 year plan.”

22. When asked whether the Authority plans to mandate the creation of five-year plans for projects and if so, whether there was any time frame for the submission of the plan and on how planning was done, the Ministry submitted the following reply:-

“RLDA has made a broad five-year plan for commercial development providing targets for leasing of land and colony development.

Planning of Development depends upon various factors like availability of land records, present land use, market demand, size of the plot, status of encumbrances/ encroachments etc.”

23. According to Audit, during 2015-16 targets for development of 12 commercial sites was fixed by RLDA which included five sites selected for review in Audit. Amongst these, letters of acceptance (LOA) were issued for leasing and commercial development of sites at Vijayawada and Vishakhapatnam. However, as the concerned developers did not deposit the 1st installment of lease premium, the LOAs were

terminated. Similarly, during the year 2016-17, five sites (including four selected sites) were targeted for commercial development but none of these sites could be developed. The reasons for non-development of the sites were, delay in providing land and land record by railways, litigation, rejection of highest offer and taking much time to re-appoint the consultant.

24. In their ATNs, the Ministry submitted the following:-

“Among various reasons for not able to generate the expected revenue from commercial utilization of railway land by RLDA, the hindrance on deciding the commercially viable model whether on purely commercial term or residential terms or a mix of both depending on the viability of site, FSI, land use etc by local by-laws was one of the reasons. Non availability of delegation of power to decide type of use of land (for residential use) having maximum permissible lease period of 45 years was also an obstacle. Residential development with lease period of 45 years was inadequate to attract prospective lessee, as no end users were willing to purchase such properties in the market.

Subsequently, the sites could not be taken up for bidding due to Cabinet restrictions imposed in March 2011 on long term leasing of Government land. The said Cabinet restrictions were relaxed during July – August 2012. This Cabinet restriction had an adverse impact on the various activities related to commercial development of sites by RLDA even after one year of relaxation as momentum gained in different activities involved in bidding for undertaking commercial development of the sites was adversely affected due to this restriction.

Railway Board has also delegated powers to zonal railways for giving land for Open Space Reservation (OSR) for change of land use, resulting in clearing of non-approved pending CLU cases with concerned local authority.

Now as RLDA has also been allowed to lease out spare railway land for commercial exploitation up to a maximum lease period of 99 years based on specific requirement of the site project or local real estate market, RLDA find itself in better position to gear for maximum generation of revenue from land use in coming years.

Improvement in the system is a continuous process. Since RLDA is First of its kind venture for Railways, RLDA is in process of getting all the technical know how on developing the land on commercial terms. After gaining experiences with initial successful projects on land parcel, RLDA will be in a position to generate non freight revenue for Railways.”

E. Delay in providing land, land records by Zonal Railways

25. As per Railway Board's instructions, Zonal Railways are responsible to keep the land free from encroachments and all encumbrances. They are required to provide the land to RLDA, after joint demarcation of boundaries of the land jointly with RLDA and

preparing and handing over a proper 'Land Plan with schedule' with all relevant details of the land. Thus, there were deficiencies in entrustment of land to RLDA, in two cases, the land was encumbered, in some cases land papers were not in order and it took a long time to get verification from the land authorities and in one case the selection of the site was not judicious.

H. Change in land use and non-observance of by-laws of State Government

26. Indian Railways acquired land for its operational purposes i.e. development of Traffic facilities and also reserved surplus land for its future expansion/operational purposes. However, with the passage of time Indian Railways decided to utilize this surplus land for commercial purposes through non-tariff measures. Since the railway land being demarcated in revenue records as 'Public and Semi Public Zone' the same was required to be converted to a 'Commercial Zone' by obtaining permission from concerned State Government through the Change of Land Use (CLU).

27. As per by-laws, some Open Space to create community facilities as per norms of Government (10 *per cent* of developed land) is required to be kept open and Handed over to the local body through a registered deed before commercial utilization of land. This provision is called Open Space Reservation (OSR). Land given under OSR does not revert back to the owner, only permission to develop and maintain the 10 *per cent* land is however accorded from the State Government. Audit observed that in certain cases, there were delays due to un-resolved CLU and OSR issues, in addition to delays by RLDA in processing the cases.

28. When asked to furnish the reasons as to why RLDA has failed to pursue with all the States to issue instructions accordingly to the local authorities, the Ministry submitted the following: -

"State Governments have been pursued to issue instructions in this regard to local authorities on the similar lines. States including Uttar Pradesh, Rajasthan, Madhya Pradesh, Haryana and Uttarakhand have already issued instructions to local authorities in this regard.

RLDA is continuously pursuing with remaining States to issue similar instructions. However, many states are reluctant to issue the same."

29. The Ministry were asked if any legal opinion was taken before the decision of the Union Cabinet in the year 2005 and if there was any Supreme Court or a High Court ruling on the matter. The Ministry submitted the following reply:-

"Yes. Legal opinion of Legislative Deptt. of Ministry of Law and Justice was taken on Ministry of Railways proposal in the year 2005 before sending it to the Union Cabinet for their decision. No ruling of Hon'ble Supreme Court or a High Court is available in this regard."

30. The Committee have learnt that States have given land to Railways for making railway lines. Commercial complexes cannot be constructed there without first taking clearance from State Government. The Committee asked since when RLDA got the land use changed. The Committee further enquired when RLDA gets revenue from this land by using it for commercial purpose, is a part of it being shared with the State Government. In response, the Ministry submitted the following:-

“Rail Land Development Authority (RLDA) has been established as a Statutory Authority, under the Ministry of Railways, set-up by an Amendment to the Railways Act, 1989, for development of vacant Railway Land for commercial use for the purpose of generating revenue by non-tariff measures.

To mitigate the problem of land use change, Union Cabinet approved following on 03.10.2018:

“Railway/RLDA/IRSDC shall consult urban local bodies/ other statutory authorities while approving its plans in terms of powers conferred to it as per Section 11 of Railway Act, 1989 so that the development in Railway land is harmonious with the surrounding development, generally following the National TOD policy.

No change in land use is required PAN India by Railways for developing Railway Land for Commercial use.”

The decision of Union Cabinet dated 03.10.2018 was also communicated by Ministry of Housing and Urban Affairs to Chief Secretary of all the states/UTs on 13.11.2019 to incorporate suitable provisions in the local by-laws/ development control norms in congruence with National TOD policy as well as relevant provisions of the Railway Act, 1989 and thereby facilitating Railway/RLDA/IRSDC to proceed with their development plans in consultation with local bodies/other statutory authorities.

The revenue received by RLDA from commercial utilisation of railway land is kept with Government of India. However, statutory charges, GST as applicable and registration fees at the time of registration of Lease Agreement in particular state are paid by the Developer directly to the State Government.”

31. When asked whether RLDA is going to share the revenue only with the developer and not with the State or will RLDA make a tripartite agreement bringing the State into the fold and on being asked for details of the revenue sharing arrangement, The Ministry submitted the following reply:-

“RLDA get its land developed for commercial use to earn revenue by leasing it to the developers for 45/60/99 years lease through a competitive transparent open online bidding and does not share its revenue with the State Government.”

32. With regard to the constraints being faced by RLDA and the improvement measures being undertaken, the Ministry submitted the following in their background note:-

“Constraints

The main objective of setting up of RLDA was to generate revenue by non-tariff measures through commercial development of surplus railway land. The same could not be achieved as per expectation due to following constraints:

- i. Initially lease period was permitted for only upto 45 years. In turn, development of product mix of commercial, residential, institutional, etc., was too restrictive for prospective developers.
- ii. Reservations on usage of railway land by Local bodies. Efforts are being made for removal of reservations. The same are taking considerable time.
- iii. Approval from local bodies is taking considerable time.
- iv. In many parts of the country especially in Southern part of India, lease hold properties are not prevalent and hence, in most bids no response is received.
- v. RLDA regulations does not permit developers to sublease undivided proportionate share of leased land to the end user which is against the provision of RERA Act 2013. With the restrictions in sublease, the end user and sometimes even developer faces problems in for obtaining/finance.
- vi. During initial period, the sites could not be taken up for bidding due to Cabinet restrictions imposed in March, 2011 on long term leasing of Government Land. The said Cabinet restrictions were relaxed during July-August, 2012. This Cabinet restriction had an adverse impact on various activities related to commercial development of sites by RLDA even after one year of relaxation as momentum gained in different activities involved in bidding for undertaking commercial development of the sites was adversely affected due to this restriction.”

Improvement measures taken in recent past

Following steps have been under-taken during last couple of years to improve marketability of surplus Railway land:-

1. The Union Cabinet, on 03.10.2018, had approved that “No change in land use is required Pan India by Railways for developing Railway land for commercial use”. This decision has been communicated to Chief Secretaries of all the states/UTs on 13.11.2019 by the Ministry of Housing and Urban Affairs. States including Uttar Pradesh, Rajasthan, Madhya Pradesh, Haryana and Uttarakhand have already issued instructions to local authorities in this regard. RLDA is pursuing other States to issue similar instructions.

2. Railway Board has also delegated power to zonal railways for giving land for Open Space Reservation (OSR) for change of Land Use (CLU), resulting in clearing of non-approved pending CLU cases by concerned local authorities.

3. Proposal for amendments in RLDA regulations to allow sublease of undivided share of land along with built up area and making the project in compliance with RERA Act is under consideration in Ministry of Railways. This will also ease the financing problem of end users for purchasing properties developed on railway land.

33. As part of the improvement measures taken in the recent past, it has been informed that RLDA regulations are proposed to be amended to allow sub-lease of undivided share of land along with built up area and making the projects compliant with RERA Act.

Part-II

Observations/Recommendations of the Committee

The Committee during the course of their examination learnt that Indian Railways (IR) has approximately 43,000 hectares of vacant land. Rail Land Development Authority (RLDA) is a statutory Authority, under the Ministry of Railways, for development of vacant Railway Land for commercial use for the purpose of generating revenue by non-tariff measures. Land which is not required for operational purposes in the foreseeable future is to be identified by the zonal railways to be entrusted to RLDA by Railway Board in phases for commercial development. The Committee observe from the contents of the Para under consideration that Audit assessed the extent to which RLDA was able to achieve its main objective of development of railway land for commercial use to generate revenue by non-tariff measures.

The Committee observe that Audit reviewed development of 17 sites, which were entrusted to RLDA in 2007 when it was constituted and found that none of these sites had been developed. Audit findings revealed that there were delays in engagement of consultants, in submission of reports by the consultants, taking permission from State Governments for change of land use plan, deficiencies in entrustment of land to RLDA by the concerned Zonal Railways by providing encumbered land, identifying wrong site or site with incomplete papers etc. which resulted in non-development of these sites of 166.996 acres.

The Committee also note that since being set up, while RLDA incurred expenditure of Rs. 102.29 crore towards establishment, consultancy charges, advertisement etc. during 2006-07 to 2016-17, it only earned Rs. 67.97 crore from development of Multi-Functional Complexes (MFCs) at railway stations, which was not part of the earnings from commercial development of entrusted lands.

Based on in-depth examination of the subject, the Committee have recorded their observations and recommendations on issues highlighted by the Audit that merit consideration, in the succeeding paragraphs.

Non-development of sites handed over to RLDA

1. The Committee note that Indian Railways had entrusted 49 commercial sites to RLDA from 2007 to 2017. Out of these 49 sites, 8 sites were found encumbered i.e. proper land papers were not available for some of them, there were encroachments on some of the sites. In respect of some sites there was litigation going on or State Government clearances were pending in some cases; and 1 site was proposed for de-entrustment. The Committee note that the remaining 40 sites were found commercially viable as on 31 March, 2017 and Consultancy/valuation/commercial bids etc. were in-progress in respect of 37 sites, excluding the three cases under litigation. The Committee further note that out of these 37 sites, 17 sites were reviewed by Audit. The Committee also find that despite being entrusted to RLDA in 2007, none of the commercial sites reviewed by Audit were developed even after a lapse of 10 years. On perusal of the status of development of these 17 sites, the Committee note that only 3 sites have been handed over for development; 7 sites have been de-entrusted and handing over at 7 sites is delayed due to various reasons such as the matter being pending in Courts, valuation being done by consultants, termination of LOA etc. The Committee note from the reply of the Ministry that initially when land was entrusted to RLDA, the procedure for entrustment was evolving and there was inadequate emphasis on checking of various features including encumbrance/encroachment, litigations, pending clearances by state government and improper land papers/records, proper approach etc.

Gleaning through the above facts available before the Committee, they are of the considered view, that the failure of zonal railways exists in identifying the land available for commercial development and the Railway Board in exercising due diligence before entrusting the same to RLDA has resulted in a miserable situation where development work could be started only on 3 out of 17 sites reviewed by the Audit. The Committee while noting that the Railway Board has since issued instructions to all General Managers to ensure title of the railway land parcel in Railway's name and encumbrance/encroachment free land before entrustment to RLDA, recommend to be apprised of the reasons for de-entrustment of seven sites and the status of handing over of the remaining seven

sites to the RLDA. The Committee also desire to be apprised of the status of the 40 sites that were found to be commercially viable as on 31 March, 2017.

Delay in appointment of Consultants

2. The Committee note that according to its mandate, RLDA is obliged to carry out the necessary market surveys to assess the potential use of the land to work out the best mode of commercial development for revenue returns and accordingly proceed with the bidding process. The Committee understand that consultants are required to be appointed by RLDA where the value of land is estimated to be more than Rs. 10 crore to ascertain financial valuation of land and to identify the potential use of land to provide maximum revenue. The Committee are appalled to learn that RLDA had no panel of government approved consultants till September 2015 i.e. even after an elapse of 8 years since its establishment. Further, RLDA did not fix any time frame for appointment of consultants after entrustment of land. The Committee are dissatisfied to note that in three cases, Consultants were appointed after a lapse of about three years from the entrustment of land, reasons for which were not available on record. In two cases, Consultants were appointed after eight years of entrustment, as land details were not available with the concerned Zonal Railway and there were delays in conducting inspection of land. The Committee note from the submission made by the representative of the Ministry during oral evidence that initially time was taken to form laws, rules and regulations, however, now the consultants are to be appointed within 3 weeks. The Committee are of the view that non-appointment of consultants resulted in inordinate delay in ascertaining financial valuation of land and identifying the potential use of land to provide maximum revenue thereby resulting in delay in developing the land. The Committee, in this regard, recommend that a panel of consultants may be appointed expeditiously by the Ministry to ensure that the development work on any site is not hampered by procedural delays. The Committee would separately, like to be apprised of the time taken to appoint consultant in respect of each of the sites entrusted to the RLDA.

Non-preparation of plan for development

3. The Committee note that RLDA (Constitution) Rule provides that the Authority may prepare a Five Year Plan of the Commercial Development Projects proposed to be taken up for execution. The Authority may also prepare a Five Year Plan for consultancy, construction or management services and operation proposed to be executed by it in relation to development of land and property. The Committee observe that Five Year Plan for development of commercial land was not prepared by RLDA till 2015-16. The Committee note from the reply of the Ministry that five year plan of the Authority was prepared and approved by RLDA Board in 2017 and that RLDA is actively pursuing the various activities for fixing developers of various sites as per the approved 5 year plan. In the opinion of the Committee, there has been registered disregard for the rules governing RLDA and accountability is required to be fixed for not preparing the 5 year plan till 2015-16 as mandated under the rules. The Committee desire to be apprised of achievements vis-a-vis the targets set in the five year plan and whether the achievements were made within the timelines. The Committee wish to know the contours of the next five year plan which should ideally be in implementation stage at present. The Committee also recommend that since development of land has a long gestation period, a vision map may be made by RLDA charting targets for the next 20 years and then formulate the 5 year plans, keeping the long term goals in mind.

Change in land use and non-observance of by-laws of State Government

4. The Committee note that Indian Railways acquired land for its operational purposes i.e. development of Traffic facilities and also reserved surplus land for its future expansion/operational purposes. However, with the passage of time Indian Railways decided to utilize this surplus land for commercial purposes through non-tariff measures. The Committee note that since the railway land being demarcated in revenue records as 'Public and Semi Public Zone' the same was required to be converted to a 'Commercial Zone' by obtaining permission from concerned State Government through the Change of Land Use (CLU). As per by-laws, some Open Space to create community facilities as per norms of

Government (10 per cent of developed land) is required to be kept open and handed over to the local body through a registered deed before commercial utilization of land. Land given under Open Space Reservation (OSR) does not revert back to the owner, the State Government only accords permission to develop and maintain the 10 per cent land. The Committee observe from audit findings that there were several cases of delay in development of surplus land due to unresolved CLU and OSR issues.

The Committee observe that Railway Board has delegated power to Zonal Railways for giving land for Open Space Reservation for change of land use, resulting in clearing of non-approved pending CLU cases with concerned local authority. The Committee also observe from the submission of the Ministry that there have been reservations on usage of railway land by Local bodies and approval from local bodies has been taking considerable time. The Committee note that to mitigate this problem, the Union Cabinet, on 03.10.2018, had approved that “No change in land use is required Pan India by Railways for developing Railway land for commercial use”. This decision has been communicated to Chief Secretaries of all the states/UTs on 13.11.2019 by the Ministry of Housing and Urban Affairs. The Committee note that only Uttar Pradesh, Rajasthan, Madhya Pradesh, Haryana and Uttarakhand have issued instructions to local authorities in this regard and that the State Governments are being pursued to issue instructions to local authorities on the similar lines. In this regard, the Committee opine that since land is a state subject under the Seventh Schedule of the Constitution of India the development of the surplus railway land in States/ UTs should be in conformity with their master plan and, therefore, the RLDA may pursue with the other states accordingly or explore the option of revenue sharing with them to help speed up projects.

Leasing of land

5. The Committee note that based on the feasibility study and market survey, RLDA decides the period of lease for railway land based upon the specific requirement of the site, project or local real estate market. RLDA also may have an agreement with the Developer for multiple sub-leases of the assets made by the Developer on the Railway land. However, ownership of the land continues to vest

with the Railway Administration and no mortgage of land is permitted at any time. After expiry of the lease period, the entire railway land together with the buildings or structures existing there-on shall revert and vest upon the Railway Administration. The Committee however note that RLDA regulations do not permit developers to sublease undivided proportionate share of leased land to the end user which is against the provision of RERA Act 2013. The Committee while noting that with the restrictions in sublease, the end user and in some cases even the developers are facing problems in obtaining finances, recommend that amendments in RLDA regulations to allow sublease of undivided share of land along with built up area and making the project in compliance with RERA Act may be considered to ease the financing problem of end users for purchasing properties developed on railway land. Further, the Committee also observe from the submission of the Ministry that in many parts of the country especially in Southern part of India, lease hold properties are not prevalent and hence, in most bids, no response has been received.

The Committee, therefore, recommend that other viable options for the States with such legal provisions may be explored so that land may be developed without hindrance and delay. Further, the Ministry may also consider increasing the period of lease of land for commercial development.

Ministry should also explore proper avenues for rehabilitating vendors belonging to unorganised sector who have been displaced by the commercial development of railways stations.

NEW DELHI:
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17 Magha, 1945 (Saka)

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