

**TWO HUNDRED AND SECOND REPORT**  
**PUBLIC ACCOUNTS COMMITTEE**  
**(1983-84)**

(SEVENTH LOK SABHA)

**NON-PAYMENT OF RAILWAY DUES IN RESPECT  
OF LAND LEASED TO PRIVATE PARTIES**

**MINISTRY OF RAILWAYS**  
**(RAILWAY BOARD)**

[Action taken on 94th Report (7th Lok Sabha)]



*Presented to Lok Sabha on.....*

*Laid in Rajya Sabha on.....*

**LOK SABHA SECRETARIAT**  
**NEW DELHI**

*April, 1984/Chaitra, 1906 (Saka)*

*Price : Rs. 2.55*

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**Minutes of the sitting of the Public Accounts Committee (1983-84) held on 28 March, 1984.**

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(i)

PARLIAMENTARY

Centre for the Study of Parliament

Acc. No. 10 64811

Date 21/7/84

**PUBLIC ACCOUNTS COMMITTEE  
(1983-84)**

**CHAIRMAN**

**Shri Sunil Maitra**

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3. **Shrimati Vidyavati Chaturvedi**
4. **Shri C.T. Dhandapani**
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*Rajya Sabha*

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18. **Shrimati Pratiba Singh**
- \*19. **Dr. (Shrimati) Sathiavani Muthu**
- \*20. **Dr. Harekrushna Mallick**
21. **Shri Nirmal Chatterjee**
22. **Shri Kalyan Roy**

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**\*\*Ceased to be members of the Committee consequent upon their retirement from  
Rajya Sabha w.e.f. 2. 4. 1984.**

(iv)

**SECRETARIAT**

1. Shri T.R. Krishnamachari—*Joint Secretary*
2. Shri H.S. Kohli—*Chief Financial Committee Officer*
3. Shri Krishnapal Singh—*Senior Financial Committee Officer.*

## INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this 202nd Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 94th Report (Seventh Lok Sabha) relating to Non-payment of Railway dues in respect of land leased to private parties.

2. In their 94th Report, the Committee had observed that vast areas of Railway lands had been encroached upon but the Railways had failed to take any effective measures to get these lands vacated. Out of 82,052 cases of encroachments reported by the various Zonal Railways, eviction proceedings had been started only in 15,631 cases. In the opinion of the Committee, there had been a gross negligence on the part of Railway authorities to protect their lands from encroachments. In their reply, the Ministry of Railways have *inter alia* stated that the Railway land is scattered all along the track covering about 60,000 route kilometres and is mostly unfenced. Railways are making constant attempts to remove encroachments through State Governments' help and by instituting proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. However, the proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act are time-consuming and even after eviction orders have been passed by the Estate Officer, the affected parties go in for appeal in courts of law and resort to all types of delaying tactics. While reiterating their earlier view that there had been gross negligence on the part of Railway authorities to protect their lands from encroachments, the Committee have seen force in the Ministry's argument that the proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act are time-consuming. The Committee have expressed the view that the suggestion of the Ministry that the existing law on the subject may be amended so as to provide for summary eviction and punishment and also give power to grant injunctions to prevent encroachments merits serious consideration. The Committee have also asked Government to take up the matter with State Governments at a higher level so as to enlist their full cooperation in organising evictions after orders are passed by the Estate Officer. The Committee have also desired the Ministry of Railways to strengthen their existing preventive arrangements so that the encroachment of Railway lands may not be that easy as at present.

3. In their earlier Reports, the Committee had dealt with the occupation of Railway land in Delhi by M/s. Oriental Building and Furnishing Company Pvt. Ltd. This Company is in illegal occupation of an area of 2743 Sq. Yards of land near Connaught Place, a prestigious locality and business centre in New Delhi. The current market price of this land would be in crores of rupees. The firm has further leased the land to its sister concern i.e. M/s Pure Drinks Ltd. manufacturing Campa Cola. Northern Railway had leased this land to the above firm for a period of 10 years from 1.1.1963 to 31.12.1972. The agreement provided for revision of licence fee every five years and the first such revision fell due on 1.1.1968. The party did not pay the revised licence fee with effect from 1.1.1968. The matter has been taken to the High Court and also Arbitration.

4. The matter first came to the notice of the Public Accounts Committee as early as in 1963-64. In their 3rd Report (Seventh Lok Sabha), the Committee had urged that the whole matter be placed before the Minister of Railways for early investigation by a high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty. The Public Accounts Committee (1982-83) who again examined the matter reiterated in 94th Report that the whole matter should be investigated by a high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty.

5. In this Report the Committee have observed that M/s. Oriental Building and Furnishing Company Pvt. Ltd. had not paid the revised licence fee with effect from 1.1.1968 as per their agreement with the Railways. However, the Railways had allowed more than seven years to elapse before they initiated the eviction proceedings. In the light of this, the Committee have not accepted the plea of the Ministry of Railways that the delay had been wholly accidental and not as a result of any neglect on the part of anyone in the Railway administration. Besides, as the Public Accounts Committee (1982-83) had observed, there were many aspects of the matter which need to be probed into in depth. The Committee have reiterated that the whole matter should be investigated into by a high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty.

6. The Report was considered and adopted by the Public Accounts Committee at their sitting held on 28 March, 1984. Minutes of the sitting form Part II of the Report.

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7. For facility of reference and convenience, the recommendations and conclusions of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in the Appendix to the Report.

8. The Committee place on record their appreciation of the assistance rendered to them in this matter by the office of the Comptroller & Auditor General of India.

NEW DELHI ;  
9 April, 1984  
6 Chaitra, 1906 (S)

SUNIL MAITRA  
Chairman,  
Public Accounts Committee.

## CHAPTER I

### REPORT

This Report of the Committee deals with action taken by Government on the Committee's recommendations and observations contained in their 94th Report (7th Lok Sabha) on Paragraph 32 of the Advance Report of the Comptroller and Auditor General of India for the year 1979-80, Union Government (Railways) relating to non-payment of railway dues in respect of land leased to private parties.

2. The 94th Report which was presented to Lok Sabha on 30 July, 1982 contained 15 recommendations/observations. Action taken notes have been received in respect of all the recommendations/observations and these have been broadly categorized as follows :—

- (i) *Recommendations/observations that have been accepted by Government :*

Serial Nos. 1,11,12,13,14 and 15.

- (ii) *Recommendations/observations which the Committee do not desire to pursue in the light of the replies received from Government :*

Serial No. 3

- (iii) *Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration :*

Serial Nos. 2 and 4 to 8.

- (iv) *Recommendations/observatins in respect of which Government have furnished interim replies :*

Serial Nos. 9 and 10.

3. **The Committee desire that final replies in regard to those recommendations in respect of which only interim replies have so far been furnished should be submitted expeditiously after getting them vetted by Audit.**

4. The Committee will now deal with action taken by Government on some of their recommendations.

*Encroachment of Railway lands*

(Para 52 S. No. 2)

5. Referring to encroachments on vast areas of Railway lands, the Public Accounts Committee in para 52 of their Ninety-fourth Report (Seventh Lok Sabha) observed as follows :—

“The Committee are unhappy to note that vast areas of Railway land have been encroached upon and the Railways have failed to take any effective measures to get these lands vacated. The seriousness of the situation can be seen from the fact that as many as 82,052 cases of encroachments have been reported by various Zonal Railways out of which in 15,631 cases only eviction proceedings have been started, though the enabling enactment under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 has already armed the Railways to take suitable quick action against such occupants of Railway land. From this, the Committee cannot but conclude that there has been a gross negligence and callousness on the part of Railway authorities to protect their lands from encroachments.”

6. In their action taken reply, the Ministry of Railways have stated as follows :—

“Railway land is scattered all along the track covering about 60,000 route KMs and is mostly unfenced. Immediately after the partition of the country and thereafter due to population pressure and social conditions, the Railways land has been target of land encroachments. The problem is more acute in and around big cities and metropolitan towns due to large scale migration of labour to urban areas. Railways have been making constant attempts in removing the encroachments through the State Government's help and by instituting proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The proceedings under the PPE Act are, however, time consuming and even after the eviction orders have been passed by the Estate Officer, the affected parties go in for appeal in Courts of law and resort to all types of delaying tactics.

In spite of Railway Ministry's concerted efforts with the Ministry of Works and Housing, the provisions of the PPE Act have not been

- strengthened for giving powers of summary eviction and punishments and even granting of injunction for stopping the unauthorised encroachments. The weakness in the PPE Act and the failure of the State Govts. to organise evictions even after the orders of the Estate Officer are primarily responsible for failure to evict the encroachments. On their part, the Ministry of Railways are considering proposals for strengthening the land management organisation in the field to deal with this additional work, resulting from increase in the number of encroachers.

“This has been seen by Audit”.

7. In their earlier Report, the Committee were unhappy to note that the vast areas of Railway lands had been encroached upon and the Railways had failed to take any effective measures to get these lands vacated. Out of 82,052 cases of encroachments reported by the various Zonal Railways, eviction proceedings had been started only in 15,631 cases. In the opinion of the Committee, there had been a gross negligence and callousness on the part of Railway authorities to protect their lands from encroachments. In their reply, the Ministry of Railways have stated that the Railway land is scattered all along the track covering about 60,000 route kilometres and is mostly unfenced. Railways are making constant attempts in removing encroachments through State Governments' help and by instituting proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. However, the proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act are time-consuming and even after eviction orders have been passed by the Estate Officer, the affected parties go in for appeal in courts of law and resort to all types of delaying tactics. The Ministry have further stated that in spite of Railway Ministry's concerted efforts with the Ministry of Works and Housing, the provisions of the Public Premises (Eviction of unauthorised Occupants) Act have not been strengthened for giving powers of summary eviction and punishment and even granting injunction for stopping the unauthorised encroachments. According to the Ministry, the weakness of the PPE Act and the failure of State Governments to organise evictions after the orders of the Estate Officer are primarily responsible for failure to evict the encroachments. While the Committee reiterate their earlier view that there had been gross negligence on the part of Railway authorities to protect their lands from encroachments, they do see force in the Ministry's argument that the proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act are time-consuming. Considering the very large number of encroachments on Railway lands—more than 82,000 in number, and the tremendous time, labour and

expense involved in getting the encroachment vacated, the Committee feel that the suggestion of the Ministry that the existing law on the subject may be amended so as to provide for summary eviction and punishment and also to give power to grant injunctions to prevent encroachments merits serious consideration. The Committee would also like Government to take up the matter with State Governments at higher level so as to enlist their full cooperation in organising evictions after orders are passed by the Estate Officer. The Committee would also, like the Ministry of Railways to strengthen their existing preventive arrangements so that the encroachment of Railway lands may not be that easy as at present. The Committee would like to be informed of the concrete steps taken in this regard.

*Unauthorised occupation of Railway land in Delhi by M/s. Oriental Building and Furnishing Company Pvt. Ltd.*

(Paras 54—58—S. Nos. 4—8)

8. Referring to unauthorised occupation of Railway land in Delhi by M/s. Oriental Building and Furnishing Company Pvt. Ltd., the Public Accounts Committee in paras 54-58 of their 94th Report had observed as follows :—

“A glaring instance of laxity and negligence on the part of the Railway authorities to protect its interest is the case relating to unauthorised occupation of railway land in Delhi by M/s. Oriental Building and Furnishing Company Pvt. Limited. This company is in illegal occupation of railway land situated near Connaught place, a prestigious locality and business centre in New Delhi. The current market price of this land would be in crores of rupees. The firm has further leased the land to its sister concern i.e., M/s. Pure Drinks Ltd. manufacturing Campa Cola. Northern Railway had leased an area of 2743 sq. yards to the above firm for a period of 10 years from 1 January 1963 to 31st December, 1972. The agreement provided for revision of licence fee every 5 years and the first such revision fell due on 1 January 1968. The party did not pay the revised licence fee w.e.f. 1 January 1968. A three months notice seeking to terminate the agreement with effect from 31st December 1972 was served by the Northern Railway on the party on 15 July, 1972. The party, however, did not vacate the railway land in accordance with the notice served by Northern Railway.

After protracted correspondence and discussion, Northern Railway initiated in July 1975 eviction proceedings in the Court of

Estate Officer under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. While the case was being heard in the court of the Estate Officer, the party filed a suit on 11 May, 1977 in the Delhi High Court under Section 20 of the Arbitration Act seeking arbitration of the dispute. The party also obtained a High Court order on 30 August, 1977 restraining Union of India from taking any further proceedings for eviction before the Estate Officer and not to make any attempt to dispossess the party of the plot of land. The single member Bench of the Delhi High Court delivered judgement on the above case on 24 April, 1981 in which the Railway administration has been directed to grant arbitration in terms of agreement provision for arbitration. The judgement also extends the earlier court order restraining the railways from evicting the occupants during the pendency of the arbitration proceedings. The Committee are distressed to note the negligence and delay on the part of the Railways in not getting the land vacate between December, 1972 when the lease agreement expired and July 1975 when Railways initiated eviction proceedings. As a result of this lapse on the part of Railways the present position is that not only the party continue to be in illegal occupation of the railway land in a prestigious locality of the capital but has not even been paying the rent for the premises as fixed by the Railways and a claim of more than Rs. 61 lakhs has been pending against the party. The Committee cannot but conclude that the railways have been grossly negligent in protecting their interest by not taking action against the party in time and not pursuing the case vigorously. The Committee would like to express their deep anguish at this state of affairs.

The Committee note that the matter first came to the notice of the Public Accounts Committee as early as in 1963-64 and the Committee in their 13th Report (Third Lok Sabha) had observed that "There were reluctance and inordinate delays in applying whatever remedies legal or administrative were available to them. Whether it was more incompetence or worse requires to be fully enquired into and responsibility fixed". The recommendation was further reiterated by the Committee in their 32nd Action Taken Report (Third Lok Sabha). Again in 1978-79 in their 86th Report (Sixth Lok Sabha), the Committee had observed that "There had been unexplainable disinclination and inordinate delays on the part of Railway Administration in taking recourse to administrative and legal remedies available, to them, resulting in heavy accumulation of dues to the Railways. The whole episode requires to be probed in depth by a

high powered Committee with a view to fixing responsibility for the lapse on the part of the various authorities". Again in their 3rd Action Taken Report (Seventh Lok Sabha) the Committee observed in 1980-81 that "it is also on record that this party has been trying to influence and bring pressure from high ups and also adopting various methods not only to escape all these years the consequences of illegal occupation of railway land but also to perpetuate its possession by all possible means. In the light of such an unhappy state of affairs, the Committee are unable to accept the contention of the Ministry of Railways that there appears to be no necessity for further probe. The Committee, therefore, urge that the whole matter be placed before the Minister of Railways for early investigation by a high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty".

The Committee are surprised to note that this specific recommendation of the Committee for investigation by a high powered body 'independent of the Railway Board' has not been agreed to by the Ministry of Railways. The Committee are not convinced with the argument that since the facts of the case are well-known there is no need to appoint any high powered Committee for further probe in the matter. The Committee are strongly of the view that there are many aspects of the matter which need to be probed in-to in depth in order to find out the elements who have played nefarious role in putting the railway administration in miserable plight where they have been unable not only to get their land vacated from an illegal occupant but even to recover their dues. The Committee, therefore, reiterate that the whole matter should be investigated by a high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty.

The Committee have been informed that in accordance with the orders of the Delhi High Court an arbitrator has been appointed by the General Manager, Northern Railway and the case is presently under arbitration. However, from a perusal of the records in the matter, the Committee note that the Railway Board had suggested going in for appeal before a larger Bench of the High Court against the judgement of the single Bench, as the judgement seemed to dilute the railways' inalienable right to evict the unauthorised occupants by taking due legal action under the Public Premises (Eviction) Act without first taking recourse to arbitration. It was also pointed out

that the judgement was liable to be quoted in other cases also and will dilute the right of the railways to take action under similar circumstances. Moreover, it was also pointed out that right from the beginning the party had been trying to delay the proceedings on one pretext or the other and had also succeeded in doing so to a large measure. The Committee note that both the Financial Commissioner (Railways) and the Chairman, Railway Board had agreed with the suggestion for going in for appeal before the Bench but the Government ultimately decided that the case might be finalised through arbitration and there was no need to go in for an appeal. The Committee are surprised how the well considered recommendations of the Railway Board for going in for appeal before the larger Bench of the High Court were not agreed to by the Government without assigning any cogent reasons for overruling the approach so validly adopted by the Railway Board and the Financial Commissioner”.

9. In their action taken reply, the Ministry of Railways have stated as follows :

“The case was again put up to the Minister for Railways. He has felt that further efforts should be made to explain the matter suitably to the P.A.C, so that they can appreciate the Government’s point of view.

The details of the case have already been submitted to the Committee earlier. However, to recapitulate, the case, it is submitted that the Railway Administration had issued a notice for termination of the licence agreement as early as 15.7.1972 effective from 31.12.1972, though the Railway was not in immediate need of the land in question. However, the question of extending the lease under the condition that the party would agree to pay the revised licence fee as demanded by the Railway Administration was also considered. Our main concern at this stage was to explore the possibilities of settling this matter amicably to the best advantage of the Administration, and ensure that the settlement does not involve any financial loss to the Railways. It was only after all such efforts failed, that the railway administration took the extreme step of initiating action in July ‘75, under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for eviction of the party. Action for recovery of damages was also initiated. In spite of pressures that were being exhorted by the firm, the Administration adhered to their stand of charging licence fee on the basis of the land cost of Rs. 600 per Sq. Yard w.e.f. 1.1.1968.

It is submitted for the consideration of the Committee that there had been no malafide intention at all on the part of anybody in the Ministry of Railways to have wilfully prolonged the matter, or act in a manner prejudicial to the interests of the Railways.

The Railway's case and its interests were being safeguarded by an Advocate. The Railway Administration could exert no control over the functioning of the Estate Officer in expediting the case. The Officer appointed as Estate Officer under Section 3 of the Public Premises (Eviction of Unauthorised Occupants), Act, 1971 functions as a quasi-judicial authority and powers conferred upon him are to be exercised by him in his sole discretion.

The party filed a suit on 11.5.1977 in the Delhi High Court under Section 20 of the Arbitration Act, 1940, seeking arbitration of the dispute. The party also concurrently filed an application seeking an order to restrain the Union of India from taking any further proceedings for eviction before the Estate Officer and not to make any attempt to dispossess the party of the plot in question. The Delhi High Court passed an order on 30.8.1977 restraining Union of India from taking any proceedings for eviction before the Estate Officer. This happened while the case was under hearing in the Court of the Estate Officer.

The Railway Administration did not prefer an appeal against this order of Delhi High Court. The Legal Advisor, attached to the Ministry of Railways opined that the order of Delhi High Court being interlocutory in nature, no useful purposer would be served in going in for an appeal to the Supreme Court. It was, therefore, decided that the Railway Administration should contest the main petition of the party in the Court.

The judgement of the Court was delivered on 24.4.1981. The Court directed that the dispute be referred to an arbitrator to be appointed by the General Manager, N. Rly. under the terms of agreement. The Court also restrained the Railway Administration from evicting the applicants during the pendency of the arbitration proceedings.

On a detailed examination of the judgement, it was finally decided by the Government not to prefer an appeal against the judgement, as contemplated at one stage, but to entrust the case to an arbitrator appointed by the General Manager, Northern Railway as per the said

judgement of the Delhi High Court. The reason for this course of action was the consideration that this long pending case could be finalised more expeditiously through arbitration. An arbitrator was, accordingly appointed by the General Manager, Northern Railway on 22.7.1981. To keep watch on the timely finalisation of the case instructions were issued to the Railway Administration that a Senior Officer should be entrusted with the responsibility of pursuing the arbitration case.

From the foregoing account, it would be observed that the Railway Administration had initiated appropriate action as early as July 1972. Its constant endeavour was to have the case expedited and that too amicably. Since 1975, the matter went out of Railways' hands and it has since then been pending in various courts. While the Railway Administration has been making efforts at all stages to pursue the case vigorously with a view to having the decision expedited, the delay in the finalisation has been circumstantial and not at all as a result of any wilful neglect on the part of anyone in the Railway Administration. The delay has been due to circumstances completely beyond the control of the Railway Administration. This Ministry itself views with deep concern the situation in which the case has lingered on over a number of years, and the Railway Administration has not been able to get either the land vacated, or the amount realised. At the same time the action taken by the Railway Administration was the only course available to it.

The Railway Administration has been instructed that they claim before the Arbitrator not only the arrears of licence fee due, damages for unauthorised occupation of land but also interest charges as would accrue up to the time the railway land is vacated by M/s. Oriental Building and Furnishing Co, Pvt. Ltd. New Delhi, so that the railway is duly compensated for the delay in recovery of dues. The Railway have confirmed on 29.4.83 that they have already done so.

This Ministry would also like to assure the Public Accounts Committee, that the case is being conducted before the Arbitrator in right earnest to get the award expeditiously. The Railway's Presenting Officer has been asked to request the Arbitrator to conduct proceedings on a 'Top priority' basis and himself make available records and any other assistance required by the Arbitrator with utmost expediency to help early finalisation of the issue. The Railway has also been instructed that a Senior Officer be entrusted with the responsibility of pursuing the arbitration case expeditiously.

As regards progress of Arbitration, so far 18 hearings have been held by the Arbitrator since his appointment on 22.7.1981. The next hearing is due on 6.5.1983, on which date the question whether further extension of Arbitration would be needed will also be decided by the Arbitrator.

A Complete resume of the chronological events of hearings in regard to arbitration is attached.

*To sum up*

- (i) Railway has been exploring all the possibilities for an amicable settlement of the dispute ;
- (ii) In spite of the pressures being exerted by the party, the Railway has not lowered their claim and has claimed licence fee for the period 1.1.1968 to 31.12.1972 on the basis of land value of Rs. 600 per sq. Yd.
- (iii) Since July 1975, the case has been pending in various courts.
- (iv) The delay in finalisation of the case has been circumstantial, and not on account of wilful negligence on the part of any particular Railway Official.
- (v) That the Railway has already claimed before the arbitrator difference of Licence Fee, interest thereon and also damages for the unauthorised use of Railway, upto the time, the land is vacated.
- (vi) Presently the matter is before the arbitrator and it may not be desirable to order an enquiry into the matter simultaneously.

Under these circumstances, Railway Ministry consider that no useful purpose could be served by getting the matter investigated by any high powered body independent of the Railway Board, as no individual could be found responsible for the circumstantial delay as explained above. The P.A.C. are therefore requested not to press their recommendation for a probe by a High Powered Body.

This has been seen by Audit who have made the following observations :—

'The revised last para of the action taken note simply contains a general summing up of the points already covered in the preceding paragraphs. However, in item (vi) of this para, it has been added that since the matter is presently before the arbitrator, it may not

be desirable to order an enquiry into the matter simultaneously. This being an addition, involving legal aspect, it is requested that the opinion of the Legal Adviser attached to the Ministry of Railways may be obtained in this connection before the action taken note is considered by us further.

The progress made at the Arbitration hearing fixed on 6.5.83 and thereafter may please be indicated”.

*Railway Board's further remarks*

The opinion of Legal Adviser is being obtained separately as desired by the Audit and the same will be furnished to the Lok Sabha Secretariat separately.

The progress made in the arbitration proceedings has been indicated in the Annexure 'A'.

10. In their communication dated 21.9.1983, the Ministry of Railways have forwarded the following views of the Deputy Legal Adviser on the above action-taken note of the Ministry of Railways :

‘Proceedings before the Arbitrator and appointment of a High Lowered Body to investigate the matter with respect to Delay are two independent matters which do not attract any legal issue on which my advice is necessary. Appointment of the High Powered Body independent of the Railway Board to investigate the delay with a view to fix responsibility is purely an administrative consideration of the Department if it has nothing to do with the proceedings before the Arbitrator who is legally authorised to finalise and complete the arbitration proceedings and to give Award. In order to curtail the delay before the Arbitrator, we would, however, advise the Department to take expeditious action to finalise the proceedings before the Arbitrator.’

11. In their comments on the above views of the Deputy Legal Adviser, the Ministry of Railways have stated as follows :

“It was submitted in the action taken note that since the matter is before the arbitrator, no useful purpose could be served by getting the matter investigated by a High Powered Body independent of the Railway Board. The point to be appreciated here is that the same set of papers and files would be needed for the enquiry and for proceedings before arbitration which might cause delay to the arbitration proceedings.”

12. In their earlier Reports, the Committee had dealt with the occupation of Railway land in Delhi by M/s. Oriental Building and Furnishing Company Pvt. Ltd. This Company is in illegal occupation of an area of 2743 Sq. Yards of land near Connaught place, a prestigious locality and business centre in Delhi. The current market price of this land would be in crores of rupees. Northern Railway had leased this land to the above firm for a period of 10 years from 1.1.1963 to 31.12.1972. The agreement provided for revision of licence fee every five years and the first such revision fell due on 1.1.1968. The party did not pay the revised licence fee with effect from 1.1.1968. A three months' notice seeking 31.12.1972 was served by the Northern Railway on the party on 15.7.1972. The party, however, did not vacate the Railway land. After protracted correspondence and discussion, Northern Railway initiated in July, 1975 eviction proceedings in the Court of Estate Officer under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. While the case was being heard in the court of the Estate Officer, the party filed a suit on 11 May, 1977 in the Delhi High Court under Section 20 of the Arbitration Act seeking arbitration of the dispute. The party also obtained a High Court order on 20 August, 1977 restraining Union of India from taking any further proceedings for eviction before the estate Officer and not to make any attempt to dispossess the party of the plot of land. The single member Bench of the Delhi High Court delivered judgement on the above case on 24 April, 1981 in which the Railway administration has been directed to grant arbitration in terms of agreement provision for arbitration. The judgement also extends the earlier court order restraining the Railways from evicting the occupants during the pendency of the arbitration proceedings. The present position is that not only the party continues to be in illegal occupation of the Railway land in a prestigious locality of the capital but has not been paying the rent for the last 15 years and a claim of more than Rs. 61 lakhs is pending against the party.

13. The Committee note that the matter first came to the notice of the Public Accounts Committee as early as in 1963-64 and the Committee in their 13th Report (Third Lok Sabha) had observed that "There were reluctance and inordinate delays in applying whatever remedies legal or administrative were available to them. Whether it was mere incompetence or worse requires to be fully enquired into and responsibility fixed." The recommendation was reiterated by the Committee in their 32nd Action Taken Report (Third Lok Sabha) and 86th Report (Sixth Lok Sabha). In their 3rd Action Taken Report (Seventh Lok Sabha), the Committee noted that it was on record that the party had been "trying to influence and bring pressure from high-ups and also adopting various methods not only to escape all these years the consequences

of illegal occupation of Railway land but also to perpetuate its possession by all possible means." The Committee urged that the whole matter be placed before the Minister of Railways for early investigation by a high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty.

14. The Public Accounts Committee (1982-83) who again examined the matter (*vide* their 94th Report, 1982-83) were not convinced by the argument advanced by the Ministry of Railways that since the facts of the case were well-known there was no need to appoint any high powered committee for further probe in the matter. The Committee were strongly of the view that there were many aspects of the matter which needed to be probed into in depth in order to find the elements which have played nefarious role in putting the railway administration in miserable plight where they had been unable not only to get their land vacated from an illegal occupant but even to recover their dues. The Committee reiterated that the whole matter should be investigated by a high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty.

15. In their action taken reply pursuant to the 94th Report (Seventh Lok Sabha), the Ministry of Railways have stated that the matter was again placed before the Minister of Railways who has felt that further efforts should be made to explain the position suitably to the Public Accounts Committee so that they can appreciate Government's point of view.

16. In their reply, the Ministry have pleaded that there had been no malafide intention at all on the part of anybody in the Ministry of Railways to have wilfully prolonged the matter or act in a manner prejudicial to the interest of the Railways. The delay in the finalisation of the case has been circumstantial and not at all as a result of any wilful neglect on the part of anyone in the Railway Administration. In view of this, no useful purpose could be served by getting the matter investigated by any high powered body independent of the Railway Board.

17. The Committee are not at all convinced by this explanation. They observe that M/s. Oriental Building and Furnishing Company Pvt. Ltd. had not paid the revised licence fee with effect from 1.1.1968 as per their agreement with the Railways. However, the Railways had allowed more than seven years to elapse before they initiated the eviction proceedings. In the light of this, the Committee are unable to accept the plea that the delay had been wholly accidental and not as a result of any neglect on the part of anyone in the Railway administration. Besides, as the Public Accounts

Committee (1982-83) had observed, there were many aspects of the matter which need to be probed into in depth,

18. Another argument advanced by the Ministry for not ordering the probe is that presently the matter is before the Arbitrator and the same set of papers and files would be needed for the enquiry as well as for the arbitration proceedings. It would, therefore, not be desirable to hold an enquiry simultaneously with the arbitration proceedings. The Committee do not see much force in this argument also. They need hardly point out that the difficulty can easily be overcome by having photostat copies of the relevant outcome of the documents. The Committee reiterate that the whole matter should be investigated into by a high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty.

19. As regards the progress of arbitration, the Committee note that 18 hearings had been held by the Arbitrator upto July, 1983 since his appointment on 22.7.1981. The Committee would like to be informed of the arbitration proceedings.

## **CHAPTER II**

### **RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT**

#### **Recommendation**

The Committee note that Railways have vast areas of land throughout the country. Railway lands are rented out to private parties and the authority to rent out these lands vests with the concerned Zonal Railways. This authority, in turn, is being exercised by the Divisional Railway Managers. What is really surprising is that the Ministry of Railways (Railway Board) is not maintaining even such basic information like the total lands available with the Railways in the country, the purposes for which these are being utilised, the total income there from, rent outstanding, encroachments on these lands etc. and has left the matter entirely with the Zonal Railways who in turn have left the matter with the Divisional Railway Managers. This is a very unsatisfactory state of affairs.

[Serial No. 1 (Para 51 of Appendix III to 94th Report of P.A.C. (7th Lok Sabha)]

#### **Action taken**

The lands are acquired by the Railways mainly for their operational needs, such as laying of track, service buildings, staff quarters, workshops, institutes and for future expansion programmes and maintenance of track etc. Some land is given on licence basis for other purposes connected with Railways working. The railway operations are decentralised and plans for immediate and future requirements/utilisation of land are drawn at Divisional Railway Managers' level. Land, not immediately required is temporarily licensed for cultivation under Grow More Food Schemes or for commercial purposes to earn additional revenue for the railways. This work has necessarily to be managed by the Divisions and should not be centralised in the Railway Board. However, as recommended by PAC overall monitoring of basic information relating to total availability of lands, the extent of utilisation vis-a-vis various purposes, total income as realised and as outstanding and the extent of encroachments etc., will be looked after by the

Directorate of Land Management in the Railway Board, which has recently been set up.

This has been seen by Audit.

[Ministry of Railways (Railway Board) O.M. No. 82-BC-PAC/VII/94  
(1-3 dated 5-3-1983.)]

### **Recommendation**

The Committee are distressed to note that this is not an isolated case of railway land allotted to a private party without entering into a written agreement. From the information furnished by the Ministry of Railways in respect of details of railway lands given on licence/lease basis, the Committee find that out of 68,016 cases where land was given on licence basis, in 36,916 cases i.e. 54 per cent, no agreement was executed with the parties. The Committee recommend that Railways should examine the policy regarding the practice of given Railway lands on lease basis. The Committee are of the view that Railway lands should be given on licence basis only as it is very difficult to get the land given on lease vacated when the same is subsequently required by the Railways for its own use. Moreover, in all case of land given on licence basis, written agreements should be entered into with the concerned parties.

[Serial No. 11 (Para 61) of Appendix III to of 94th Report of P.A.C. (7th Lok Sabha)]

### **Action taken**

The above recommendation of the Committee has been examined by the Board and instructions have been issued to the Railways in this regard as under :—

- (i) That as a general rule, Railway land should be given on licence only ;
- (ii) that in all cases of land given on licence basis, written agreements should be entered into with the concerned parties.

• A copy of the instructions issued, is enclosed. (See Annexure)

This has been seen by Audit who have made the following observations :—

“The figures incorporated in appendix-I to the Board’s instructions of 22.11.1982 require local verification by Directors of Railway Audit.....”

[Ministry of Railways (Railway Board O.M. No. 82-BC/PAC/III/94 (11) dated 5.4.83]

### **ANNEXURE**

**Ministry of Railways  
(Railway Board)**

No. 82/W2/LM)18/116

New Delhi, dated 22-11-1982

The General Managers,

All Indian Railways

Including

DLW, CLW, ICF & WAP.

The Director General,

RDSO, Lucknow

Sub : Licensing of land--Execution of written agreement with the licensees.

The Public Accounts Committee (1982-83) (Seventh Lok Sabha) in their 94th report (Para 61) have inter alia mad the following observations :

- (i) Railway land should be given on license basis only and not on lease, as it is very difficult to get the land given on lease vacated when the same is subsequently required by the Railways for their own use. Railways should re-examine the policy regarding practice of giving lands on lease basis.

- (ii) That out of 68016 cases where land was given on licence basis, in 36916 cases, i.e. 54 per cent, no written agreement was executed with the parties. In all cases of land given on licence basis, written agreements should be entered into with the concerned parties.

2. Board have examined the above recommendations of the Public Accounts Committee and have decided that as a *general rule*, Railway land should be given on licence only.

3. Board further desire that in all cases of land given on licence basis, written agreements should be entered into with concerned parties. Under no circumstances, the land should be licensed without executing proper agreement.

4. Board further desire that all cases of land already licensed/leased to the outsiders, where agreements are yet to be signed must be processed with the utmost expediency on a time-bound programme and agreements executed without any further delay.

5. A statement showing railway-wise details of railway land given on license/lease basis, agreements, executed/not executed and eviction proceedings started for default in payment is also attached. Board desire that the above statement should be carefully checked and position in regard to the number of cases in which agreements have not been executed on railway should be verified and actual position as on 31.3.82 should be furnished to them, in the enclosed proforma, within a month positively. (See enclosure)

Hindi version will follow.

(N. K. Sikka)

Director, Land Management  
Railway Board

*DA/As above*

## ENCLOSURE

Statement showing details of Railway land given on licence/lease basis agreement executed/not executed and eviction proceedings started for default in payment

### RAILWAYS

	Central	Eastern	Northern	North Eastern	North Northeast Frontier	Southern	South Central	South Eastern	Western	Total
	1	2	3	4	5	6	7	8	9	10
1. Total No. of cases where land given on licence basis.	2645	3785	6510	8919	5320	5961	4444	24316	6116	68016
2. No. of cases in which agreement executed.	367	2672	2800	4994	2570	3155	294	8278	5497	30627
3. No. of cases in which agreement not executed	2278	1113	3710	3925	2750	2806	4150	15565	619	36916
4. No. of cases where eviction proceedings started for default in payment.	163	37	Nil	464	4	5	6	975	13	1667

	1	2	3	4	5	6	7	8	9	10
5. Total No. of cases where land given on lease basis.	10	58	*	...	...	...	99	11	102	280.
6. No. of cases in which agreement executed.	10	58	*	...	...	...	71	8	101	248
7. No. of cases in which agreement not executed.	Nil	Nil	*	...	...	...	285	3	1	32
8. No. of cases where eviction proceedings started for default in payment.	2	Nil	*	...	...	...	Nil	...	...	2

\* Information furnished by the Ministry is complicated.

**REVIEW OF CASES OF NON-EXECUTION OF AGREEMENTS FOR LICENSING OF LAND  
(AS ON 31.3.82)**

- |   |  |   |
|---|--|---|
| <p>1. No. of cases where land is given on licence/lease basis.</p> <p>2. No. of cases, as on 31.3.82 where agreements have not been executed,</p> <p>3. <i>Break-up of Item 2</i></p> <p>(i) GMF Cases.</p> <p>(ii) Ordinary commercial plots.</p> <p>(iii) Oil Companies, Steel stock yards, Coal Dump etc.</p> <p>(iv) Licensing of shops</p> <p>(v) Licensing for Govt. Deptts. and others.</p> <p>(vi) Licensing for Religious structures and Social Welfare Organizations etc.</p> | <p><i>No. of cases where agreement are yet to be signed.</i></p> | <p><i>General Remark explaining primary reasons for non-execution of Agreements and efforts/targets for finalising such agreements.</i></p> |
|---|--|---|

### **Recommendation**

The Zonal Railways allot working space in Railway premises to forwarding agents (dalals) for carrying on their business activities. In regard to such space allotted by Central Railway at six stations, the licence fee was fixed between March-July 1976 which was payable from January, 1975 onwards. However while the dalals working at three stations have paid the licence fee, the dalals at the remaining three stations have not paid the same and out of a total outstanding of Rs. 4.36 lakhs only a sum of Rs. 5,408/- has been deposited under protest. The Committee are surprised to note that legal action to recover these outstandings and to evict these dalals has not been taken on the pretext that these dalals perform crucial function of handling traffic. The Committee deprecate this laxity on the part of Railway Administration in realising its dues from the parties as it is likely to encourage other parties also to follow their example. The Committee, therefore, recommend that Railway Administration should take immediate legal action under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 to recover the outstandings from these parties and to evict them from the premises for their failure to pay their dues.

[Serial No. 12 (Para 66) of Appendix III to 94th Report of PAC (7th Lok Sabha)]

### **Action taken**

On receipt of representation from forwarding agents (dalals) and their association through various forums and also taking into consideration the important function of dalals in handling traffic, the Ministry of Railways have re-examined the matter in greater detail and have now decided to recover the licence fee from the forwarding/clearing agents (dalals) at a rate of Rs. 10/- without telephones and Rs. 12/- with telephones per month with effect from 1.1.1975 instead of from 1.4.1979. Necessary instructions in this regard have accordingly been issued to the Zonal Railways Administrations to recover the outstanding dues from these forwarding/clearing agents (dalals) at the revised rates.

2. As these agents (dalals) have agreed to pay the licence fee at the above rates, there would be no necessity to take recourse to legal action for eviction from the premises against them.

3. This has been seen by Audit.

[Ministry of Railways O.M. No. 32-BC-PAC/VII/94 (12) dated 19.1.84.]

### **Recommendation**

The Committee find that an amount of Rs. 13.59 lakhs was due on account of the Railway's surplus land given (i) by Railways to State Governments for licensing out to the cultivators, (ii) directly by Railway to cultivators and (iii) to Railway employees/railwaymen Societies, on payment of suitable licence fee. An amount of Rs. 6.57 lakhs has been realised and outstanding dues for the period ending 31 March, 1979 was Rs. 7.02 lakhs on 31 March, 1981. The Committee are surprised to find that no concerted efforts have been made so far to recover the outstanding amount.

[Serial No. 13 (Para 78) of Appendix III to 94th Report of P.A.C. (7th Lok Sabha)]

### **Action taken**

Necessary instructions have been issued to all railways that vigorous efforts should be made to realise the outstanding arrears of licence fees both for the railway lands given directly by the Railways to the outsiders/railway employees and through the State Governments, by personal contacts with the concerned State Governments. A copy of instructions issued is enclosed. The Railways have also been advised to give a feed back to the Board every month.

This has been seen by Audit.

[Ministry of Railways (Railway Board) O.M. no 82-BC-PAC/VII /94  
(13-15) dated 5-3-1983.]

### **ENCLOSURE**

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MAN TRALAYA)  
(Railway Board)**

No. 81/W2/16/7

New Delhi, the 30 Dec., 1982

To

The General Manager,  
South Eastern Railway,  
Calcutta.

**SUBJECT : P.A.C.'s 94th Report (1982-83) on railway lands-Arrears of  
license fees connected with Grow more Food Campaign.**

Ref : Your letter No. 31/47/DP/146/P.II, dt. 11.1.1982

It is observed from your above-mentioned letter that not much success has been made in regard to the realisation of outstanding licence fees for the railway lands given through the State Government in connection with Grow More Food Campaign. Board desire that concerted efforts should be made to realise the outstanding arrears both for the railway lands given directly by the Railways to the outsiders/railway employees and through the State Governments, particularly the latter, by personal contacts with the concerned State Governments. Action taken in this respect may be advised to the Board progressively every month.

Receipt of this letter may be acknowledged.

(N.K. Sikka)

DA/Nil

Director, Land Management  
Railway Board

Copy to All General Managers, Zonal Railways (except S.E. Railway) for similar action.

#### **Recommendation**

The Committee regret to note that the recoveries of rent of Railway land were not made as and when due. The Committee are also not satisfied with the reply of the Ministry that collection of dues from outsiders is an elaborate and time consuming process as the work involved approaching the licencees individually, collection of licence rental in cash and depositing the same either in cash office or at station and the same process had to be gone through in respect of railway employees prior to December, 1977. The Committee feel that if Railways have given their lands to outsiders on rent, it is their duty to ensure speedy and timely collection of these dues. The Committee therefore, recommend that there should be suitable machinery at the Zonal Railway level to keep a constant watch on timely recovery of Railway dues from the parties to whom lands are given on rent. Monitoring should also be done at the Railway Board's level to ensure that the Zonal Railways do not allow the outstandings of rent against the parties to pile up.

[Serial No. 14 (Para 79) of Appendix III to 94th Report of P.A.C. (7th Lok Sabha)]

#### **Action taken**

While accepting the recommendation of the P.A.C., the Ministry of Railways would like to state that suitable machinery already exists on the Railways for the collection of licence fees. The Railways have been instructed to streamline the existing machinery so that the collection of fees is ensured

in time. A copy of the instruction issued to Railways in this regard is enclosed.

In order to monitor the progress of the timely recovery of the licence fee for the railway lands licensed for Grow More Food purposes the Railways have been asked to furnish half yearly reports in regard to the realisation of licence fees *vis-a-vis* the outstanding dues.

This has been seen by Audit.

[Ministry of Railways (Railway Board) O.M. No. 82-DC-PAC/VII/94  
(13—15) dated : 5-3-1983.]

### ENCLOSURE

Government of India  
Ministry of Railways  
(Railway Board)

No. 81/W2/16/7

New Delhi, 24 November, 1982.

To

The General Managers,  
All Indian Railways,  
including CLW, DLW & ICF.

Sub : P.A.C.'s 94th Report (1982-83) on Railway Lands—

Public Accounts Committee in their above report have observed that on a particular Railway, huge arrears of licence fees were outstanding against the State Governments ; outsiders and the railway employees to whom the railway land was handed over/licenced directly in connection with Grow More Food Campaign. The Committee have further observed that since the Railways have given their lands to the above categories of the licensees, it is their duty to ensure speedy and timely collection of these dues. The Committee have, therefore, recommended that the Railways should evolve a suitable machinery at their level to keep constant watch on timely recovery of railway dues from the parties to whom lands are given on rent. The Committee have further recommended that monitoring should also be done at the Railway Board level to ensure that the Zonal Railways do not allow outstandings of rent, against the parties to pile up.

2. The above recommendations have been carefully examined. It is considered that suitable machinery already exists on the Railways for the collection of the licence fees. Board, however, desire that existing machinery should be streamlined so that collection of licence fees is ensured in time.

3. Further, in order to monitor the progress of the recovery of licence fees in time for the railway lands licensed for G.M.F. purposes, the Board desire that a half yearly report in regard to the realisation of licence fees *vis-a-vis* the outstanding dues may be furnished on 21st April and 21st October every year for the period ending 31st March and 30th September in the performa attached.

4. Report giving position as on 30.9.1982 may be submitted by 30.11.1982 positively.

5. Receipt of this letter may be acknowledged.

(N.K. Sikka)

DA ; One

Director, Land Management,  
Railway Board.

Half yearly Progress Report showing the recovery made for the railway lands handed over/licensed to the State Governments, outsiders and the railway employees for the half yearly ending-----

	Area involved	Annual licence fee chargeable	Dues outstanding as on 1 April	Dues outstanding as on 1st October	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
From State Govt.*					
	(a)				
	(b)				
	(c)				
From Outsiders					
From Railway employees					
<b>Total</b>					

\* To be indicated from individual State Govts. with their names.

Note ; Details of particulars with outstandings of more than Rs. 1 lakh with brief reasons.

- (i)
- (ii)
- (iii)
- (iv)

It is a matter of concern that South Eastern Railway could not recover the dues even from their own employees though that amount due can be deducted from their salaries after taking their consent to the same. The Committee are of the view that specific terms and conditions should be evolved while giving land to Railway employees/Railwaymen societies and these lands should not be given to the Railway employees until and unless they give consent for recovering the rent from their salaries.

[Serial No. 15 (Para 80) of Appendix III to 94th Report of P.A.C. (7th Lok Sabha)]

#### **Action taken**

Accepted. The Railways have been instructed that while licensing railway land to the railway employees in connection with Grow More Food Campaign, their prior consent to the effect that licence fees for the railway lands so licensed to them would be deducted from their salary bills may be obtained in writing from them so as to eliminate any possibility of accumulation of arrears against them in this regard. The Railway have further been instructed that a provision in this respect may also be included in the licence agreement at the time of next renewal if not already done.

This has been seen by Audit.

[Ministry of Railways (Railway Board) O.M. No. 82-BC-PAC/BII/94  
(13-15) dated : 5-3-1983.]

### **CHAPTER III**

#### **RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES RECEIVED FROM GOVERNMENT**

##### **Recommendation**

The Committee feel that in the present situation when the value of land is increasing through out the country particularly in big towns where land prices are skyrocketing more so when the agricultural lands of poor peasants are being acquired for construction purposes, it is really astonishing that the Railways have miserably failed to protect their lands from unauthorised occupation and encroachments. It is imperative for the Railways to protect all Railway properties from unauthorised occupation and encroachments and to ensure that these properties yield the maximum revenue commensurate with the objectives laid down for giving these lands on lease/licence. The Committee recommend that there should be a separate cell in appropriate Directorate in the Railway Board which should be charged with the specific responsibility of maintaining records of all Railway lands throughout the country, lay down policy guide-lines and keep a constant watch on the realisation of revenue from these lands. This Directorate should also keep a vigil on Zonal Railways to ensure that the Railway lands in various Divisions under their jurisdiction are free from encroachments and effective and immediate measures are taken to evict any unauthorised occupant. The Committee feel that this land can be better utilised in many directions including Social Forestry. A part of this land can also be utilised for construction of office accommodation, staff quarters, Rest Houses for the staff and retiring rooms for the passengers etc. The Committee expect that a scientific plan would be formulated for the optimum utilisation of all such lands.

[Serial No. 3 (Para 53) of Appendix III to 94th Report of PAC (7th Lok Sabha)].

##### **Action taken**

A Land Management Directorate has been set up in the Railway Board's office with effect from 2.8.1982. The Directorate will lay down the policy guidelines for the management of the railway land and formulate a

general strategy for the utilisation of surplus railway land along the lines suggested by the Committee. The Directorate will also monitor maintenance of land records by the Field Units & realisation of revenue from railway land and keep a watch on the measures taken by the Railways to keep railway land free from encroachment including eviction of unauthorised occupants.

2. The suggestion made by the Committee to set up a Cell in the Railway Board's office for maintaining records of all railway land throughout the country, has been examined. The Ministry of Railways would submit that maintenance of records with full details of the location of land and other particulars is best done in the field units, who alone are in a position to keep such records up-to-date, taking into account day to day changes. The duplication of work at the Board's level will call for creation of a large number of additional posts and involve endless correspondence with Field Units for keeping the records up-to-date. This will also necessitate periodical reconciliation of records with the Field Units without commensurate benefits. It is felt that the purpose, which the Committee have in view, will be served by maintaining a summary of the total land available with each Field Unit, broad details of its utilisation, income therefrom, and full details of encroachments and eviction proceedings.

In view of the position explained in para 2 above, the Ministry would respectfully request partial modification of this recommendation to this extent.

This has been seen by Audit.

[Ministry of Railways (Railway board) O.M. No. 82-BC-PAC/VII/94  
(1-3) Dated 5-3-1983].

## **CHAPTER IV**

### **RECOMMENDATIONS/OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION**

#### **Recommendations**

The Committee are unhappy to note that vast area of Railway lands have been encroached upon and the Railways have failed to take any effective measures to get these lands vacated. The seriousness of the situation can be seen from the fact that as may as 82,052 cases of encroachments have been reported by various Zonal Railway out of which in 15,631 cases only eviction proceedings have been started, though the enabling enactment under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 has already armed the Railways to take suitable quick action against such occupants of Railway land. From this, Committee cannot conclude that there has been a gross negligence and callousness on the part of Railway authorities to protect their lands from encroachments.

[Serial No. 2 (Para 52) of Appendix III to 94th Report of PAC (7th Lok Sabha)].

#### **Action taken**

Railway land is scattered all along the track covering about 60,000 route KMs and is mostly unfenced. Immediately after the partition of the country and thereafter due to population pressure and social conditions, the Railway land has been target of land encroachments. The problem is more acute in and around big cities and metropolition towns due to large scale migration of labour to urban areas. Railways have been making constant attempts in removing the encroachments through the State Govt's help and by instituting proceeding under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The proceedings under the PPE Act are, however, time consuming and even after the eviction orders have been passed by the Estate Officer, the affected parties go in for appeal in Courts of law and resort to all types of delaying tactics.

Inspite of Railway Ministry's concerted efforts with the Ministry of Works and Housing, the provisions of the PPE Act have not been strengthened

for giving powers of summary eviction and punishments and even granting of injunction for stopping the unauthorised encroachments. The weakness in the PPE Act and the failure of the State Govts. to organise evictions even after the orders of the State Officer are primarily responsible for failure to evict the encroachers. On their part, the Ministry of Railways are considering proposals for strengthening the land management organisation in the field to deal with this additional works, resulting from increase in the number of encroachments.

This has been seen by Audit.

[Ministry of Railways O.M. No. 82-BC-PAC/VII/94 (1-3) dated 5-3-1983].

### **Recommendation**

54. A glaring instance of laxity and negligence on the part of the Railway authorities to protect its interest is the case relating to unauthorised occupation of railway land in Delhi by M/s. Oriental Building and Furnishing Company Pvt. Limited. This company is in illegal occupation of railway land situated near Connaught Place, a prestigious locality and business centre in New Delhi. The current market price of this land would be in crores of rupees. The firm has further leased the land to its sister concern *e.i.* M/s. Pure Drinks Ltd. manufacturing Campa Cola. Northern Railway had leased an area of 2743 sq. yards to the above firm for a period of 10 years from 1 January 1963 to 31st December, 1972. The agreement provided for revision of licence fee every 5 years and the first such revision fell due on 1 January 1968. The party did not pay the revised licence fee w.e.f. 1 January 1968. A three months notice seeking to terminate the agreement with effect from 31st December 1972 was served by the Northern Railway on the party on 15 July, 1972. The party, however, did not vacate the railway land in accordance with the notice served by Northern Railway.

55. After protracted correspondence and discussion, Northern Railway initiated in July 1975 eviction proceedings in the Court of Estate Officer under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. While the case was being heard in the court of the Estate Officer, the party filed a suit on 11 May, 1977 in the Delhi High Court under Section 20 of the Arbitration Act seeking arbitration of the dispute. The party also obtained a High Court order on 30 August, 1977 restraining Union of India from taking any further proceedings for eviction before the Estate Officer and not to make any attempt to dispossess the party of the plot of land. The single member Bench of the Delhi High Court delivered judgement

on the above case on 24 April, 1981 in which the Railway administration has been directed to grant arbitration in terms of agreement provision for arbitration. The judgement also extends the earlier court order restraining the railways from evicting the occupants during the pendency of the arbitration proceedings. The Committee are distressed to note the negligence and delay on the part of the Railways in not getting the land evicted between December, 1972 when the lease agreement expired and July 1975 when Railways initiated eviction proceedings. As a result of this lapse on the part of Railways the present position is that not only the party continue to be in illegal occupation of the railway land in a prestigious locality of the capital but has not even been paying the rent for the premises as fixed by the Railways and a claim of more than Rs. 61 lakhs has been pending against the party. The Committee cannot but conclude that the railways have been grossly negligent in protecting their interest by not taking action against the party in time and not pursuing the case vigorously. The Committee would like to express their deep anguish at this state of affairs.

56. The Committee note that the matter first came to the notice of the Public Accounts Committee as early as in 1963-64 and the Committee in their 13th Report (Third Lok Sabha) had observed that "There were reluctance and inordinate delays in applying whatever remedies legal or administrative were available to them whether it was more incompetence or worse requires to be fully enquired into and responsibility fixed". The recommendation was further reiterated by the Committee in their 32nd Action Taken Report (Third Lok Sabha). Again in 1978-79 in their 86th Report (Sixth Lok Sabha), the Committee had observed that "There had been unexplainable disinclination and inordinate delays on the part of Railway Administration in taking recourse to administrative and legal remedies available, to them, resulting in heavy accumulation of dues to the Railways. The whole episode requires to be probed in depth by a high powered Committee with a view to fixing responsibility for the lapse on the part of the various authorities". Again in their 3rd Action Taken Report (Seventh Lok Sabha) the Committee observed in 1980-81 that "it is also on record that this party has been trying to influence and bring pressure from high ups and also adopting various methods not only to escape all these years the consequences of illegal occupation of railway land but also to perpetuate its possession by all possible means. In the light of such an unhappy state of affairs, the Committee are unable to accept the contention of the Ministry of Railways that there appears to be no necessity for further probe. The Committee, therefore, urge that the whole matter be placed before the Minister of Railways for early investigation by a high powered

body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty."

57. The Committee are surprised to note that this specific recommendation of the Committee for investigation by a high powered body 'independent of the Railway Board' has not been agreed to by the Ministry of Railways. The Committee are not convinced with the argument that since the facts of the case are well-known there is no need to appoint any high powered Committee for further probe in the matter. The Committee are strongly of the view that there are many aspects of the matter which need to be probed into in depth in order to find out the elements who have played nefarious role in putting the railway administration in miserable plight where they have been unable not only to get their land vacated from an illegal occupant but even to recover their dues. The Committee, therefore, reiterate that the whole matter should be investigated by a high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty.

58. The Committee have been informed that in accordance with the orders of the Delhi High Court an arbitrator has been appointed by the General Manager, Northern Railway and the case is presently under arbitration. However, from a perusal of the records in the matter, the Committee note that the Railway Board had suggested going in for appeal before a larger Bench of the High Court against the judgement of the single Bench, as the judgement seemed to dilute the railways' inalienable right to evict the unauthorised occupants by taking due legal action under the Public Premises (Eviction) Act without first taking recourse to arbitration. It was also pointed out that the judgement was liable to be quoted in other cases also and will dilute the right of the railways to take action under similar circumstances. Moreover, it was also pointed out that right from the beginning the party had been trying to delay the proceedings on one pretext or the other and had also succeeded in doing so to a large measure. The Committee note that both the Financial Commissioner (Railways) and the Chairman, Railway Board had agreed with the suggestion for going in for an appeal before the Bench but the Government ultimately decided that the case might be finalised through arbitration and there was no need to go in for an appeal. The Committee are surprised how the well considered recommendations of the Railway Board for going in for appeal before the larger Bench of the High Court were not agreed to by the Government without assigning any cogent reasons for over-ruling the approach so validly adopted by the Railway Board and the Financial Commissioner.

[Serial Nos. 4, 5, 6.7 & 8 (Paras 53 to 58) of Appendix III to 94th Report of P.A.C. (7th Lok Sabha)]

### **Action taken**

1.0 The case was again put up to the Minister for Railways. He has felt that further efforts should be made to explain the matter suitably to the P.A.C. so that they can appreciate the Government's point of view.

2.0 The details of the case have already been submitted to the Committee earlier. However, to recapitulate the case, it is submitted that the Railway Administration had issued a notice for termination of the licence agreement as early as 15.7.1972 effective from 31.12.1972, though the Railway was not in immediate need of the land in question. However, the question of extending the lease under the condition that the party would agree to pay the revised licence fee as demanded by the Railway Administration was also considered. Our main concern at this stage was to explore the possibilities of settling this matter amicably to the best advantage of the Administration, and ensure that the settlement does not involve any financial loss to the Railways. It was only after all such efforts failed, that the railway administration took the extreme step of initiating action in July '75 under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for eviction of the party. Action for recovery of damages was also initiated. In spite of pressures that were being exerted by the firm, the Administration adhered to their stand of charging licence fee on the basis of the land cost of Rs. 600 per Sq. Yard w.e.f. 1968.

3.0 It is submitted for the consideration of the Committee that there had been no mala fide intention at all on the part of any body in the Ministry of Railways to have wilfully prolonged the matter, or act in a manner prejudicial to the interests of the Railways.

The Railway's case and its interests were being safeguarded by an Advocate. The Railway Administration could exert no control over the functioning of the Estate Officer in expediting the case. The Officer appointed as Estate Officer under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 functions as a quasi-judicial authority and the powers conferred upon him are to be exercised by him in his sole discretion.

4.0 The party filed a suit on 11.5.1977 in the Delhi High Court under Section 20 of the Arbitration Act 1940, seeking arbitration of the dispute. The party also concurrently filed an application seeking an order

to restrain the Union of India from taking any further proceedings for eviction before the Estate Officer and not to make any attempt to dispossess the party of the plot in question. The Delhi High Court passed an order on 30.8.1977 restraining Union of India from taking any proceedings for eviction before the Estate Officer. This happened while the case was under hearing in the Court of the Estate Officer.

5.0. The Railway Administration did not prefer an appeal against this order of Delhi High Court. The Legal Advisor, attached to the Ministry of Railways opined that the order of Delhi High Court being interlocutory in nature, no useful purpose would be served in going in for an appeal to the Supreme Court. It was, therefore, decided that the Railway Administration should contest the main petition of the party in the Court.

6.0. The judgement of the Court was delivered on 24.4.1981. The Court directed that the dispute be referred to an arbitrator to be appointed by the General Manager, N. Rly. under the terms of agreement. The Court also restrained the Railway Administration from evicting the applicants during the pendency of the arbitration proceedings.

7.0. On a detailed examination of the judgement, it was finally decided by the Government not to prefer an appeal against the judgement, as contemplated at one stage, but to entrust the case to an arbitrator, appointed by the General Manager, Northern Railway as per the said judgement of the Delhi High Court. The reason for this course of action was the consideration that this long pending case could be finalised more expeditiously through arbitration. An arbitrator was, accordingly appointed by the General Manager, Northern Railway on 22.7.1981. To keep watch on the timely finalisation of the case instructions were issued to the Railway Administration that a Senior Officer should be entrusted with the responsibility of pursuing the arbitration case.

8.0. From the foregoing account, it would be observed that the Railway Administration had initiated appropriate action as early as July 1972. Its constant endeavour was to have the case expedited and that too amicably. Since 1975, the matter went out of Railways' hands and it has since then been pending in various courts. While the Railway Administration has been making efforts at all stages to pursue the case vigorously with a view to having the decision expedited, the delay in the finalisation has been circumstantial and not at all as a result of any wilful neglect on the part of anyone in the Railway Administration. The delay has been due to circumstances completely beyond the control of the Railway Administration. This Ministry

itself views with deep concern the situation in which the case has lingered on over a number of years, and the Railway Administration has not been able to get either the land vacated, or, the amount realised. At the same time the action taken by the Railway Administration was the only course available to it.

9.0. The Railway Administration has been instructed that they claim before the Arbitrator not only the arrears of licence fee due, damages for unauthorised occupation of land but also interest charges as would accrue up to the time the railway land is vacated by M/s. Oriental Building and Furnishing Co. Pvt. Ltd. New Delhi, so that the railway is duly compensated for the delay in recovery of dues. The Railway have confirmed on 29.4.83 that they have already done so.

10.0. This Ministry would also like to assure the Public Accounts Committee, that the case is being conducted before the Arbitrator in ~~right~~ earnest to get the award expeditiously. The Railway's Presenting Officer has been asked to request the Arbitrator to conduct proceedings on 'Top Priority' basis and himself make available records and any other assistance required by the Arbitrator with utmost expediency to help early finalisation of the issue. The Railway has also been instructed that a Senior Officer be entrusted with the responsibility of pursuing the arbitration case expeditiously.

10.1. As regards progress of Arbitration, so far 18 hearings have been held by the Arbitrator since his appointment on 22.7.1981. The next hearing is due on 6.5.1983, on which date the question whether further extension of Arbitration would be needed will also be decided by the Arbitrator.

A complete resume of the chronological events of hearings in regard to arbitration is attached.

11.0 *To sum up.*

- (i) Railway has been exploring all the possibilities on an amicable settlement of the dispute ;
- (ii) In spite of the pressures being exerted by the party, the Railway has not lowered their claim and has claimed licence fee for the period 1.1.1968 to 31.12.1972 on the basis of land value of Rs. 600 per Sq. Yd.
- (iii) Since July 1975, the case has been pending in various courts.

- (iv) the delay in finalisation of the case has been circumstantial, and not on account of wilful negligence on the part of any particular Railway Official.
- (v) That the Railway has already claimed before the arbitrator difference of Licence Fee, interest thereon and also damages for the unauthorised use of Railway, upto the time, the land is vacated.
- (vi) Presently the matter is before the arbitrator and it may not be desirable to order an enquiry into the matter simultaneously.

Under these circumstances, Railway Ministry consider that no useful purpose could be served by getting the matter investigated by any high powered body independent of the Railway Board, as no individual could be found responsible for the circumstantial delay as explained above. The P.A.C. are therefore requested not to press their recommendation for a probe by a High Powered Body.

12.0 This has been seen by Audit who have made the following observations :

“The revised last para of the action taken note simply contains a general summing up of the points already covered in the preceding paragraphs. However, in item (vi) of this para, it has been added that since the matter is presently before the arbitrator, it may not be desirable to order an enquiry into the matter simultaneously. This being an addition involving legal aspect, it is requested that the opinion of the Legal Adviser attached to the Ministry of Railways may be obtained in this connection before the action taken note is considered by us further.

The progress made at the Arbitration hearing fixed on 6.5.83 and thereafter may please be indicated”.

### 13.0 *Railway Board's further remarks*

The opinion of Legal Advisor is being obtained separately as desired by the Audit and the same will be furnished to the Lok Sabha Secretariat separately. [Since received *vide* Annexure 'X' Ministry of Railways (Railway Board) O.M. No. 82—BC—PAC/VIII/94 (4-8) dated 21.9.83].

The progress made in the arbitration proceedings has been indicated in the Annexure 'A'.

[Ministry of Railways (Railway Board) O.M. No. 82-BC-PAC/VII/94 (4-8) dated 15.7.83].

#### ANNEXURE 'X'

GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)

No. 82-BC-PAC/VII/94 (4-8)

New Delhi, dated 21.9.1983)

#### OFFICE MEMORANDUM

Subject : Action taken on PAC Recommendation S. Nos. 4—8 contained in paras 54—58 of 94th Report of PAC (VII Lok Sabha)—  
Unauthorised occupation of Railway Land by a firm in Delhi.

The undersigned is directed to refer to this Ministry's O.M. of even number dated 15.7.83, on the above subject, under which action taken notes (in English) on the above mentioned recommendations of the PAC were sent. The legal opinion referred to in para 12 & 13 of the action taken notes has since been obtained. The Deputy Legal Adviser, Ministry of Railways has opined as follows :—

“This case was discussed with Shri Chopra, JD (LM). Proceedings before the Arbitrator and appointment of a High Powered Body to investigate the matter with respect to delay are two independent matters which do not a tract any legal issue on which my advice is necessary. Appointment of the High Powered Body independent of the Railway Board to investigate the delay with a view to fix responsibility is purely an administrative consideration of the Department if it has nothing to do with the proceedings before the Arbitrator who is legally authorised to finalise and complete the arbitration proceedings and to give Award. In order to curtail the delay before the Arbitrator, we would, however, advise the Department to take expeditious action to finalise the proceedings before the Arbitrator.

O.P. Kshtriya  
Dy. Legal Adviser.”

It was submitted in the action taken note that since the matter is before the arbitrator, no useful purpose could be served by getting the matter investigated by a High Powered Body independent of the Railway Board. The point to be appreciated here is that the same set of papers and files would be needed for the enquiry and for proceedings before arbitration which might cause delay to the arbitration proceedings.

Sd/  
(N.C. Satyawadi)  
Joint Director, Finance/BC.  
Railway Board

The Lok Sabha Secretariat,  
PAC Branch, New Delhi.

No. 85-BC-PAC/VII/94 (4-8)

New Delhi, dated 21.9.1983.

Copy to ADAI (Railways), New Delhi for information.

(N.C. Satyawadi)  
Joint Director, Finance/BC,  
Railway Board.

#### ANNEXURE 'A'

##### *Hearing before Arbitrator*

- |             |   |
|-------------|---|
| <i>DATE</i> | Appointment of Arbitrator. (22.7.81)  |
| 7.9.81      | Railway filed claim Statement.  |
| 21.10.81    | Respondent filed reply to our claim statement. Case adjourned to 10.11.81 for admission/denial of Railways documents by the respondent.   |
| 10.11.81    | Admission/denial of Railways document by the Respondent. Copies of 12 documents filed by the Respondent.  |
| 11.12.81    | Railway filed application for better particulars. Respondent filed reply to the same. Some more documents were filed by the Railway amended claim statement was also filed on the Railway. Respondent was directed to file attested copies of documents within one week. Case was adjourned to 12.1.82. |
| 12.1.82     | As the copies of documents for the respondent were received only on 7.1.82, the case was got adjourned to 21.1.82.  |

- 21.1.82 Rejoinder could not be filed. Hence case was adjourned to 2.2.82.
- 2.2.82 Admission/denial of Respondents documents by the Railway Rejoinder with some more documents was filed by the Railway. Respondent was directed to file comments on documents on 17.2.82.
- 17.2.82 Hearing was postponed to 19.2.82.
- 19.2.82 Issues were framed.
- 9.3.82 Respondent filed list of witnesses. Parties agreed on extension of time for announcement of award by the Arbitrator for four months from 9.3.12. Railway to file list of witnesses on 8.4.82.
- 8.4.82 List of witnesses was filed by the Railway.
- 28.5.82 Respondent filed application for adjournment his counsel being out. The case now stands fixed for evidence by the parties on 30.7.82 and 31.7.82.
- 30.7.82 The hearing in this case which was scheduled to be held on these days was fixed on 27th and 28th August 1982 for hearing the evidence.
- 27.8.82 Statement of two Railway employees was recorded by the Arbitrator and the case was fixed for remaining evidence on 17.9.82 and 18.9.82.
- 17.9.82 Next date for hearing on 11.10.82.
- 11.10.82 Next date fixed for hearing on 19.10.82 due to sickness of the Counsel of opposite party.
- 19.10.82 Evidence of CW 3 Shri Harbans Lal, LDC Commercial Cell, DDA was recorded and date was fixed on 3.11.82.
- 3.11.82 Hearing in the case fixed on 30.11.82.
- 30.11.82 Documents filed by the Railway and admitted by the Respondent were given exhibit marks. Arguments by the party were heard on application at 3.9.82 of the Respondent. The arbitrator passed on orders that Railway should produce the file No. W. 195/G & 196W/962 for examination of the Arbitrator. He will then pass

orders regarding the documents to be taken on record. The next date for hearing was fixed on 9.12.82.

- 9.12.82 Next date was fixed for hearing on 16.12.82.
- 16.12.82 Next date was fixed for 20.12.82.
- 20.12.82 To produce the copies of letters of file No. W. 195/G, 196/W461-I, 196W/462-II & 196W/462-III before the Arbitrator. The Photostat copies of letters marked by the Arbitrator have been made out to be produced before the Arbitrator.
- 6.5.83 Copies of letters as desired by Arbitrator were filed before him.
- 10.5.83 The respondent filed some documents.
- 17.5.83 The Arbitrator's file was inspected by both the parties.
- 23.5.83 The Railway files further documents to the Arbitrator.
- 25.5.83 The Arbitrator inspected the site along with the parties.
- 27.5.83 The Arbitrator's file was inspected again by both the parties.
- 2.6.83 Evidence of railways witnesses.
- 3.6.83 Evidence of railways witnesses.
- 6.6.83 Evidence of railways witnesses.
- 7.6.83 Evidence of railways witnesses.
- 8.6.83 Evidence of railways witnesses.
- 9.6.83 Witnesses of the opposite party were examined.
- 10.6.83 Witnesses of the opposite party were examined.
- 13.6.83 Witnesses of the opposite party were examined.
- 14.6.83 Witnesses of the opposite party were examined.
- 15.6.83 Railway filed an application for discovery of documents by the opposite party. Arguments in this application took place.

- 16.6.83 Arbitrator passed orders that the documents be discovered by the respondent. Respondent also filed an application for discovery of documents by the Railway.
- 23.6.83 Proposed date for Railways to reply and argue to this application.
- 7.7.83 Proposed date for discovery of documents by the opposite party as prayed by the Railway.

## CHAPTER V

### RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

#### Recommendation

59. The Committee note that in June 1970 Western Railway Administration allotted covered accommodation measuring 89.70 sq. metres at Carnac Bridge Goods Depot to a firm, M/s. Oriental Carriers (P) Ltd. Bombay. This firm was appointed as freight forwarder for the newly introduced container service between Bombay and New Delhi. No formal agreement was entered into with the firm a provisional rent of Rs. 224/- per month was intimated to the firm in February, 1971 which is being paid by the party. Final rent of Rs. 897 per month was intimated to the party only in August, 1978 although the market value of land was ascertained from the local revenue authorities in October, 1974. The party has neither paid the revised rent nor has vacated the premises so far. The same party was allotted another plot measuring 395.75 sq. metres in the same Goods Depot in March, 1973. Again no formal agreement was entered into with the party. Although provisional rent at Rs. 3,461.53 per month was intimated to the firm in October, 1974, final rent of Rs. 3,937.50 per month was intimated to the party in June, 1978, four years after the market value of land was ascertained from the local revenue authorities. In the meantime, the party vacated the plot in April 1977 with the result that an amount of Rs. 1.95 lakhs was still outstanding against the party. The total dues against the party in both the cases amounted to Rs. 2.78 lakhs upto 30 September, 1980.

60. The above case is clearly indicative of the negligent manner in which the Railway properties are being managed by the Railway authorities. The Committee fail to understand how the Railway authorities allotted accommodation to the party without entering into written agreement. Moreover, it is strange that the Railway authorities took as many as 4 years to intimate the revised rent to the party after the market value of land was ascertained from the local revenue authorities. What is intriguing is that it has not been possible to fix responsibility and take action for these lapses because the relevant file is missing from the records. The Committee have a strong feeling that all these irregularities and lapses could not have

taken place without the active collusion of some Railway officials. The Committee, therefore, recommend that the matter should be thoroughly investigated so as to award deterrent punishment to those found guilty. Moreover, action should be taken expeditiously to recover the arrears from the party and get the plot of land vacated.

[S. Nos. 9-10 (Paras 59-60) of Appendix III to 94th Report of PAC  
(7th Lok Sabha)]

#### **Action taken**

A thorough investigation conducted in this case by a Committee of Assistant Officers has shown that the loss of the relevant file of the Engineering Branch of Bombay Division some time in 1974 was the main reasons for the delay in fixing the final rent for both the premises, which in turn culminated in the non-execution of agreement with the freight forwarder. It will, however, be appreciated that the firm had committed themselves in writing to pay rent as fixed by the Railway before the premises were given to them. But, the firm failed to honour the commitment. One of the two dealing officials concerned has retired in 1975 and subsequently died. It was also not possible to initiate disciplinary action against the other staff of the Engineering Branch as the Inward and Outward registers showing the movement of the file were not available, in the absence of which no specific proof was available to fix staff responsibility. The other person was given a chargesheet for major penalty but the DAR case against him had to be withdrawn by the competent authority on the ground that the primary responsibility for fixing the final rent was that of the Engineering Branch. The findings of the Officer level enquiry have been accepted by the Divisional Railway Manager and Chief Commercial Superintendent.

Regarding recovery of arrears from the party, the Estate Officer and Sr. DEN (I) had given an order dated 22nd October, 1981 for vacation of the covered space, measuring 89.70 sq. mtrs. in possession of M/s. Oriental Carriers (Pvt) Ltd. But against the said orders, the party preferred an appeal in the City Civil Court of Bombay and obtained an interim Stay Order. The Estate Officer could not proceed further in respect of reasonableness of the licence fee and its arrears in both the cases. The matter was finally heard by the Court on 13th October, 1982 and the Court have remanded the said case to the Estate Officer for further enquiry and to record the evidence of both the sides and give further orders, incorporating reasons for the eviction and also for the increase in the licence fee. The case, which was fixed for hearing during Jan. '83 has been postponed to 16 and 17th Feb' 83 on party's account.

3. As the case has been remanded by the City Civil Court to the Estate Officer for giving a reasoned order for eviction, further action would be possible after the Estate Officer's fresh orders are issued after hearing both the sides.

This has been seen by Audit who have stated the that facts and figures mentioned in the action taken note require local verification by Director of Audit, Western Railway and further communication in this regard will follow.

[Ministry of Railways (Railway Board),s O.M. No. 82-BC-PAC/VII/94 (9-10) dated 5-3-1983].

NEW DELHI :

9 April, 1984

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SUNIL MAITRA

*Chairmen,*

*Public Accounts Co mmittee*

## APPENDIX

### RECOMMENDATIONS AND OBSERVATIONS

Sl. No.	Para No.	Ministry/Department Concerned	Recommendations/Observations
1	2	3	4
1	3	Railways	The Committee desire that final replies in regard to those recommendations in respect of which only interim replies have so far been furnished should be submitted expeditiously after getting them vetted by Audit.
2	7	do	In their earlier Report, the Committee were unhappy to note that the vast areas of Railway lands had been encroached upon and the Railways had failed to take any effective measures to get these lands vacated. Out of 82,052 cases of encroachments reported by the various Zonal Railways, eviction proceedings had been started only in 15,631 cases. In the opinion of the Committee, there had been a gross negligence and callousness on the part of Railway authorities to protect their lands from encroachments. In their reply, the Ministry of Railways have stated that the Railway land is scattered all along the track covering about 60,000 route kilometres and is mostly unfenced. Railways are making constant attempts in removing encroachments through State Governments' help and by instituting proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. However, the proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act are time-consuming and even after eviction orders have been passed by the Estate Officer, the affected parties go in appeal in courts of law and resort to all types of delaying tactics. The Ministry have further stated that in spite of Railway Ministry's

concerted efforts with the Ministry of Works and Housing, the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act have not been strengthened for giving powers of summary eviction and punishment and even granting injunction for stopping the unauthorised encroachments. According to the Ministry, the weakness of the PPE Act and the failure of State Governments to organise evictions after the orders of the Estate Officer are primarily responsible for failure to evict the encroachers. While the Committee reiterate their earlier view that there had been gross negligence on the part of Railway authorities to protect their lands from encroachments, they do see force in the Ministry's argument that the proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act are time-consuming. Considering the very large number of encroachments on Railway lands-more than 82,000 in number, and the tremendous time, labour and expense involved in getting the encroachments vacated, the Committee feel that the suggestion of the Ministry that the existing law on the subject may be amended so as to provide for summary eviction and punishment and also to give power to grant injunctions to prevent encroachments merits serious consideration. The Committee would also like Government to take up the matter with State Governments at a higher level so as to enlist their full cooperation in organising evictions after orders are passed by the Estate Officer. The Committee would also like the Ministry of Railways to strengthen their existing preventive arrangements so that the encroachment of Railway lands may not be that easy as at present. The Committee would like to be informed of the concrete steps taken in this regard.

2. 18 to 12 Railways      In their earlier Reports, the Committee had dealt with the occupation of Railway land in Delhi by M/s. Oriental Building and Furnishing Company Pvt. Ltd. This Company is in illegal occupation of an area of 2743 Sq. Yards of land near Connaught Place, a prestigious locality and business centre in New Delhi.

The current market price of this land would be in crores of rupees. Northern Railway had leased this land to the above firm for a period of 10 years from 1.1.1963 to 31.12.1972. The agreement provided for revision of licence fee every five years and the first such revision fell due on 1.1.1968. The party did not pay the revised licence fee with effect from 1.1.1968. A three months' notice seeking to terminate the agreement with effect from 31.12.1972 was served by the Northern Railway on the party on 15.7.1972. The party, however, did not vacate the Railway land. After protracted correspondence and discussion, Northern Railway initiated in July, 1975 eviction proceedings in the Court of Estate Officer under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. While the case was being heard in the court of the Estate Officer, the party filed a suit on 11 May, 1977 in the Delhi High Court under Section 20 of the Arbitration Act seeking arbitration of the dispute. The party also obtained a High Court order on 20 August, 1977 restraining Union of India from taking any further proceedings for eviction before the Estate Officer and not to make any attempt to dispose the party of the plot of land. Single member Bench of the Delhi High Court delivered judgement on the above case on 24 April, 1981 in which the Railway administration has been directed to grant arbitration in terms of agreement provision for arbitration. The judgement also extends the earlier court order restraining the Railways from evicting the occupants during the pendency of the arbitration proceedings. The present position is that not only the party continues to be in illegal occupation of the Railway land in a prestigious locality of the capital but has not been paying the rent for the last 15 years and a claim of more than Rs. 61 lakhs is pending against the party.

The Committee note that the matter first came to the notice of the Public Accounts Committee as early as in 1963-64 and the Committee in their 13th Report

(Third Lok Sabha) had observed that "There were reluctance and inordinate delays in applying whatever remedies legal or administrative were available to them. Whether it was mere incompetence or worse requires to be fully enquired into and responsibility fixed." The recommendation was reiterated by the Committee in their 32nd Action Taken Report (Third Lok Sabha) and 86th Report (Sixth Lok Sabha). In their 3rd Action Taken Report (Seventh Lok Sabha), the Committee noted that it was on record that the party had been "trying to influence and bring pressure from high-ups and also adopting various methods not only to escape all these years the consequences of illegal occupation of Railway land but also to perpetuate its possession by all possible means." The Committee urged that the whole matter be placed before the Minister of Railways for early investigation by a high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty.

The Public Accounts Committee (1982-83) who again examined the matter (*vide*) their 94th Report, 1982-83) were not convinced by the argument advanced by the Ministry of Railways that since the facts of the case were well-known there was no need to appoint any high powered committee for further probe in the matter. The Committee were strongly of the view that there were many aspects of the matter which needed to be probed into in depth in order to find the elements which have played nefarious role in putting the railway administration in miserable plight where they had been unable not only to get their land vacated from an illegal occupant but even to recover their dues. The Committee reiterated that the whole matter should be investigated by a high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty.

In their action taken reply pursuant to the 94th Report (Seventh Lok Sabha), the Ministry of Railways

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have stated that the matter was again placed before the Minister of Railways who has felt that further efforts should be made to explain the position suitably to the Public Accounts Committee so that they can appreciate Government's point of view.

In their reply, the Ministry have pleaded that there had been no malafide intention at all on the part of anybody in the Ministry of Railways to have wilfully prolonged the matter or act in a manner prejudicial to the interest of the Railways. The delay in the finalisation of the case has been circumstantial and not at all as a result of any wilful neglect on the part of anyone in the Railway Administration. In view of this, no useful purpose could be served by getting the matter investigated by any high powered body independent of the Railway Board.

The Committee are not at all convinced by this explanation. They observe that M/s. Oriental Building and Furnishing Company Pvt. Ltd. had not paid the revised licence fee with effect from 1.1.1968 as per their agreement with the Railways. However, the Railways had allowed more than seven years to elapse before they initiated the eviction proceedings. In the light of this, the Committee are unable to accept the plea that the delay had been wholly accidental and not as a result of any neglect on the part of anyone in the Railway administration. Besides, as the Public Accounts Committee (1982-83) had observed, there were many aspects of the matter which need to be probed into in depth.

Another argument advanced by the Ministry for not ordering the probe is that presently the matter is before the Arbitrator and the same set of papers and files would be needed for the enquiry as well as for the arbitration proceedings. It would, therefore, not be desirable to hold an enquiry simultaneously with the arbitration proceedings. The Committee do not see much force in this argument also. They need hardly point out that

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the difficulty can easily be overcome by having photostat copies of the relevant documents. The Committee reiterate that the whole matter should be investigated into by high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty.

- 4 19 Railways as regards the progress of arbitration, the Committee note that 18 hearings had been held by the Arbitrator upto July, 1983 since his appointment on 22.7.1981. The Committee would like to be informed of the outcome of the arbitration proceedings.
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## PART II

### MINUTES OF THE SIXTY-SEVENTH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON 28 MARCH, 1984 (AN).

The Committee sat from 1500 hrs. to 1900 hrs.

#### PRESENT

Shri Sunil Maitra—*Chairman*

#### MEMBERS

##### *Lok Sabha*

2. Shri Chitta Basu
3. Shri Baliku Ram Jain
4. Shri Satyanarayan Jatiya
5. Shri Jamilur Rahman

##### *Rajya Sabha*

6. Dr. Sankata Prasad
7. Shri Syed Rahmat Ali
8. Smt. Pratibha Singh
9. Dr. (Smt.) Sathiavani Muthu
10. Shri Nirmal Chatterjee

#### REPRESENTATIVES OF THE OFFICE OF THE C&AG

1. Shri R.K. Chandrasekharan—*Addl. Dy. C&AG of India (Reports)*
2. Shri S.R. Mukherjee—*Addl. Dy. C & AG of India (Railways)*
3. Shri K.N. Row—*Director of Audit Defence Services*

4. Shri. V.Sunderesan—*Director of Receipt Audit*
5. Shri N. Sivasubramanian—*Director of Receipt Audit II*
6. Shri A.N. Mukhopadhyay - *Jt. Director (Report—Central)*
7. Shri K.H. Chhaya—*Jt. Director (Railways)*
8. Shri S.K. Gupta—*Jt. Director (Receipt Audit)*
9. Shri N.R. Rayalu—*Jt. Director of Audit, P&T*
10. Shri Gopal Singh—*Jt. Director of Audit, P&T*
11. Shri N. Balasubramaniam- *Jt. Director (Receipt Audit)*
12. Shri R.S. Gupta —*Jt. Director of Audit, Defence Services.*

## SECRETARIAT

1. Shri T.R. Krishnamachari—*Joint Secretary*
2. Shri H.S. Kohli—*Chief Financial Committee Officer*
3. Shri K.K. Sharma—*Senior Financial Committee Officer.*
4. Shri R.C. Anand—*Senior Financial Committee Officer.*

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3. The Committee also considered and adopted the following draft Reports without any amendments/modifications.

(1) Action Taken on 94 Report of PAC (7th Lok Sabha) regarding Non-payment of Railway dues in respect of Railway land leased to private parties.

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4. The Committee also authorised the Chairman to finalise the Reports in the light of modification/amendments suggested by Audit as a result of factual verification and present the same to the House.

*The Committee then adjourned.*

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\*Other business transacted by Committee Minutes relating there to will form part of the relevant Report.

**LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA  
SECRETARIAT PUBLICATIONS**

<b>S No.</b>	<b>Name of Agent</b>	<b>S. No.</b>	<b>Name of Agent</b>
<b>BIHAR</b>		<b>TAMIL NADU</b>	
1	M/s Crown Book Depot, Upper Bazar, Ranchi (Bihar).	10.	The Manager, M.M. Sub- scription Agencies, No. 2, 1st Lay Out Sivananda Colony, Coimbatore-641012
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2.	The New Order Book Company, Ellis Bridge, Ahmedabad-6	11.	Law Publishers, Sardar Patel Marg, P. B. No. 77, Allahabad, U.P.
<b>MADHYA PRADESH</b>		<b>WEST BENGAL</b>	
3.	Modern Book House, Shiv Vilas Palace, Indore City.	12.	Mrs. Manimala, Buys and Sells, 128, Bow Bazar Street, Calcutta-12
<b>MAHARASHTRA</b>		<b>DELHI</b>	
4.	M/s. Sunderdas Gian Chand, 601, Girgaum Road, Near Princess Street, Bombay-2	13.	Jain Book Agency, Connaught Place, New Delhi
5.	The International Book Service, Decan Gymkhana, Poona-4	14.	J M. Jain & Brother, Mori Gate Delhi.
6.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-1	15.	Oxford Book & Stationery Co. Scindia House, Connaught Place, New Delhi-1
7.	M/s. Usha Book Depot, Law Book Seller and Publishers' Agents Govt. Publications, 585, Chira Bazar, Khan House, Bombay-2	16.	Bookwell 4, Sant Nirankari Colony, Kingsway Camp, Delhi-9
8.	M & J Services, Publishers, Representative Accounts & Law Book Seller, Mohan Kunj, Ground Floor, 68, Jyotiba Fuele Road, Nalgaum-Dadar, Bombay-14	17.	The Central News Agency, 23/90, Connaught Place, New Delhi
9.	Subscribers Subscription Serives India, 21, Raghunath Dadaji St. 2nd Floor, Bombay-1.	18.	M/s Rajendra Book Agency, IV-D/59, IV-D/50, Lajpat Nagar, Old Double Storey, Delhi-110024.
		19.	M/s. Ashoka Book Agency, BH-82, Poorvi Shalimar Bagh, Delhi-110033
		20.	Venus Enterprises, B-2/85, Phase-II, Ashok Vihar, Delhi.

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