

WORKING OF LAND AND DEVELOPMENT OFFICE

MINISTRY OF URBAN DEVELOPMENT

PUBLIC ACCOUNTS COMMITTEE 1992-93

TENTH LOK SABHA



सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

**FORTIETH REPORT
PUBLIC ACCOUNTS COMMITTEE
(1992-93)**

(TENTH LOK SABHA)

WORKING OF LAND AND DEVELOPMENT OFFICE

MINISTRY OF URBAN DEVELOPMENT

*[Action Taken on 166th Report of the
Public Accounts Committee (8th Lok Sabha)]*



*Presented in Lok Sabha on 21-12-92
Laid in Rajya Sabha on 21-12-92*

**LOK SABHA SECRETARIAT
NEW DELHI**

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THE COMMITTEE ON PUBLIC ACCOUNTS
(1992-93)

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*Elected w.e.f. 23 July, 1992 Vice Shrimati Krishna Sahi ceased to be a member of the Committee on her appointment as a Minister.

INTRODUCTION

1. I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Fortieth Report on Action Taken by Government on the recommendations of the Public Accounts Committee contained in their 166th Report (8th Lok Sabha) relating to working of Land and Development Office.

2. In this Report, the Committee have observed that the Ministry have failed to justify the decision of NDMC to invite tenders for allotment of land at Barakhamba Road for construction of a hotel in June, 1976 before the land was allotted to it by the Ministry of Urban Development. In the opinion of the Committee, the eventual litigation between NDMC and M/s. Delhi Automobiles Pvt. Ltd. could have been avoided, if NDMC had waited till the receipt of the formal letter of allotment of the land, wherein it was stipulated that the lessee would not directly or indirectly transfer, assign, encumber, let or sublet possession of land. Subsequent to cancellation of the allotment in March, 1978 when NDMC had expressed its inability to construct and run the hotel itself, according to the Committee the Ministry have succumbed to the pressure apparently applied by the Delhi Administration and Asian Games Steering Committee in becoming a party to the out of Court Settlement with M/s. Delhi Automobiles (P) Ltd. in disregard of the legal opinion available with them, which only helped the private party in grabbing the land in the name of Asiad. The Committee have expressed their strong displeasure over the conduct of both the Ministry and the NDMC in this deal which only benefited the private party.

3. The Committee have also found that in respect of Bharat Hotel and Meridien Hotel, the substantial deviations in building plans have been compounded by charging Rs. 20 lakhs and 5 lakhs respectively. The Committee have expressed their surprise that deviations which result in substantial modifications of the basic objective for which land was given can be considered as compoundable with such meagre penalties. They have urged upon the Ministry that the question of adequacy of penalties imposed in both these cases should be reviewed and remedial steps taken urgently.

4. The Committee have been further surprised to find that there are no norms either in the building by-laws or in the master/zonal plan regulations so as to specify as to how much percentage of commercial area like shops and offices etc. can be permitted in a hotel complex. The Committee have felt that Bharat and Meridien Hoteliers have taken advantage of this lacunae and utilised substantial area in the hotels for commercial purpose. The Committee have desired that suitable guidelines prescribing the optimum area which can be used for commercial purposes should be framed and circulated to all those concerned.

5. The Report was considered and adopted by the Committee at their sitting on 19 November, 1992. Minutes of the sitting form Part II of the Report.

6. For facility of reference and convenience, the observations/recommendations 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 Appendix to the Report.

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

NEW DELHI;

2 December, 1992

11 Agrahayana, 1914 (Saka)

ATAL BIHARI VAJPAYEE

Chairman,

Public Accounts Committee.

CHAPTER I

REPORT

This Report of the Committee deals with action taken by Government on the Committee's recommendations contained in their 166th Report (8th Lok Sabha) on Working of Land and Development Office.

2. 166th Report of the Committee contained 16 observations/recommendations. Action Taken Notes have been received from the Government in respect of all the observations/recommendations. These have been broadly categorised as under:

- (i) Observations/Recommendations which have been accepted by Government;
Sl. Nos. 1, 2, 3, 8, 13, 14 and 15.
- (ii) Observations/Recommendations which the Committee do not desire to pursue in the light of the replies received from Government;
Sl. Nos. 5, 6 and 7.
- (iii) Observations/Recommendations replies to which have not been accepted by the Committee and which require reiteration;
Sl. Nos. 4, 10, 11, 12 and 16.
- (iv) Observations/Recommendations in respect of which Government have furnished interim replies;
Sl. No. 9.

3. The Committee expect that final reply to the Observation/Recommendation in respect of which only interim reply has so far been furnished will be made available expeditiously after getting the same vetted by Audit.

Allotment of Land for Asiad Hotels

(Sl. No. 4—Para No. 17)

4. Commenting on the hasty decision of the NDMC in inviting restricted tenders for allotment of the land at Barakhamba Road for construction of a hotel in June, 1976, even before the land was allotted to it by the Ministry, the Committee had observed, as under:

"The Committee find that the NDMC had invited restricted tenders for allotment of the land at Barakhamba Road for construction of a hotel in June, 1976 even before the land was allotted to it by the Ministry for the purpose. As this fact cannot be outside the knowledge of the Ministry and NDMC could not have gone ahead

with its advertisement without some sort of a commitment either in writing or during discussions with Government, the Committee consider it odd that the allotment of land was made in March, 1977 for construction of a hotel without taking note of the factual position and making provision for the NDMC to lease the land to the party whose offer had been accepted. What is more surprising to the Committee is that the Ministry did not agree to the request even when the intention was made clear and cancelled the allotment in March, 1978 without assigning any reason. The consequential delays in reallocation for over 2 years are entirely the creation of the Ministry for which they cannot escape responsibility. The Committee consider it imperative that all concerned wings be it the Ministry, the DDA or NDMC ought to function in coordination and unison and the collective responsibility as well as accountability for the consequences of failure to act in a coordinated way must be realised."

5. In their reply the Ministry of Urban Development have stated as under:

"Though the formal allotment letter for allotment of land measuring about 6.0485 acres for construction of a five star hotel in the city centre complex at Barakhamba Road was conveyed to NDMC by L&DO on 7.3.1977, a decision was taken as far back as November, 1973 to allot land measuring 30 acres in Barakhamba Road (the area bounded by School Lane and Fire Brigade Lane for development in an integrated manner as a city centre). The NDMC was identified as the agency for developing this area and they accepted this offer in 1974 itself. However, neither the arrangement was formalised by issue of an allotment letter nor the site was handed over to NDMC.

The NDMC has reported that the action for licensing of the said site was taken up so as not to lose any time for its immediate licensing on its allotment to the NDMC and as such offers were invited from various hoteliers in June, 1976 pending issue of formal allotment letter from the Government. Limited tenders were invited keeping in view the financial soundness, resources, management capability and expertise of the parties because the hotel project of five star category is of specialised nature.

In pursuance of the allotment dated the March 7, 1977 agreement was to be executed by the lessor with the lessee. The lease agreement in the usual proforma was sent to the NDMC. One of the clause of the agreement provide that the lessee will not directly or indirectly transfer, assign, encumber, let or sublet the possession of the land. The NDMC did not execute the agreement but wanted that this clause should be deleted which was not agreed to by the Government and allotment was cancelled on 8.3.1978.

This site was subject matter of litigation between NDMC and M/s. Delhi Automobile Pvt. Ltd. and the Government of India was also made a party to the proceedings in Delhi high Court. On the recommendation of the Lt. Governor, Delhi it was decided that the plot in question may be reallotted to the NDMC charging for it the predetermined market rates for commercial purposes of Rs. 3,000/- per sq.yd. Accordingly a statement was made in the Delhi High Court about the decision of the Government to allot the plot to the NDMC and the court passed a compromise decree between the NDMC and M/s. Delhi Automobile Pvt. Ltd. The revised allotment was conveyed to the NDMC by L&DO on 17.2.1981.

The recommendation of the Public Accounts Committee regarding co-ordinated functioning of all the concerned wings has been noted."

6. In para 14 of the 166th Report of PAC (8th Lok Sabha) the Committee had observed in this connection as under:

"Justifying the out of Court settlement, the Secretary, Ministry of Urban Development stated during evidence that the decision to reallot the plot was taken in pursuance of the recommendations of the Lt. Governor of Delhi and the Asian Games Steering Committee. The Committee enquired whether it was not a fact that the responsibility of the Ministry was to take an independent decision irrespective of the recommendation made by others in this regard, the witness replied in the affirmative. On being asked whether the Ministry was bound by the views of the Asian Games steering Committee, the witness stated "That is a matter of Judgement." In reply to another query as to whether it was necessary for the Ministry to be a party to this out of court settlement, particularly when they had got the legal opinion that there was no contract between the Government and the party, the Secretary stated that the Government did take the decision in the interest of the Asian Games and restored the allotment."

7. As regards the completion schedule of the Bharat Hotel on a plot of land at Barakhamba Road the Committee had observed in paragraph 20 of the 166th Report (8th Lok Sabha) as under:—

"According to the hoteliers 100 rooms each were ready for Asiad out of the proposed 500 and 350 rooms for Bharat and Meridien Hotels respectively. But the Administrator, NDMC could not confirm whether anybody stayed in these hotels during Asiad."

8. The Ministry have failed to furnish satisfactory explanation for justifying the decision of NDMC to invite tenders for allotment of the land at Barakhamba Road for construction of hotel in June, 1976 even before the land was allotted to it by the Ministry. The NDMC had in fact moved further in the matter by accepting Rs. 20 lakhs as earnest money from M/s. Delhi Automobiles (P) Ltd. (successor in interest of M/s. Bharat Hotel Ltd.). The Committee have no doubt that the eventual litigation between NDMC and M/s. Delhi Automobiles Private Limited could have been

avoided, had NDMC waited till the receipt of the formal letter of allotment of land in question wherein it was stipulated that the lessee would not directly or indirectly transfer, assign, encumber, let or sublet the possession of the land. The Committee feel that the matter should have been investigated to ascertain whether hasty action on the part of NDMC was in any way motivated to help the private party in allotment of the land as NDMC could not have been ignorant of the stipulations likely to be imposed by Ministry in the letter of allotment as discussions in this regard had been continuing since 1974. The Committee express their displeasure over this failure.

Since Ministry ought to have been aware of the tenders invited by NDMC in June, 1976, it remains to be explained as to why the Ministry did not warn the NDMC at that time about the likely aforesaid clause of the agreement between Ministry and NDMC. Under the circumstances, the Ministry was expected to have made it abundantly clear to NDMC at that time that allotment of land would be made only if NDMC ran the hotel itself. Subsequent to cancellation of the allotment in March, 1978 when NDMC had expressed its inability to construct and run the hotel itself, the Ministry seem to have succumbed to the pressure apparently applied by the Delhi Administration and Asian Games Steering Committee in becoming a party to the out-of-court settlement with M/s. Delhi Automobiles (P) Ltd. in disregard of the legal opinion available with them. Clearly, the Ministry did not take an independent decision as they ought to have done and reallocated eventually the land to NDMC in February 1981, in relaxation of the usual stipulations prescribed in such cases of allotment of lands. This only helped the private party in grabbing the land in the name of Asiad which is evident from the fact that only 100 rooms were built by the party by Asiad and even those could not be utilised during the Asiad. The Committee cannot but express their strong displeasure over the conduct of both the Ministry and the NDMC in this deal which only benefitted the private party even without partially realising the contemplated purpose.

Building Plans, Completion, Violations, Compounding etc.

(Sl. Nos. 10, 11, 12—Para Nos. 54, 55, 56)

9. Referring to the substantial deviations in the building plans of the Bharat and Meridien hotels, inordinate delay in completion of formalities such as approval of Delhi Urban Arts Commission, leasing and licensing arrangements, completion certificates etc. the Committee had, in the paragraphs mentioned above, stated as under:

“The Committee note that though the clearance of the building plan by the Delhi Urban Arts Commission is a pre-requisite before approvals to construction plans of high rise buildings are granted, their approvals are yet to be granted by DUAC. The Committee recommend that the circumstances under which construction plans were cleared before approval by DUAC in the case of Bharat and

Meridien Hotels, may be examined and appropriate action take under intimation to the Committee.

(Para 54)

The Committee have been informed that substantial deviations in building plans had taken place in both the cases. The Committee recommend that the circumstances under which these deviations were not taken note of in time by the concerned authorities for ensuring strict compliance with building plan may be examined and result intimated to the Committee. The Committee also recommend that the adequacy of the penalty levied may be reviewed by Government and results of their findings reported.

(Para 55)

The Committee note that even though approvals for these hotel projects were given more than 8 years back, several formalities such as approval of Delhi Urban Arts Commission, leasing and licensing arrangements, completion certificates etc. were not completed. The Committee recommend that all related legal issues should be settled by a time bound programme and compliance reported to the Committee within a period of 6 months.

(Para 56)"

10. In their reply the Ministry of Urban Development has stated as under:—

The NDMC has reported that in the case of plot of land at Barakhamba Road the plans were first approved by DUAC and then approved and released by NDMC as under:—

"Initially the plans for Bharat Hotel were approved by the Committee vide its resolution No. 26, dated 2.6.1981. The DUAC had also approved the same in its meeting held on 28.5.1981 and conveyed to the NDMC vide their letter No. 13(5)/76-DUAC, dated 6.6.1981. Subsequently the revised plans were approved by the Committee vide their resolution No. 26, dated 25.10.1982 and 32, dated 21.3.1984 respectively. In accordance with the provisions of unified building bye-laws, the case regarding revised completion plans submitted by the party on 27.7.1988 was referred to Delhi Urban Arts Commission. Then the DUAC sent their approval vide letter No. 50(9)/P-88 DUAC, dated 28.3.1989 and thereafter revised completion plans were sanctioned by the Committee vide resolution No. 30, dated 1.6.1989 and the same were released to the party accordingly. Thus, presently the completion plans and completion certificate have been sanctioned after getting the pre-requisite approval from DUAC."

In the case of Hotel Meridien the plans were first approved by DUAC and then approved and released by NDMC as under:—

“Initially the plans for Meridien Hotel were approved by the Committee vide resolution No. 41, dated 15.10.81 subject to the corrections and party to submit the clearance from the DUAC. The approval of the DUAC was received on 28.1.1982 vide their letter No. 24(36)/81 DUAC, dated 28.1.1982 and the corrected plans were released to the party on 4.2.1982. Subsequently the revised plans were approved vide resolution No. 18, dated 11.6.1982 resolution No. 28 dated 31.1.1983 and resolution No. 33, dated 21.3.1984. In accordance with the provisions of the unified building bye-laws, the case regarding completion plans and completion certificate was referred to the DUAC on 28.7.1986 for their approval and the same has not been received so far and as such completion certificate has not been issued to the party. The case for grant of completion certificate and approval of completion plan shall be considered by the NDMC after approval from DUAC is received. The NDMC has been instructed to take speedy action in this regard in consultation with DUAC.”

(Para 54)

The NDMC has reported that in the case of plot of land at Barakhamba Road on which Bharat Hotel has been constructed, as the deviations were considered within the ambit of building bye-laws and with the permissible coverage and FAR, the same were compounded on payment of Rs. 20 lakhs. Similarly in the case of plot of land at Windsor Place on which Hotel Meridien has been constructed, the deviations were considered within the ambit of building bye-laws and permissible coverage and FAR, compounding charges of Rs. 5 lakhs were imposed on the party for the deviations carried out at the site with respect to the sanctioned plans at the time of granting temporary occupation certificates (Provisional). According to NDMC, clearance of the DUAC in the case of Meridien hotel and grant of completion certificate is still pending. The adequacy of penalty to be levied on the hotelier will be adjudged at the time of issue of completion certificate.

(Para 55)

In the case of Bharat Hotel the present position is that the completion plans and completion certificates have been sanctioned after getting the pre-requisite approval from the DUAC. In the case of Hotel Meridien the case regarding completion plans and completion certificates was referred to DUAC on 28.7.1986. As the approval from the DUAC has not been received so far, the completion certificate has not been issued to the party. However, temporary occupation certificate was granted for high rise tower (guest rooms)

vide Committee's resolution No. 35 dated 1.5.86. The temporary occupation certificate for low rise tower block was granted vide resolution No. 16 dated 7.8.1986. NDMC had been instructed to sort out all pending issues and recover the dues before completion certificate is given to the hotelier."

(Para 56)

11. The clearance of the building plan by the Delhi Urban Arts Commission is a basic legal requirement before the construction plans are approved and the parties are allowed to go ahead with the construction in every case of high rise building which would inevitably affect the sky line. However, in the case of both Bharat Hotel and Meridien Hotel NDMC appear to have violated this fundamental pre-requisite so much so that in the case of Meridien Hotel even the revised plans were sanctioned by NDMC, without the prior approval of DUAC. Further, the occupation certificate in case of Meridien Hotel is yet to be issued by NDMC as the requisite approval for the revised plans from DUAC has not so far been received. The Committee are surprised to note that despite blatant non-compliance of plan requirements, NDMC has gone ahead to give temporary occupation certificates. The Committee recommend that a review of the powers under which NDMC have compounded violations of building plans may be conducted and appropriate action taken.

The Committee also find that in respect of Bharat Hotel and Meridien Hotel, the deviations in building plans have been compounded by charging Rs. 20 lakhs and Rs. 5 lakhs respectively. The Committee, however, note that in both the cases, substantial deviations have been made from the building plan. Consequent upon the failure of the hoteliers to complete their hotels by Asiad, the revised plans for Bharat and Meridien Hotels were approved and revalidated by the NDMC from time to time apparently to allow them to construct/add structures for deriving additional commercial benefits. The Committee are surprised that diversions which result in substantial modification of the basic objective for which land was given, can be considered as "compoundable" diversions with nominal penalty of Rs. 20 lakhs and Rs. 5 lakhs in construction projects costing crores of rupees. The soft pedalling attitude against these private parties and the immunity with which they have flouted terms of allotment, requirements of laws etc. are all reflections on the manner in which violations of laws, rules and directions are being dealt with by the law enforcing authorities. While deprecating such a casual approach the Committee strongly urge upon the Ministry that the question of adequacy of penalties imposed in both these cases should be reviewed and remedial steps taken urgently. The Committee would like to know the concrete action taken in the matter within a period of six months.

Utilisation of areas of hotels for commercial purposes
(Sl.No. 16—Para 82)

12. Referring to the utilisation of substantial areas for commercial purposes by the hoteliers, the Committee had, in the aforesaid para, recommended as under:

"The Committee note with concern that the two hoteliers are reported to have utilised substantial acres for commercial purposes, as opposed to hotel purposes for which the prime lands were leased to them. The Committee have been informed in this regard that report received from NDMC is under examination. The Committee recommend that the matter may be fully investigated, conclusive action taken without delay and a report furnished to the Committee within a period of 3 months."

13. In their reply the Ministry of Urban Development have stated as under:

"The NDMC has reported that both the hoteliers constructed the requisite numbers of guest rooms as per agreement entered with them by the NDMC at the time of licensing the land to them (that is 500 guest rooms in the case of Bharat Hotel and 350 guest rooms in the case of Meridien Hotel). The provisions of the licence deed do not prevent the hoteliers from using the balance area for commercial purpose. Technically, hotel use is also commercial and the parking norms for hotels as well as offices are the same. Moreover there are no norms either in the building bye-laws or in the Master/Zonal Plan Regulations as to how much percentage of the commercial area like shops, offices etc. can be permitted in a hotel complex."

However, advice of Ministry of Law has also been sought as to what legal options are available to take action in this regard."

14. The Committee are amazed to find that there are no norms either in the building bye-laws or in the master/zonal plan regulations so as to specify as to how much percentage of commercial area like shops and offices etc. can be permitted in a hotel complex. Bharat and Meridien hoteliers appear to have taken advantage of this lacunae and constructed substantial portion in the hotels for the commercial purposes. These unplanned additional constructions must have yielded fabulous returns to the hoteliers keeping in view the prime locations of these hotels. The Committee would like to be informed as to whether NDMC have been benefitted in any way in this regard as the hoteliers could sub-licence to the private offices only with their prior permission. If the NDMC have not gained anything out of this, the considerations which weighed with them in according permission to sub-licence enabling the hoteliers to gain substantially in the process and without any return to them needs to be explained satisfactorily to the Committee.

The Committee also desire that suitable rules/ guidelines etc. prescribing the optimum area for commercial purposes such as offices, shop etc. in a hotel complex should be framed, circulated to all those concerned and a strict watch be kept on their compliance.

CHAPTER II

OBSERVATIONS/RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee are concerned to note that standard of maintenance of land records, action for assessment and recovery of dues, inspection, revision etc. have left a lot to be desired and as a consequence, substantial loss of revenue to the exchequer remains unnoticed and recoveries also inordinately delayed. The Committee are of the view that unless a time bound programme is drawn to bring the basic records current and to initiate appropriate action in all cases, the situation will continue to be as grim as it has been so far. The Committee hence recommend that an appropriate scheme of action be drawn and steps taken for its implementation.

[S.No. 1, Appendix III, Para No. 3 of 166th Report of PAC
Eighth Lok Sabha.]

Action Taken

A time-bound programme has been drawn up for up-dating the basic records. A scheme for creating a data bank of all properties in L&DO is being implemented. Survey of vacant lands has been completed and all the maps have been re-drawn. A scheme for computerising the maps is being examined in consultation with National Informatics Centre. Computerised monitoring of cases received in the office has been introduced to begin with. In the long term, total computerisation of the L&DO office is planned for which discussions have been initiated with National Informatics Centre. Revenues received from lessees have already been computerised. It is proposed to purchase modern survey equipments to enable accurate survey of land with the L&DO. An order has been issued regarding simplification of lease management and a booklet has been brought out for information and guidance of lease holders, which is available for sale in the Government of India's sale counters in Delhi.

Since L&DO has started accepting payments on account, the revenue recovery has registered steep increase. As against 670.09 lakhs for the period from Sept., 1989 to March 1990, an amount of 1024.44 lakhs has been realised during the period from Sept., 1990 to March 1991.

[Ministry of Urban Development O.M. No. G-25015/1/89-LD,
dt. 16.4.1992]

Recommendation

The Committee note that the Ministry has no information about the present position of squatters on lands transferred to DDA for care and maintenance and that large number of files relating to encroachment of land under the control of L&DO remains to be attended to. The Committee recommended that time bound programme may be framed for identifying all cases of encroachment and completing follow up action.

[S.No. 2, Appendix III, Para No. 4 of 166th Report of PAC
Eighth Lok Sabha.]

Action Taken

The survey of vacant land has been started in order to identify the land under encroachment and an inventory of the lands with Land & Development Office has been prepared. Lists are being prepared regarding the number of squatters on Land & Development Office's land. The land maps are being redrawn and the matter regarding computerising the maps is being examined in consultation with National Informatics Centre. As regards lands transferred to Delhi Development Authority for care and maintenance, it is the DDA who is responsible for maintaining these lands free from encroachment and preparation of lists of squatters and their rehabilitation, wherever considered necessary as per the existing policy followed in the DDA. We are also requesting DDA to remove the encroachments. As for the files relating to encroachment of land under the control of L&DO, out of 18,000 files, 7,200 files have been examined and the cases reviewed. The follow-up action is in progress and is likely to be completed within six months.

As regards the survey of vacant land, the compilation of drawings is being done in consultation with National Informatics Centre. Nearly 350 drawings will have to be compiled after finalising the method of computerisation. This process is likely to take about two years.

[Ministry of Urban Development O.M. No. G-25015/1/89-LD,
dt. 16.4.1992]

Recommendation

In regard to cases pending in the various Courts, the Ministry have stated that records pertaining to litigation cases had been computerised to expedite finalisation of the cases and that a legal cell has been created in L&DO for effective follow up. The Committee recommend that the position of pending court cases should be monitored on a regular basis

by the Ministry for ensuring action for expediting finalisation of the same in view of the large financial implication.

[S.No.3, Appendix III, Para No.5 of 166th Report of PAC
Eighth Lok Sabha.]

Action Taken

As regards court cases, the cases pending in the Supreme Court and the High Court are being followed up closely and a Special Cell has been set up in the L&DO to pursue these cases vigorously. It may also be mentioned that for court cases, the services of a legal expert have been drafted so that the interests of the Government are vigorously pursued. The Supreme Court has recently in an important judgement upheld the decision taken by the Ministry. This favourable judgement will enable the Government to effectively defend many other similar cases pending in the courts. Steps have been taken to keep a watch over the court case continuously in the Ministry. A quarterly return has been prescribed by this Ministry and L&DO has been requested to submit this return in the prescribed proforma.

[Ministry of Urban Development O.M. No. G-25015/1/89-LD,
dt. 16.4.1992]

Recommendation

The Committee have been informed that in so far as Government are concerned, they have recognised only N.D.M.C./D.D.A. as lessees of the land and that both Government and D.D.A./N.D.M.C. had initially agreed not to sub lease the land in favour of any other party. The Committee also note that based on this reported understanding, cancellations of allotments, issue of revised allotment, revision of terms of allotment, etc. have also taken place during the last few years. The Committee consider all these understandings, legal actions for cancellation, reallocation revision in terms, etc. as exercises in futility and also consider it unfortunate that conceptually, the actions so far taken have failed to recognise the collective responsibility of Government and semi-Government organisations in such matters. Viewed in this context, the Committee are of the view that the licensing arrangements between N.D.M.C./D.D.A. and the private parties are matters of mutual concern of both the Ministry and N.D.M.C./D.D.A. and responsibility of Government and D.D.A./N.D.M.C. The Committee hence consider it imperative that all these organisation ought to function in unison and collective decisions be taken with no party disowning responsibility merely based legal quibblings of their respective roles.

[S.No. 8, Appendix III, Para No. 43 of 166th Report of PAC
Eighth Lok Sabha.]

Action Taken

The recommendation of the Committee has been noted by all concerned.

[Ministry of Urban Development O.M. No. G-25015/1/89-LD,
dt. 16.4.1992]

Recommendation

From the information furnished to Committee by the Ministry on the outstanding dues, it appears that in the case of Meridien Hotel, the interest on the outstanding premium for the period from 23.4.1981 to 26.3.1982 and on the outstanding ground rent for the period from 18.12.1981 to 8.9.1982 had not been taken into account. Further in the case of Bharat Hotel, the interest on outstanding premium for the period from 10.4.1981 to 26.3.1982 does not seem to have been provided for. The Committee recommend that the outstanding dues in these cases and other hotel projects may be fully rechecked, subjected to audit scrutiny and final figures as assessed intimated.

[S.No.13, Appendix III, Para No. 68 of 166th Report of P.A.C.
Eighth Lok Sabha.]

Action Taken

The outstanding dues in respect of 4 hotels sites has been rechecked and verified by the internal Audit Cell of the L&DO. The Position in January, 1991 is as under:—

NDMC (Bharat Hotel)	Rs. 15,41,01,699.00
NDMC (Meridien Hotel)	Rs. 09,47,71,406.00
D.D.A (Taj Palace)	Rs. 06,75,83,778.00
I.T.D.C. (Samrat Hotel)	Rs. 02,31,24,057.00

The details of the outstanding dues are attached. (Annexure)

As regards interest on the outstanding premium for the period from 23.04.1981 to 26.3.1982 and on the ground rents for the period from 18.12.1981 to 8.9.1982 in respect of Meridien Hotel the L&DO has reported that the interest on premium stands already recovered from the N.D.M.C. and for interest on the ground rent for above mentioned period, a demand has already been raised against N.D.M.C. In case of Bharat Hotel the interest on second instalment due for payment in February, 1982 also stands recovered from N.D.M.C.

L&DO has been instructed to take speedy action for the recovery of outstanding dues from the N.D.M.C., D.D.A. and the I.T.D.C.

[Ministry of Urban Development O.M. No. G-25015/1/89-LD,
dt. 16.4.1992]

ANNEXURE

Bharat Hotel—L-III/8/13(20)/81

Present position of dues up to 14/1/91

Area = 6.0485 acres

Rate = 3000/- per sq. yds

Date of allotment 17/2/81

Total premium = $6.0485 \times 4840 \times 3000$ = Rs. 8,78,24,200.00

Less amount paid

(i) dt 21/2/81 Rs. 1,75,64,844.00

(ii) dt 22/3/82 Rs. 1,75,64,844.00

<u>Rs. 3,51,29,688.00 (-)</u>	=	<u>Rs. 3,51,29,638.00</u>
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(A)

1. Balance Premium	=	Rs. 5,26,94,532.00
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2. Interest on Premium @ Rs. 13.85% from time to time w.e.f. 17/2/82 to 14/1/91	=	Rs. 6,59,87,939.00
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(B)

1. G.R. @ Rs. 21,95,605.50/- P.A. w.e.f. 25/5/83 to 14/1/91	=	Rs. 3,06,783.00
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2. G.R. @ Rs. 43,91,211/- P.A. w.e.f. 15/7/83 to 14/1/91	=	Rs. 3,29,34,083.00
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3. Interest @ Rs. 10% on G.R., from time to time w.e.f. 25/5/81 to 14/1/91	=	<u>Rs. 1,44,78,362.00</u>
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Total =		Rs. 16,64,01,699.00
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Less payment receipt

(i) dt. 8/3/89 Rs. 24,00,000.00

(ii) dt. 5/7/89 Rs. 24,00,000.00

(iii) Rs. 75,00,000.00

Total = Rs. 1,23,00,000.00 (-)	=	<u>Rs. 1,23,00,000.00</u>
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Net Balance	=	Rs. 15,41,01,699.00
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MERIDIEN HOTEL*Present position of dues up to 14-1-91*

(1) Total premium = Rs. 4,98,32,640.00

Less amount paid (instalment)
 on 27/3/81 = Rs. 1,04,54,400.00
 on 15/3/85 = Rs. 1,04,54,400.00

Rs. 2,09,08,800.00 (-)	Rs. 2,09,08,800.00
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Balance =	Rs. 2,89,23,840.00
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Interest on Ist, IInd instalment @ Rs. 11.85%
 = Rs. 47,24,134.00

Dues

Plus I & II

Instalment = Rs. 199,33,056.00

Rs. 2,46,57,190.00

Paid (-) Rs. = 2,09,08,800.00

Shot payment = Rs. 37,48,390.00	(+) Rs. 37,48,390.00
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(A) (I) Total balance premium Rs. 3,26,72,230.00

(II) Interest @ Rs. 13.85% on balance premium w.e.f. 1/4/82 to 14/1/91	= Rs. 3,97,83,722.00
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(B) (I) Ground rent @ Rs. 12,45,816/PA w.e.f 30.3.83 to 29/7/83	= Rs. 4,16,410.00
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(II) G.R. @ Rs. 24,91,632/P.A. w.e.f. 30/7/83 to 14/1/84	= Rs. 11,53,660.00
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(III) G.R. @ Rs. 24,91,632/P.A. w.e.f. 15/1/84 to 14/1/91	= Rs. 1,74,41,424.00
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(IV) Interest on G.R. @ Rs. 10% time to time from 30/3/81 to 14/1/91	= Rs. 82,91,183.00
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(C) (I) 10% Interest on belated payment of cost of superstructure w.e.f. 1/4/82 to 15/6/82	Rs. 12,777.00
	= Rs. 9,98,71,406.00

(Less) payment received (-)	= Rs. 50,00,000.00
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Total balance	= Rs. 9,47,71,406.00
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Hotel Taj Palace at Sardar Patel Marg
L—III/8/13(9)/81

1. Area = 6 acres		
2. Rate = 1800/- per sq. yds.		
3. Allotment date = 4/3/81		
4. Premium = $6 \times 4840 \times 1800$	=	Rs. 5,22,72,000.00
5. Five yearly instalment = 5,22,72,000.00 ÷ 5		
each instalment	=	Rs. 1,04,54,400.00
6. Ground rent	=	26,13,600.00 PA

Present Position of dues up to 14/1/91

(A) 1. Balance Premium	=	Rs. 3,13,63,200.00
2. Interest on balance Premium @ Rs. 13.85% w.e.f. 10/4/85 to 14/1/91	=	Rs. 2,50,51,248.00
(B) 1. Ground rent @ Rs. 26,13,600/- PA w.e.f. 10/4/85 to 14/1/86	=	Rs. 20,04,953.00
2. Ground rent @ Rs. 26,13,600/-PA w.e.f. 15/1/85 to 14/1/91	=	Rs. 1,30,68,000.00
3. Interest on G.R. @ 10% w.e.f. 10/4/85 to 14/1/91	=	Rs. 50,65,272.00
(C) 1. Damages for U/A occupation w.e.f. 4/3/81 to 10/4/85	=	Rs. 3,09,81,089.00
2. Interest on damages @ Rs. 10% w.e.f. 10/4/85 to 12/1/87	=	Rs. 54,57,765.00
Total =		Rs. 11,29,91,627.00

Receipt payments

Rs. 3,13,64,000.00

Rs. 1,40,43,849.00 +

Rs. 4,54,07,849.00

Less (-) = Rs. 4,54,07,849.00

Balance = Rs. 6,75,83,778.00

Hotel Samrat

L- III/8/13(10)/80

1. Area of plot = 3.195 acres

2. Actual hand over = 3.115 acres

3. Rate = Rs. 1200/- per sq. yds.		
4. Premium = $3.115 \times 4840 \times 1200$	=	Rs. 1,80,91,920.00
5. $2\frac{1}{2}\%$ ground rent	=	Rs. 4,52,298.00

Present Position of dues up to 18/2/91		
(A) 1. Total Premium	=	Rs. 1,80,91,920.00
2. Interest on balance Premium w.e.f. 19/4/81 to 4/8/82	=	19,04,153.00
(B) 1. Depreciated cost	=	Rs. 2,19,856.00
2. Interest on baleted payment of cost 26/2/82 to 18/4/82	=	Rs. 2,831.00
(C) 1. Ground rent @ Rs. 4,52,298/-PA. w.e.f. 19/2/81 to 18/2/91	=	Rs. 45,22,980.00
2. Interest @ Rs. 10% on G.R. from time to time w.e.f. 19/2/81 to 18/2/91	=	Rs. 10,13,660.00
Total =		Rs. 2,57,55,400.00
(D) 1. Damages charged w.e.f. 19/2/81 18/2/91	=	Rs. 1,98,01,921.00
G. Total =		Rs. 4,55,57,321.00
Amount receipt (-)	=	Rs. 2,24,33,264.00
Balance	=	Rs. 2,31,24,057.00

Recommendation

The Committee are perturbed to note that the outstanding recoveries of licence fees as on September, 1988 amounted to Rs. 18.76 crores in the case Meridien Hotel and Rs. 8.70 crores in the case of Bharat Hotel and that consequent on non-realisation of these dues by the NDMC, Government dues have not also been recovered. The Committee also note that the moratorium for recovery has been given by NDMC with full knowledge and concurrence of Government, though Government have not recognised the private parties from the point of the lease arrangement. In any case, as the substantial period of a moratorium has already been given, the Committee strongly feel that there exists no justification for grant of further moratorium. The Committee urge the Ministry to take steps to realise the dues by a time bound programme and apprise of the arrangements made for recovery of dues.

[S. No. 14 Appendix III Para No. 69 of 166th Report of PAC
Eighth Lok Sabha.]

Action Taken

The NDMC has reported that the Committee had granted moratorium in the payment of licence fee on year to year basis. In the case of Meridien Hotel the last moratorium was granted upto September, 88 with the stipulation that arrears of accumulated licence fee will be payable by them in 30 half yearly instalments alongwith interest/additional interest. As the licensces did not pay the dues of NDMC, the licence of M/s CJ International Hotel has been cancelled with effect from 6.3.90 on account of non-payment of dues. Eviction proceedings have also been initiated by the Estate Officer, NDMC under the Public Premises Act. The hoteliers have filed a suit in the Delhi High Court. A petition for appointment of an arbitrator under Section 20 of the Arbitration Act has also been filed by the party. The Matter has been settled outside the court and the party has withdrawn all cases filed by them. The NDMC has also withdrawn eviction proceeding started by them against the hotelier.

As regards M/2s Bharat Hotel Ltd., the NDMC have reported that after the expiry of the moratorium in November, 88 the hoteliers requested to allow them to pay the accumulated dues in instalments. They have been allowed to pay the licence fee due in the year 1988 in 36 monthly instalments and licence fee due on 16.11.1989 in 12 monthly instalments alongwith interest. The Hotel has been making payment in accordance with rescheduling allowed to them.

[Ministry of Urban Development O.M. No. G-25015/1/89-LD
dt. 16.4.92]

Recommendation

The Committee note that the Ministry have not so far been able to recover the damages charges and ground rent alongwith interest amounting to Rs. 6.46 crore from D.D.A., an organisation which is directly under their control. The Committee desire that suitable early action should be taken by the Ministry to recover the dues from the D.D.A. and they may be apprised of precise action taken by them in this regard within 3 months of the presentation of the Report.

[S. No. 15 Appendix III Para No. 70 of 166th Report of the
PAC Eighth Lok Sabha.]

Action Taken

Against the outstanding dues, a sum of Rs. 1.40 crore has been received from the D.D.A. on 21.7.89. As on 14.1.91, an amount of Rs. 6.76 crore is outstanding, as per details given in the Action Taken Note against Para 68.

L&DO has issued demand notice to the D.D.A. for recovery of the balance amount and to show cause as to why action to cancel the allotment should not be taken for non-payment of dues. Final show cause notice is being issued by the L&DO.

[Ministry of Urban Development O.M. No. G-25015/1/89-LD
dt. 16.4.92)

CHAPTER III

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

Recommendation

The Committee note that the available time between allotment of the four plots in February/March 1981 and the commencement of the Asiad was too short a period for completion of the hotels unless certain specific extraordinary and special measures were taken. The Committee also note that during the same period several new structures like the Jawaharlal Nehru Stadium, Indira Gandhi Stadium, Talkatora Swimming Pool, Asiad Village with most modern facilities in a substantial number of quarters etc. were all constructed in record time as a result of special measures taken by the semi-Government organisation. Further the Public Sector Undertaking, ITDC also achieved success in providing hotel facilities to a great extent. Taking those into consideration, the Committee are convinced that if the will for completion was there with the private parties and the monitoring of progress adequate, the hotel projects entrusted to the private parties could have been completed in time for Asiad.

[S. No. 5 Appendix III Para No. 32 of 166th Report of PAC Eighth Lok Sabha.]

Action Taken

The four hotel sites were part of the 10 hotel projects approved by the Department of tourism on the recommendations of the Asian Games Committee. The Ministry of Tourism have intimated that the progress of these hotels was watched closely through periodic review. Some of the hotels were to be completed before Asian Games and others were to provide the certain number of rooms with some services and rest of the construction completed after the games. In the case of hotel site at Barakhamba Road, area to the extent of 72% was in the possession of the NDMC on 11.6.1981. On the remaining portion of plot there existed quarters which were required to be vacated/demolished. The possession of remaining area was handed over to the allottee institution at various stages and complete possession of the allotted area was available with NDMC 25.2.1982.

In the case of plot of land at Windsor Place, the land measuring 4.052 acres was handed over on 8.9.1981 and the remaining area measuring 0.238 acres was handed over on 22.9.1981 to the NDMC. The projects known as construction of Bharat Hotel and Hotel Meridien being five star hotels of

International standard having all the modern facilities required sufficient time for their completion and it was not possible to complete such a big project within a period of 6—12 months. The NDMC have reported that in terms of agreement executed with both the parties they completed 100—108 rooms for Asiad, 1982. The Special Organising Committee of the Asian Games was intimated about the commitments by the various hotels regarding rooms to be completed before Asiad 82 and the rooms actually completed.

[Ministry of Urban Development O.M. No. G-25015/1/89-LD dt. 16/4/92]

Recommendation

In this context, the Committee note that the allotments were made in Feb.-March, 1981 whereas an upward revision of allotment rates took place from April, 1981 as per order subsequently issued. The Committee have also been informed that the rates at which they were allotted would not be admissible had direct allotment been made to them by Government. In the circumstances, the Committee desire to know why feasibility of charging the higher rates that became due after 1.4.81 in the context of revisions done as damages for failure to comply with objective of allotment of the old rates, was not examined. The Committee also recommend that the feasibility of claiming appropriate damages for their failure to put up the hotels in time may be examined and action taken reported to the Committee.

[S. No. 6 Appendix III Para No. 33 of 166th Report of PAC Eighth Lok Sabha.]

Action Taken

The premium in respect of these hotel sites was based on the pre-determined commercial rates prevalent at the time of allotment. The revised allotment was made in Feb., 1981 and the prevailing rates of Rs. 3,000/-per sq. yd. was applied. The feasibility of charging the higher rates was examined while reviewing the position in 1984. It was then decided that instead of enhancing premium which would lead to legal problems, the annual ground rent at 2½% of the premium would be raised to 5% so that over a period of time it would be possible to collect higher ground rent on a continuing basis. Regarding failure to put up the hotels in time the NDMC has reported that 100—108 rooms were completed before Asiad 82 as stipulated in the agreement with the respective parties. The recommendations of the Committee that the feasibility of claiming appropriate damages for failure to put up the hotels in time has been examined and it is felt that because of the pending court cases in respect of plot of land at

Barakhamba Road in the High Court, delay in execution of the project was inescapable and the matter being sub-judice, the claim of damages therefore may not be sustainable.

[Ministry of Urban Development O.M. No. G-25015/1/89-LD
Recommendation dt. 16/4/92]

The Committee also recommend that a review of allotment, utilisation for Asiad etc., in respect of the remaining six hotel projects taken for Asiad may be conducted in regard to issues like, method of selection of party, area allotted, rates and terms of allotment, percentage completed by Asiad, follow up action etc. and a comprehensive report given to the Committee.

[S. No. 7, Appendix III Para No. 34 of 166th Report of P.A.C.,
 Eighth Lok Sabha.]

Action Taken

The matter has been reviewed in the light of the observations of the Public Accounts Committee and it is revealed that out of 6 hotels, lease of the land for 2 hotels viz. Maurya Sheraton and Park Hotel are being administered by the Land & Development Office.

As regards Maurya Sheraton, Ministry of Tourism and Civil Aviation invited tenders in 1974 for perpetual lease of land at S.P. Marg for a hotel. M/s. I.T.C. Ltd. was selected as a successful bidder and thereafter memorandum of agreement was executed on 24.6.1975 according to which the lessee was to put up a 5 Star Hotel consisting of 500 guest rooms in two phases, namely, 350 rooms in the first phase by June, 1977 and rest by June, 1979. The lessee completed the construction of both phases and after obtaining extension from time to time, they had commissioned full capacity in time for Asiad in 1982. This position was confirmed by the Deptt. of Tourism vide their letter dated 2.5.1983. On settlement of other outstanding issues, the perpetual lease was executed on 21.12.1988. From this it is evident that the entire process of setting up of a 5 Star Hotel on this site was started on 1974, a period totally unrelated to Asiad 1982. However, as per the information furnished by the Deptt. of Tourism, on recommendations of the Asian Games Steering Committee, Maurya Sheraton was required to complete for Asiad 122 rooms which were commissioned by them within the given time frame.

[Therefore there is no lapse so far as Maurya Sheraton is concerned].

As regards Park Hotel, a plot measuring 1.034 acres at Parliament Street was originally allotted for residential purpose in 1925. This was purchased by M/s. Northern Enterprises Corporation Pvt. Ltd. in 1974 after seeking permission from the L & DO. The new lessee requested on 4.7.1975 for change of land use of the premises from residential to commercial and later, for construction of a multi-storeyed building on payment of conversion charges.

Thereafter the lessee in their letter dated 3.12.1980 mentioned that they got the clearance from the Ministry of Tourism for putting up the Hotel for use during Asiad, 1982. Request for construction of a multi storeyed building for hotel project was received on 17.12.1980 and the terms were offered on 26.4.1982. The lessee kept on corresponding on the subject without compliance of the terms and simultaneously started construction of the hotel building. For violation of the lease terms i.e. starting construction of the multi storeyed building without the permission of the lessor, the premises were re-entered on 24.1.1984. Immediately thereafter the ex-lessee came forward for compromise and after offering the terms and compliance thereof, the re-entry orders were withdrawn on 23.8.1984 on payment of additional premium and other dues amounting to Rs. 75, 71, 877/-. Subsequently, lease deed for commercial multi storeyed building for hotel project was executed on 25.8.1988. As per information furnished by the Deptt. of Tourism, on recommendations of the Asian Games Steering Committee, Park Hotel was required to commission 50 rooms for Asiad, 1982. The requisite number of rooms were commissioned during the given time frame.

The land for Surya International, Asian Hotel and Sidhartha Continental was allotted by the Delhi Development Authority through open auctions. As regards land for Centaur Hotel, the same was allocated by International Airport Authority of India which is running the hotel.

As per the information furnished by the Deptt. of Tourism, the number of rooms which the hotels were required to complete for the Asiad (as per the recommendations of the Asian Games Steering Committee) and the rooms commissioned by them are as under:—

Sl. No.	No. of Rooms recommended by the Asian Games Steering Committee	Rooms Commissioned
Surya International	241	200
Sidhartha Continental	156	120
Asian Hotel	300	250
Centaur Hotel	200	200

As regards Surya International, Sidhartha Continental and Asian Hotels, from perusal of the above statement it is observed that the percentage of room commissioned is 83%, 77% and 83.3% respectively.

[Ministry of Urban Development O.K. No. G-25015/1/90-LD/
Vol. II dated 21/4/92]

CHAPTER IV

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

Recommendation

The Committee find that the NDMC had invited restricted tenders for allotment of the land at Barakhamba Road for construction of a hotel in June, 1976 even before the land was allotted to it by the Ministry for the purpose. As this fact cannot be outside the knowledge of the Ministry and NDMC could not have gone ahead with its advertisement without some sort of a commitment either in writing or during discussions with Government, the Committee consider it odd that the allotment of land was made in March, 1977 for construction of a hotel without taking note of the factual position and making provision for the NDMC to lease the land to the party whose offer had been accepted. What is more surprising to the Committee is that the Ministry did not agree to the request even when the intention was made clear and cancelled the allotment in March, 1978 without assigning any reason. The consequential delays in reallocation for over 2 years are entirely the creation of the Ministry for which they cannot escape responsibility. The Committee consider it imperative that all concerned wings be it the Ministry, the DDA or NDMC ought to function in coordination and unison and the collective responsibility as well as accountability for the consequences of failure to act in a coordinated way must be realised.

[S.No. 4 Appendix III Para 17 of 166th Report of PAC
Eighth Lok Sabha.]

Action Taken

Though the formal allotment letter for allotment of land measuring about 6.0485 acres for construction of a five star hotel in the city centre complex at Barakhamba Road was conveyed to NDMC by L&DO on 7.3.77, a decision was taken as far back as November, 1973 to allot land measuring 30 acres in Barakhamba Road (the area bounded by School Lane and Fire Brigade Lane for development in an integrated manner as a city centre). The NDMC was identified as the agency for developing this area and they accepted this offer in 74 itself. However, neither the arrangement was formalised by issue of an allotment letter nor the site was handed over to NDMC.

The NDMC has reported that the action for licensing of the said site was taken up so as not to lose any time for its immediate licensing on its

allotment to the NDMC and as such offers were invited from various hoteliers in June, 1976 pending issue of formal allotment letter from the Government. Limited tenders were invited keeping in view the financial soundness, resources, management capability and expertise of the parties because the hotel project of five star category is of specialised nature.

In pursuance of the allotment dated the March 7, 1977, agreement was to be executed by the lessor with the lessee. The lease agreement in the usual proforma was sent to the NDMC. One of the clause of the agreement provide that the lessee will not directly or indirectly transfer, assign, encumber, let or sublet the possession of the land. The NDMC did not execute the agreement but wanted that this clause should be deleted which was not agreed to by the Government and allotment was cancelled on 8.3.1978.

This site was subject matter of litigation between NDMC and M/s. Delhi Automobile Pvt. Ltd. and the Government of India was also made a party to the proceedings in Delhi High Court. On the recommendation of the Lt. Governor, Delhi it was decided that the plot in question may be reallocated to the NDMC charging for it the predetermined market rates for commercial purposes of Rs. 3,000/- per sq.yd. Accordingly a statement was made in the Delhi High Court about the decision of the Government to allot the plot to the NDMC and the court passed a compromise decree between the NDMC and M/s. Delhi Automobile Pvt. Ltd. The revised allotment was conveyed to the NDMC by L&DO on 17.2.81.

The recommendation of the Public Accounts Committee regarding co-ordinated functioning of all the concerned wings has been noted.

[Ministry of Urban Development O.M.No. G—25015/1/89—LD
dt. 16/4/92]

Recommendation

The Committee note that though the clearance of the building plan by the Delhi Urban Arts Commission is a pre-requisite before approvals to construction plans of high rise buildings are granted, their approvals are yet to be granted by D.U.A.C. The Committee recommend that the circumstances under which construction plans were cleared before approval by D.U.A.C. in the case of Bharat and Meridien Hotels, may be examined and appropriate action taken under intimation to the Committee.

[S.No. 10, Appendix III, Para No. 54 of 166th Report of P.A.C.
Eighth Lok Sabha.]

Action Taken

The N.D.M.C. has reported that in the case of plot of land at Barakhamba Road the plans were first approved by D.U.A.C. and then approved and released by N.D.M.C. as under:—

Initially the plans for Bharat Hotel were approved by the Committee *vide* its resolution NO. 26, dated 2.6.1981. The D.U.A.C. had also approved the same in its meeting held on 28.5.1981 and conveyed to the N.D.M.C. *vide* their letter No. 13(5)/76—DUAC, dated 6.6.1981. Subsequently the revised plans were approved by the Committee *vide* their resolution No. 26, dated 25.10.1982 and 32, dated 21.3.1984 respectively. In accordance with the provisions of unified building bylaws, the case regarding revised completion plan submitted by the party on 27.7.1988 was referred to Delhi Urban Arts Commission. Then the D.U.A.C. sent their approval *vide* letter No. 50(9)/P—88—DUAC, dated 28.3.1989 and thereafter revised completion plans were sanctioned by the Committee *vide* resolution No. 30, dated 1.6.1989 and the same were released to the party accordingly. Thus, presently the completion plans and completion certificate have been sanctioned after getting the pre-requisite approval from D.U.A.C.

In the case of Hotel Meridien the plans were first approved by D.U.A.C. and then approved and released by N.D.M.C. as under:—

Initially the plans for Meridien Hotel were approved by the Committee *vide* resolution No. 41, dated 15.10.1981 subject to the corrections and party to submit the clearance from the D.U.A.C. The approval of the D.U.A.C. was received on 28.1.1982 *vide* their letter No. 24(36)/81, DUAC, dated 28.1.1982 and the corrected plans were released to the party on 4.2.1982. Subsequently the revised plans were approved *vide* resolution No. 18, dated 11.6.1982, resolution No. 28, dated 31.1.1983 and resolution No. 33, dated 21.3.1984. In accordance with the provisions of the unified building bylaws, the case regarding completion plans and completion certificate was referred to the D.U.A.C on 28.7.1986 for their approval and the same has not been received so far and as such completion certificate has not been issued to the party. The case for grant of completion certificate and approval of completion plan shall be considered by the N.D.M.C. after approval from D.U.A.C. is received. The N.D.M.C. has been instructed to take speedy action in this regard in consultation with D.U.A.C.

[Ministry of Urban Development O.M. No. G—25015/1/89—LD.,
dt. 16/4/92]

Recommendation

The Committee have been informed that substantial deviations in building plans had taken place in both the cases. The Committee recommend that the circumstances under which these deviations were not taken note of in time by the concerned authorities for ensuring strict compliance with building plan may be examined and result intimated to the Committee. The Committee also recommend that the adequacy of the penalty levied may be reviewed by Government and results of their findings reported.

[S.No 11, Appendix III, Para 55 of 166th Report of PAC Eighth Lok Sabha.]

Action Taken

The NDMC has reported that in the case of plot of land at Barakhamba Road on which Bharat Hotel has been constructed, as the deviations were considered within the ambit of building byelaws and within the permissible coverage and FAR, the same were compounded of payment of Rs. 20 lakhs. Similarly in the case of plot of land at Windsor Place on which Hotel Meridien has been constructed, the deviations were considered within the ambit of building byelaws and permissible coverage and FAR, the compounding charges of Rs. 5 lakhs were imposed on the party for the deviations carried out at the site with respect to the sanctioned plans at the time of granting temporary occupation certificates (Provisional). According to NDMC, clearance of the DUAC in the case of Meridien Hotel and grant of completion certificate is still pending. The adequacy of penalty to be levied on the hotelier will be adjudged at the time of issue of completion certificate.

[Ministry of Urban Development O.M. No. G—25015/1/89—LD
dt. 16/4/92]

Recommendation

The Committee note that even though approvals for the hotel projects were given more than 8 years back, several formalities such as approval of Delhi Urban Arts Commission, leasing and licensing at arrangements, completion certificates etc. were not completed. The Committee recommend that all related legal issues should be settled by a time bound programme and compliance reported to the Committee within a period of 6 months.

[S.No 12, Appendix III, Para No 56 of 166th Report of PAC Eighth Lok Sabha.]

Action taken

As stated in the action taken note against para 54, in the case of Bharat Hotel the present position is that the completion plans and completion certificates have been sanctioned after getting the pre-requisite approval

from the DUAC. In the case of Hotel Meridien the case regarding completion plans and completion certificates was referred to DUAC on 28-7-86. As the approval from the DUAC has not been received so far, the completion certificate has not been issued to the party. However, temporary occupation certificate was granted for high rise tower (guest rooms) vide Committee's resolution No. 35 dated 1.5.86. The temporary occupation certificate for low rise tower block was granted vide resolution No. 16 dated 7.8.1986. NDMC had been instructed to sort out all pending issues and recover the dues before completion certificate is given to the hotelier.

[Ministry of Urban Development O.M. No. G—25015/1/89—LD
dt. 16/4/92]

Recommendation

The Committee note with concern that the two hoteliers are reported to have utilised substantial areas for commercial purposes, as opposed to hotel purposes for which the prime lands were leased to them. The Committee have been informed in this regard that report received from NDMC is under examination. The Committee recommend that the matter may be fully investigated, conclusive action taken without delay and a report furnished to the Committee within a period of 3 months.

[S.No 16, Appendix III, Para 82 of 166th Report of PAC Eighth Lok Sabha.]

Action Taken note

The NDMC has reported that both the hoteliers constructed the requisite numbers of guest rooms as per agreement entered with them by the NDMC at the time of licensing the land to them (that is 500 guest rooms in the case of Bharat Hotel and 350 guest rooms in the case of Meridien Hotel). The provisions of the licence deed do not prevent the hoteliers from using the balance area for commercial purpose. Technically, hotel use is also commercial and the parking norms for hotels as well as offices are the same. Moreover there are no norms either in the building bye-laws or in the Master/Zonal Plan Regulations as to how much percentage of the commercial area like shops, offices etc. can be permitted in a hotel complex.

However, advice of Ministry of law has also been sought as to what legal options are available to taken action in this regard.

[Ministry of Urban Development O.M. No. G—25015/1/89—LD
Dt. 16/4/92]

CHAPTER V

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

Recommendations

In regard to the leases of land in these cases, the Committee recommend that the legal validity of the leasing arrangement may be reviewed in consultations with the Ministry of Law and appropriate measures taken to ensure that there exists no legal lacuna whereby it would be feasible for any one to take undue advantage to the detriment of Government's interests.

[S.No 9, Appendix III, Para No. 44 of 166th Report of PAC Eighth Lok Sabha.]

Action Taken

The legal validity of the leasing arrangements is being reviewed in consultation with the Ministry of Law and appropriate measures will be taken to ensure that there exists no legal lacuna for any one to take undue advantage and to safe-guard Government's interests.

[Ministry of Urban Development O.M. No. G-25015/1/89-LD
dated 16.4.92]

NEW DELHI;

2 December, 1992

11 Agrahayana 1914(S)

ATAL BIHARI VAJPAYEE

Chairman,

Public Accounts Committee

APPENDIX

OBSERVATIONS AND RECOMMENDATIONS

Sl. No.	Para No.	Ministry/Department concerned	Observations/Recommendations
(1)	(2)	(3)	(4)
1	3.	Urban Development	The Committee expect that final reply to the Observations/Recommendations in respect of which only interim reply has so far been furnished will be made available expeditiously after getting the same vetted by Audit.
2.	8	Urban Development	The Ministry have failed to furnish satisfactory explanation for justifying the decision of NDMC to invite tenders for allotment of the land at Barakhamba Road for construction of hotel in June, 1976 even before the land was allotted to it by the Ministry. The NDMC had in fact moved further in the matter by accepting Rs. 20 lakhs as earnest money from M/s. Delhi Automobiles (p) Ltd. (successor in interest of M/s. Bharat Hotel Ltd.). The Committee have no doubt that the eventual litigation between NDMC and M/s. Delhi Automobiles Private Limited could have been avoided, had NDMC waited till the receipt of the formal letter of allotment of land in question wherein it was stipulated that the lessee would not directly or indirectly transfer, assign, encumber, let or sublet the possession of the land. The Committee feel that the matter should have been investigated to ascertain whether hasty action on the part of NDMC was in any way motivated to help the private party in allotment of the land as NDMC could not have been ignorant of the stipulations likely to be imposed by Ministry in the letter of allotment as discussions in this regard had been continuing since 1974. The Committee express their displeasure over this failure.

(1)	(2)	(3)	(4)
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Since Ministry ought to have been aware of the tenders invited by NDMC in June, 1976, it remains to be explained as to why the Ministry did not warn the NDMC at that time about the likely aforesaid clause of the agreement between Ministry and NDMC. Under the circumstances, the Ministry was expected to have made it abundantly clear to NDMC at that time that allotment of land would be made only if NDMC ran the hotel itself. Subsequent to cancellation of the allotment in March, 1978 when NDMC had expressed its inability to construct and run the hotel itself, the Ministry seem to have succumbed to the pressure apparently applied by the Delhi Administration and Asian Games Stering Committee in becoming a party to the out-of-court settlement with M/s. Delhi Automobiles (P) Ltd. in disregard of the legal opinion available with them. Clearly, the Ministry did not take an independent decision as they ought to have done and reallocated eventually the land to NDMC in February 1981, in relaxation of the usual stipulations prescribed in such cases of allotment of lands. This only helped the private party in grabbing the land in the name of Asiad which is evident from the fact that only 100 rooms were built by the party by Asiad and even those could not be utilised during the Asiad. The Committee cannot but express their strong displeasure over the conduct of both the Ministry and the NDMC in this deal which only benefitted the private party even without partially realising the contemplated purpose.

3 11 Urban
Development

The clearance of the building plan by the Delhi Urban Arts Commission is a basic legal requirement before the construction plans are approved and the parties are allowed to go ahead with the construction in every case of high rise building which would inevitably affect the

(1)	(2)	(3)	(4)
			<p>sky line. However, in the case of both Bharat Hotel and Meridien Hotel. NDMC appear to have violated this fundamental pre-requisite so much so that in the case of Meridian Hotel even the revised plans were sanctioned by NDMC, without the prior approval of DUAC. Further, the occupation certificate in case of Meridian Hotel is yet to be issued by NDMC as the requisite approval for the revised plans from DUAC has not so far been received. The Committee are surprised to note that despite blatant non-compliance of plan requirements, NDMC has gone ahead to give temporary occupation certificates. The Committee recommend that a review of the powers under which NDMC have compounded violations of building plans may be conducted and appropriate action taken.</p>

The Committee also find that in respect of Bharat Hotel and Meridien Hotel, the deviations in Building plans have been compounded by charging Rs. 20 lakhs and Rs. 5 lakhs respectively. The Committee, however, note that in both the cases, substantial deviations have been made from the building plan. Consequent upon the failure of the hoteliers to complete their hotels by Asiad, the revised plans for Bharat and Meridian Hotels were approved and revalidated by the NDMC from time to time apparently to allow them to construct/add structures for deriving additional commercial benefits. The Committee are surprised that diversions which result in substantial modification of the basic objective for which land was given, can be considered as "compoundable" diversions with nominal penalty of Rs. 20 lakhs and Rs. 5 lakhs in construction projects costing crores of rupees. The soft pedalling attitude against these private parties and the immunity with which they have flouted terms of allotment, requirements of laws etc. are all reflections on the manner in which violations of laws, rules and directions are being dealt with by the law enforcing authorities.

(1)	(2)	(3)	(4)
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While deprecating such a casual approach the Committee strongly urge upon the Ministry that the question of adequacy of penalties imposed in both these cases should be reviewed and remedial steps taken urgently. The Committee would like to know the concrete action taken in the matter within a period of six months.

The Committee are amazed to find that there are no norms either in the building by-laws or in the master/zonal plan regulations so as to specify as to how much percentage of commercial area like shops and offices etc., can be permitted in a hotel complex. Bharat and Maridhan hoteliers appear to have taken advantage of this lacunae and constructed substantial portion in the hotels for the commercial purposes. These unplanned additional constructions must have yielded fabulous returns to the hoteliers keeping in view the prime locations of these hotels. The Committee would like to be informed as to whether NDMC have been benefitted in any way in this regard as the hoteliers could sub-licence to the private offices only with their prior permission. If the NDMC have not gained anything out of this, the considerations which weighed with them in according permission to sub-licence enabling the hoteliers to gain substantially in the process and without any return to them needs to be explained satisfactorily to the Committee.

The Committee also desire that suitable rules/guidelines etc. prescribing the optimum area for commercial purposes such as offices, shop etc. in a hotel complex should be framed, circulated to all those concerned and a strict watch be kept on their compliance.

PART-II

MINUTES OF THE 14TH SITTING OF THE PUBLIC ACCOUNTS COMMITTEE HELD ON 19 NOVEMBER 1992

The Committee sat from 1030 hrs. to 1230 hrs. on 19 November 1992

PRESENT
CHAIRMAN

Shri Atal Bihari Vajpayee

MEMBERS

Lok Sabha

2. Shri Girdhari Lal Bhargava
3. Shri Nirmal Kanti Chatterjee
4. Shri Vilas Muttemwar
5. Shri R. Surender Reddy
6. Shri K.V. Thangka Balu
7. Prof (Dr.) Sripal Singh Yadav

Rajya Sabha

8. Shri Viren J. Shah

SECRETARIAT

1. Smt. Ganga Murthy — *Deputy Secretary*
2. Shri K.C. Shckhar — *Under Secretary*

REPRESENTATIVES OF AUDIT

1. Shri P.K. Sarkar — *Dy. C&AG*
2. Shri D.S. Iyer — *Addl. Dy. C & AG*
3. Shri A.K. Bancrjee — *Pr. Director (Reports—Central)*
4. Shri K. Muthukumar — *Pr. Director of Audit Economic & Service Ministries*

2. ×× ×× ×× ××

3. The Committee then considered the following draft Action Taken Reports:—

(i)	××	××	××	××
(ii)	××	××	××	××
(iii)	××	××	××	××

(iv) Working of Land and Development Office [Action Taken on 166th Report of the PAC (8th Lok Sabha)]

4. The Committee adopted the Draft Report at Serial Nos. (iv) above without any amendment.

5. The Committee authorised the Chairman to finalise the draft Action Taken Reports in the light of the suggestions made by some Members and other verbal and consequential changes arising out of factual verification by Audit and present the same to Parliament.

The Committee then adjourned.