

FIFTH REPORT
STANDING COMMITTEE ON DEFENCE
(1999-2000)
(THIRTEENTH LOK SABHA)
MINISTRY OF DEFENCE

*[Action Taken on the Recommendations contained in the 5th Report
of the Committee (Twelfth Lok Sabha) on 'Army Cantonments']*

*Presented to Lok Sabha on 22 August, 2000
Laid in Rajya Sabha on 22 August, 2000*

LOK SABHA SECRETARIAT
NEW DELHI

August, 2000/Sravana, 1922 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON DEFENCE
(1999-2000)

Dr. Laxminarayan Pandey — *Chairman*

MEMBERS

Lok Sabha

2. Shri S. Ajaya Kumar
3. Shri Raj Babbar
4. Shri S. Bangarappa
5. Col. (Retd.) Sona Ram Choudhary
6. Smt. Sangeeta Kumari Singh Deo
7. Shri Jarborn Gamlin
8. Shri Indrajit Gupta
9. Shri Raghuvir Singh Kaushal
10. Shri Mansoor Ali Khan
11. Shri Chandrakant Khaire
12. Shri Vinod Khanna
13. Shri K.E. Krishnamurthy
14. Shri A. Krishnaswami
15. Shri Ashok N. Mohol
16. Shri Hannan Mollah
17. Shri Sultan Salahuddin Owaisi
18. Shri Gajendra Singh Rajukhedi
19. Shri Rajendrasinh Rana
20. Prof. Rasa Singh Rawat
21. Shri A.P. Jithender Reddy
22. Shri Madhavrao Scindia
23. Dr. Col. (Retd.) Dhani Ram Shandil
24. Shri Ramjiwan Singh
25. Shri C. Sreenivasan
26. 26. Shri Vaiko
27. Dr. Jaswant Singh Yadav
28. Dr. (Smt.) Sudha Yadav
29. Shri Vijayendra Pal Singh Badnore
30. Smt. Ranee Narah

Rajya Sabha

31. Shri Suresh Kalmadi
32. Shri Kapil Sibal
33. Shri Adhik Shirodkar
34. Dr. Raja Ramanna
35. Shri S. Peter Alphonse
36. Shri Shanker Roy Chowdhury
37. Dr. Y. Lakshmi Prasad
38. Sardar Gurcharan Singh Tohra
39. Shri T.N. Chaturvedi

40. Smt. Ambika Soni
41. Shri Nilotpal Basu
42. Shri Janeshwar Misra
43. Smt. Sushma Swaraj
44. Shri Kripal Parmar

SECRETARIAT

1. Dr. A.K. Pandey — Additional Secretary
2. Shri P.D.T. Achary — Joint Secretary
3. Shri Ram Autar Ram — Director
4. Shri K.D. Muley — Assistant Director

INTRODUCTION

I, the Chairman, Standing Committee on Defence (1999-2000) having been authorised by the Committee to submit the Report on their behalf, present this Fifth Report on Action Taken by Government on the recommendations contained in the Fifth Report of the Committee (Twelfth Lok Sabha) on the subject 'Army Cantonments'.

2. The Fifth Report was presented to Lok Sabha and laid on the Table of Rajya Sabha on 26 February, 1999. The Government furnished their replies indicating action taken on the recommendations contained in the Report on 12 November, 1999. The Draft Report was considered and adopted by the Standing Committee on Defence (1999-2000) at their sitting held on 7 August, 2000.

3. An analysis of action taken by Government on recommendations contained in the Fifth Report of the Standing Committee on Defence (Twelfth Lok Sabha) is given in Appendix.

4. For facility of reference and convenience, the observations/recommendations of the Committee have been printed in thick type in the body of the Report.

NEW DELHI;
August 10, 2000
Sravana, 19, 1922 (Saka)

DR. LAXMINARAYAN PANDEY
Chairman
Standing Committee on Defence

CHAPTER I

REPORT

This Report of the Committee deals with the action taken by Government on the recommendations/observations contained in their Fifth Report (Twelfth Lok Sabha) on 'Army Cantonments', Which was presented to Lok Sabha on 26th February, 1999.

2. Action Taken Notes have been received from the Government in respect of all the 9 recommendations/observations contained in the Report. These have been categorised as follows:

(i) Recommendations/Observations which have been accepted by Government (Please See Chapter-11):

SI. Nos. 2 to 4

(ii) Recommendations/Observations which the Committee do not desire to pursue in view of Government's replies (Please See Chapter-111):

SI. Nos. I and 9

(iii) Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee (Please See Chapter-IV):

SI. Nos. 5, 6, 7 and 8

(iv) Recommendations/Observations in respect of which final replies of Government are still awaited (Please See Chapter-V):
Nil.

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

Mutation of Land Records in J&K in favour of Government of India Recommendation (SI. No. 5, Para No. 51)

4. The Committee had deplored the Government's inaction for nearly 32 years for not taking effective steps in mutation of Land Records in J&K in favour of Government of India.

The Committee had further recommended that mutation of Land Records in J&K in favour of Government of India should have been taken up at the highest political and bureaucratic levels with the State of Jammu & Kashmir so that necessary mutations in the land records are effected in the name of Government of India.

5. The Ministry of Defence in their reply have stated that mutation of land records in respect of properties belonging to ex-State Forces of J&K, transferred to the Government of India, Ministry of Defence under an agreement in 1956, executed between the

President of India and the State of J&K, has not been carried out by the State Government inspite of constant liaison with State authorities. The matter regarding mutation has been taken up with the State Government repeatedly. The issue has also been raised in the highest level in Civil Military Liaison Conferences. The Director, Defence Estates, Northern Command is vigorously pursuing the matter with the State Government for carrying out mutation of land records to show the Government of India, Ministry of Defence as owner of such properties.

The matter has been taken up with the Chief Secretary, Government of J&K to issue necessary instructions to the concerned authorities in State Government to carry out the mutations early.

6. The Committee are constrained to note that the Ministry of Defence have just taken up the matter of mutation of Land Records in J&K in favour of Government of India in a very routine manner.

7. The Committee feel that the serious concern expressed in the report in regard to mutation of Land Records in J&K in favour of Government of India has been taken very lightly. The Committee, therefore, reiterate their recommendation that this particular matter should be taken up at the highest levels with the State of Jammu & Kashmir so that necessary mutations in the land records are effected in the name of Government of India without further loss of time.

Encroachments

Recommendation (SI. No. 6, Para No. 53)

8. The Committee had recommended that in order to deal with the problem of future encroachments the Cantonment Administrations shall have to be geared up to be more vigilant to guard against intrusion on the land by public as well as constantly monitor possible collusions between the civilian inhabitants of the Cantonment and the encroachers with a view to breaking the nexus between the civilian inhabitants and the encroaching public. The Committee also recommended that legal provisions should be tightened for effectively dealing with encroachments including a law in the labyrinth of the Ninth Schedule to the Constitution.

9. The Ministry of Defence in their reply have stated that the total land holdings of the Ministry of Defence are 17,31,429.915 acres. Out of this, an area of 7910.5428 acres is under encroachment. In the civil areas bulk of the encroachments are in the form of platforms, steps, overhead projections, retaining walls etc. In the case of land under the management of Defence Estates Officers, bulk of the encroachments are by way of ex-lessees of agricultural leases continuing in occupation after the expiry of the terms of the lease. The Defence Estates Officers are taking action to repossess the land after eviction of the unauthorised occupants by due process of law. Action for removal of encroachments is taken under the provisions of Public Premises (Eviction of Unauthorised Occupants), Act, 1971 as well as under the Cantonments Act, 1924. In the case of fresh encroachments, efforts are made to remove them summarily. Government

have also issued instructions for adopting the following additional measures to prevent encroachments on Defence land:—

- (i) In developing land, preference should be given to the isolated plots or patches.
- (ii) Construction should be taken up along the periphery of lands.
- (iii) Fencing should be liberally provided to the lands which adjoin the civil areas or at places where it is obvious temptation to encroachers. Fencing should, however, be of the cheapest variety and it should coincide with the boundary of the holding.
- (iv) If any land is surplus to the requirements of the user unit, the same should be placed under the charge of the DEO under proper acknowledgements so that the DEO can take steps to lease the land for agricultural purposes.
- (v) All contracts entered into by MES should contain a clause that final payment will not be made till jhuggies put up by its labourers are removed.

10. The Committee note that the Government have adopted some additional measures to prevent encroachments on Defence land and also issued necessary instructions in this regard. However, implementation of their instructions is possible if these are taken in letter and spirit by the enforcing authorities. The Committee feel that there is an imperative need to bring about comprehensive amendments in the Cantonment Act, empowering the Cantonment administration to remove encroachment on Cantonment land effectively point for this purpose. There should be adequate co-ordination between Cantonment Administration, State Government and State Police for removal of encroachers from the Defence land and a separate mechanism should be there to oversee the progress of this operation on weekly/monthly basis.

Extension of Centrally Sponsored Schemes to Cantonments

Recommendation (SI. No. 7, Para No. 55)

11. The Committee had recommended that all Centrally Sponsored Development Scheme should be extended to the Cantonments in consultation with the State Governments and all impediment in law in this regard shall be removed by amendment of law.

12. The Ministry of Defence have in their action taken reply stated that the matter regarding extension of the centrally sponsored schemes to the Cantonment areas was taken up with Ministry of Urban Affairs and Employment but that Ministry has not agreed to the request on the plea that the Cantonments are not covered under the term local bodies defined under the Constitution.

13. The Committee recognise the limitation of the Cantonments being covered under Central Legislature, they are not covered under term 'Local bodies' as

defined under the Constitution and hence State Finance Commission do not allot any funds to the Cantonments.

The Committee feel that the centrally sponsored schemes funded by the Ministry of Urban Affairs & Employment and applicable to local bodies in States could be extended to Cantonments for uniform development of the State.

14. The Committee desire that the Ministry of Defence in co-ordination with Ministry of Urban Affairs should impress upon the State Governments to extend the Centrally Sponsored Development Schemes to the civil areas of the Cantonments and the Government should bring amendments to the Constitution, if necessary.

Land Management

Recommendation (SI. No. 8, Para No. 56)

15. The Committee felt that land management policies in regard to all lands in the Cantonments should be statutorily stated. The Committee, therefore, recommended that all the land policies now existing in various Government of India orders should be consolidated into statutory proposals and included as amendments to the Cantonments Act, 1924. The Committee also recommended that a provision for a five yearly land audit to detect abuse, non-utilisation and sub-optimal utilisation of land, should also be incorporated in the law. The Committee would like the Government to decide on the question whether the existing Cantonments Act is to be amended for the purpose or a new Act is to be substituted for the existing one.

16. The Ministry of Defence in their reply have stated that the Cantonment land Administration Rules framed under the Cantonments Act, 1924 is the basic provision from which flows the various instructions issued by the Government from time to time governing the management of Defence lands. It may therefore not be necessary to amend the Cantonments Act for this purpose or to incorporate these instructions in the Act. However, a few of the important aspects of these instructions as well as a provision for land audit to detect misuse, non-utilisation and sub-optimal utilisation of land could be considered for incorporation in the Cantonments Land Administration Rules as and when they are taken up for revision after the framing of a new Cantonments Act.

17. The Committee are dissatisfied over the reply of the Ministry of Defence that there is no need to amend the Cantonments Act, 1924 for the management of Defence land as recommended by the Committee. Considering the large land holdings with the various Cantonments and the quantum of public resources locked up therein, the Committee again recommend that in order to guard against misuse and wastage of land resources all the land policies existing in various Government of India orders should be consolidated into statutory proposals and be included as amendments to the Cantonments Act, 1924.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (SI. No. 2 Para No. 44)

Role for Members of Parliament

The Committee, recommend that an exclusive piece of legislation for amendment of the Cantonments Act, 1924 should be brought before the Houses of Parliament to provide for the constitution of a Central Cantonments Administration Board with functions, tenure and powers statutorily prescribed. The Board should have a fullfledged Chairman and members—official and non-official including a reasonable number of members from both the Houses of Parliament elected amongst themselves to serve on the Board. The powers and functions of the Board should be so charted that the Board shall be able to address itself to all problems currently faced by all the cantonments in the country. The Chairman shall present Annual Reports to Parliament on the finances, administration and land management of the Cantonments for better accountability of the Cantonments to Parliament in the matter of finance and land management. This recommendation shall not in any way affect the Government's exercise on providing representation to local MPs and MLAs in the local Cantonment Boards which shall continue to be undertaken independently.

Reply of the Government

The issue of providing a role to the local MPs/MLAs in the Cantt. Board administration has been examined by the Government in detail in consultation with Army authorities and Director General Defence Estates. As the Cantonment areas cover very small areas as compared to the Assembly and Parliamentary constituencies and are primarily meant for providing accommodation, necessary facilities and welfare of the troops, it has been felt that involvement and participation of local MP/MLA may not be in keeping with their status and position. However, a provision may be made for the local MLA/MP's participation as a special invitee to the meetings of the Cantonment Board without voting rights at the time of formulating a new Cantonments Act.

As regards the committee's recommendation for complete centralization of the Cantonment administration through the mechanism of a Central Cantonment Administration Board, the Govt. is of the view that the same may be repugnant to the spirit to Cantonment Boards as local bodies. In so far as the structural organization is concerned, the present system of each Board having the requisite autonomy in matters of day to day administration and financial administration subject to effective control by the GOC-in-C and Government's intervention only as an exception has stood the test of time and may therefore continue.

[Ministry of Defence O.M. No. 8(8)/99/D(Q&C) Dated 11.11.99]

Recommendation (SI. No. 3 Para No. 46)

The Law for Military Stations set up after 1962

The Committee are of the opinion that the Government had, all these 36 years, been donning the role of law breaker when they operated these Military Stations without the sanction of law. These Military Stations were left to have a precarious existence in the midst of the perpetual fear of being struck down by Courts. The Committee further feel that the proposal of the Government to convert these Military Stations into Class IV Cantonments flies in the face of Government's own admissions of the problems facing the existing Cantonments. The Committee feel that the word "Cantonments" would immediately signify, whatsoever stringiest provisions the Government may like to make in the law, only the bad side of their existence, for example, slow settlement of civilian population, encroachments, constitution of Civil Areas Committee, manipulations in assessment of tax by Assessment Committee, diversion of resources exclusively meant for the military to civilian population when same class of citizens in the adjoining municipalities are not entitled to such special civic facilities, etc.

This was the history of all Cantonments, which were originally Military Stations but converted themselves in course of time into military-civilian residential complexes. History repeats itself. The aim therefore should be that, once the establishment of Cantonments stopped in 1962, the concept of application of Defence funds and use of Defence lands for civilian population, should be a relic of the past. The Government's proposal for further creation of another category of Cantonments may perhaps revive what the Committee want to abolish. The Committee are, therefore, of the strong view that all necessary legislative provision relating to these Military Stations should be suitably incorporated in the Army Act, Navy Act and Air Force Act. The Cantonments Act should be allowed to demise with times to come and should be strengthened only from the point of view of slowly converting them into Military Stations.

Reply of the Government

In so far as the question of providing a statutory cover to the Military Stations is concerned, the need for such a provision has arisen because of the 74th amendment to the Constitution which provides that 'there shall be constituted in every State a Nagar Panchayat (by whatever name called), a Municipal Council or Municipal Corporation for every rural, urban or transitional area.' This has opened the possibility of the Military Stations being brought under the control of respective State Governments and the consequent liabilities of taxation and other regulatory provisions, some of which might go against the typical requirements of a military habitat. To ward off this situation, steps will be taken by the Govt. either to extend the benefit of Entry 3 of List I of the Seventh Schedule of the Constitution by its amendment or by incorporating a provision in the new Cantonments Act declaring these military stations as newly defined category of Cantonments. The Government has already initiated an exercise for formulation of a new Cantonments Act. This aspect therefore will also be taken into consideration at the time of formulating proposals for the said Act.

Recommendation (SI. No. 4, Para Nos. 48-49)

Maintenance of Land Records

The Committee feel that the Government are totally responsible for the inability of the Cantonments to resume their lands and for ineffective defence of rights of Cantonments over their lands in Courts. The Government had been a silent spectator to precious land records whittling and getting spoilt over the decades. They had not refurbished the records at periodic intervals though ordinary prudence would have informed them that with the passage of time, on technical ground of non-availability of records, rights of Cantonments to lands would be questioned.

The Committee after appreciating:

- (a) the inherent delays in justice delivery system in the country, particularly in property matters, and increasing role and responsibility of the Supreme Court and the High Courts in other Constitutionally important matters;
- (b) the arrears of cases these Honourable Courts are burdened with;
- (c) the amount of capital locked up in terms of rental and other values accruable from the land over which the right of the Cantonments is pending adjudication; and
- (d) the vast variations in various judgements on almost the same matter delivered by various Courts, recommended to the Government to take legislative measures to constitute Defence Lands (Settlement of Disputes) Tribunals under article 323B of the Constitution of India as well as to amend other relevant Parliamentary laws which apply to defence lands and enlist the same in the Ninth Schedule to the Constitution. Under the general power, all cases presently pending for years and decades should be brought under one umbrella for speedy settlement. Where land records are not properly available with the Cantonments, the onus of ownership by the private individual(s) shall be proved by him/them against the Cantonments on production of records which should show that these individual(s) is/are entitled to own the property. Correspondingly, the Government should field lawyers of proven practice to advocate the cause of the Cantonments in the court and proposed Tribunals and if necessary, the selection for empanelment should be through premier manpower agencies on purely objective considerations.

Reply of the Government

It is submitted that there is no need for constituting the Defence Lands (Settlement of Disputes) Tribunals, as suggested by the Standing Committee on Defence, for the following reasons:—

- (i) The small number of cases which are in the courts would not justify setting up of a Tribunal.
- (ii) In all important matters. Senior Law Officers are engaged for defending Govt. rights and special efforts are made to brief them and to ensure favourable verdicts.
- (iii) The Department's stand is being upheld in most cases in the Supreme Court.

Further, after enactment of the Cantonments Act 1924, rules known as the Cantonment Land Administration Rules, 1925 and the Cantonment Land Administration Rules, 1937 were framed by the Government under the provisions of this Act, to ensure proper management of Defence Lands and to safeguard the Government interests in lands in Cantonments. Under the above rules. General Land Registers are maintained by the Defence Estates Offices. Old Registers like Grants Registers and Bungalow Registers which were maintained during British period are also available in many Cantonments and are preserved by the Defence Estates Officers. The entries made in these registers have been accepted as valid evidence by the Supreme Court, even in cases where there have been no written grants. The apex court also has expressed appreciation of the fact that these registers though old and have been maintained from time to time by the authorised persons under the rules. In all important matters, senior law officers are engaged for defending Govt. rights and special efforts are made to brief them and to ensure favourable verdicts.

[Ministry of Defence O.M. No. 8(8)/99/D(Q&C) Dated 11.11.991

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF GOVERNMENT'S REPLIES

Recommendation (Sl. No. I, Para No. 41)

Excision of Civil Areas

The Committee, urge upon the Government to address the question of excision of civilian areas from the Cantonments in a honest, straight and decisive manner. In case the Government decides to keep these areas within Cantonments, then with a view to limiting and finally abolishing the role of Cantonment system of administration in civilian areas, serious steps shall have to be taken to contain the proliferation of civilian population in Cantonments. The Govt. should take serious measures including active promotion of family planning methods and effective checking of encroachments which are the natural concomitants of growing populations. Simultaneously, the lessees and old site grantees should be classified into convenient groups like (a) Pensioners of State and Central Governments (b) Gazetted officers of State and Central Government (c) Executives/Professionals in Central/State PSUs (d) Non-executives/Non-professional workers in Central/State PSUs (e) others in employment with private firms, for the purpose of phasing them out, one by one to apartments allotted under special schemes of State and Central housing projects. In case the Government decides to opt for the excision proposal, the Constitution of India, municipal and other laws should be suitably amended for mandatorily merging the civilian areas with the adjoining municipalities. This would end the burden of history the Cantonments currently shoulder, much against their avowed objective of existence, as well as terminate the unnatural division between classes of citizens in the same State in adjoining areas, in the matter of receiving benefits from the State Government's development activities, as observed by the estimates Committee of Parliament (1956-57). The facile plea of the popular will being against the excision proposal should not stick against executing such a proposal especially when the democratic rights of these civilians would in no way stand truncated if civilian areas are merged with the adjoining municipalities. Between national interests and short term political gains, the Government should choose to forego the latter. Besides property shall not be allowed to fall into the hands of few fortunate private citizens born in Cantonments, by default or by accident of history or for the reason of non-availability of land records. Every private citizen shall have to earn wealth in the form of property by seat of the brow and by dint of hard work.

Reply of the Government

In pursuance of the provisions of Cantonments Act, parts of the civil area of the Cantonments where substantial population is residing and can be excised without prejudice to the military interests, are considered for being handed over to the adjacent

Municipality/Nagarpalika provided the people concerned, the local authorities and the concerned State Governments are in favour of doing so. The willingness of the people residing in such areas and of the concerned Cantonment Board is necessary; as is the willingness of the concerned State Govt. for taking over of the area on the terms and conditions to be specified by Government.

There has been consistent and sincere endeavour on the part of the Govt. to excise the civil areas from Cantonments wherever found feasible since 1948-51 when a Central Committee on cantonments was constituted under the Chairmanship of Shri S.K. Patil. At that time, Local Primary Excision Committees were constituted under the Chairmanship of the Station Commander for each Cantonment. The recommendations of these committees were further examined by a Committee of General Officers Commanding in Chief of the Commands which made recommendations to the aforesaid Central Committee. Based on the Patil Committee's recommendations, 18 cantonments were identified for excision. However owing to poor response on the part of the concerned State Governments excision could be carried out only in 6 Cantonments. Even thereafter, the Government continued its efforts. As a result, excision was carried subsequently in Ambala and Khasyol Cantonments also in 1977 and 1986 respectively. It would thus be seen that the Government has been quite serious and committed on this issue.

As regards the Committee's recommendation regarding classifying the residents of Cantonments, into various groups to contain the proliferation of civil population therein, with the ultimate aim of phasing them out of the Cantt., this does not seem to be practicable. In this context, it is felt that providing apartments to accommodate the displaced population as a consequence of phasing them out of the Cantonment, involves substantial financial implications which the Cantonment Board nor the Ministry of Defence may be able to bear. Consequently, excision of civilian areas from the Cantonment, if it has to be ultimately effected, cannot include the provision of allotment of apartments to the displaced civilian population.

The Government therefore reiterate that it proposes to retain the option of flexibility and resilience by keeping an open mind on the question of excision.

[Ministry of Defence O.M. No. 8(8)/99/D(Q&C) Dated 11.11.99]

Recommendation (SI. No. 9, Para No. 57)

Privatisation of Services

The Concept Paper further proposed amendment of the law for entrusting certain works relating to civic amenities to private entrepreneurs and NGOs. The Committee strongly disapprove the move of entrusting the work of providing civic amenities to private entrepreneurs. The Committee are of the opinion that the Government often propose this alternative since the Government do not take pains to mould the massive and well-paid Government work force to the required levels of commitment and competence. Instead of relying on centralised rules of the Department of personnel and Training, the Ministry of Defence must draw their own inter-departmental rules/orders/notifications etc. specific to their requirement for ushering in urgently administrative reforms in exercise of the existing residuary powers so that the competence and a commitment levels of the Government work force is raised to meet the needs. Only where the personnel strength is sufficiently short, privatisation should be resorted to, as recruitment and sustenance of further permanent manpower in Government will involve exorbitant recurring cost. Privatisation should also be avoided because it will revive the "licence and quota Ra)" in some other form, which the Government had always endeavoured to abolish with a view to eliminating malpractice.

Reply of the Government

It is submitted that the Government's endeavour has been to utilise the available Government work force to an optimum level in providing civic amenities in the Cantonments area. For this purpose wherever necessary separate rules/orders/notifications etc have been laid down by the concerned Cantonment Boards or the Government. Privatisation, however, is considered necessary in view of fact that the revenue base of the Cantonments have remained more or less stagnant over the years. On the other hand, the costs of providing various civil amenities over the years have gone up considerably and also often require a degree of specialization. To therefore overcome the problem of providing better civil amenities to the residents within the Cantonment area there is a need to seriously consider privatisation of some civic services on selective basis so as to provide cost effective services to the residents within the Cantonment area. This is also necessary since the Cantonment boards over the years have not been able even to continue the level of various services being provided due to cost escalations. Privatisation of some of the selective services is expected to substantially improve the quality of services, as is evident from the experience in local bodies both within and outside the country.

[Ministry of Defence O.M. No. 8(8)/99/D(Q&C) Dated 11.11.99]

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

Recommendation (SI. No. 5, Para No. 51)

Mutation of Land Records in J&K in favour of Government

The Committee deplore the Government's inaction for nearly 32 years for not taking effective steps in this regard. The Committee, therefore, recommended that this particular question shall have to be taken up at the *highest political and* bureaucratic levels with the State of Jammu and Kashmir so that necessary mutations in the land records are effected in the name of Government of India.

Reply of the Government

It is submitted here that mutation of land records in respect of properties belonging to ex-State Forces of J&K, transferred to the Govt. of India, Ministry of Defence under an agreement in 1956, executed between the President of India and the State of J&K, has not been carried out by the State Government inspite of constant liaison with State authorities. The matter regarding mutation has been taken up with the State Govt. repeatedly. The issue has also been raised in the highest level in Civil Military Liaison Conferences. The Director, Defence Estates, Northern Comand, is vigorously pursuing the matter with the State Government for carrying out mutation of land records to show the Government of India, Ministry of Defence as owner of such properties.

The matter has been taken up with the Chief Secretary, Govt. of J&K to issue necessary instructions to the concerned authorities in State Govt. to carry out the mutations early.

[Ministry of Defence O.M. No. 8(8)/99/D(Q&C) Dated 11.11.99]

Comments of the Committee

(Please See Para Nos. 6 and 7 of Chapter I of the Report.)

Recommendation (SI. No. 6, Para No. 53)

Encroachments

The Committee recommend that in order to deal with the problem of future encroachments the Cantonment Administrations shall have to be geared up to be more

vigilant to guard against intrusion on the land by public as well as constantly monitor possible collusions between the civilian inhabitants of the Cantonment and the encroachers with a view to breaking the nexus between the civilian inhabitants and the encroaching public. The committee also recommend that legal provisions should be tightened for effectively dealing with encroachments including a law in the labyrinth of the Ninth Schedule to the Constitution.

Reply of the Government

It is submitted that the total land holdings of the Ministry of Defence are 17,31,429.915 acres. Out of this, an area of 7910.5428 acres is under encroachment. In the civil areas bulk of the encroachments are in the form of platforms, steps, overhead projections, retaining walls etc. In the case of land under the management of Defence Estates Officers, bulk of the encroachments are by way of ex-lessees of agricultural leases continuing in occupation after the expiry of the terms of the lease. The Defence Estates Officers are taking action to repossess the land after eviction of the unauthorised occupants by due process of law. Action for removal of encroachments is taken under the provisions of Public Premises (Eviction of Unauthorised Occupants), Act, 1971 as well as under the Cantonments Act 1924. In the case of fresh encroachments, efforts are made to remove them summarily. Govt. have also issued instructions for adopting the following additional measures to prevent encroachments on Defence land:—

- (i) In developing land, preference should be given to the isolated plots or patches.
- (ii) Construction should be taken up along the periphery of lands.
- (ii) Fencing should be liberally provided to the lands which adjoin the civil areas or at places where it is obvious temptation to encroachers. Fencing should, however, be of the cheapest variety and it should coincide with the boundary of the holding.
- (iv) If any land is surplus to the requirements of the user unit, the same should be placed under the charge of the DEO under proper acknowledgement so that the DEO can take steps to lease the land for agricultural purposes.
- (v) All contracts entered into by MES should contain a clause that final payment will not be made till Jhuggies put up by its labourers are removed.

(Ministry of Defence O.M. No. 8(8)/99/D(Q&C) Dated 11.11.99)

Comments of the Committee

(Please See Para No. 10 of Chapter I of the Report.)

Recommendation (SI. No. 7, Para No. 55)

Strengthening of financial resources of Cantonments

The Committee after scrutiny of the proposals contained in the Concept Paper feel that all these proposals in regard to financial reforms of Cantonments have the potential of augmenting the revenue flows to the Cantonment Boards and therefore accord their approval to the proposals. The Committee further recommend that all Centrally Sponsored Development Schemes should be extended to the Cantonments in consultation with the State Governments and all impediment in law in this regard shall be removed by amendment of law.

Reply of the Government

Attempts are being made to mobilise revenue resources of the Cantonment Boards by revising their tax laws and resort to user charges etc. Suitable provisions will also be incorporated in the new Cantonments Act on the steps suggested in the Concept Paper for strengthening of financial resources of Cantonments. The matter regarding extension of the centrally sponsored schemes to the Cantonment areas was taken up with Ministry of Urban Affairs and Employment but that Ministry has not agreed to the request on the plea that the cantonments are not covered under the term 'Local bodies defined under the Constitution.

{Ministry of Defence O.M. No. 8(8)/99/D(Q&C) Dated 11.11.99}

Comments of the Committee

(Please See Para Nos. 13 and 14 of Chapter I of the Report.)

Recommendation (SI. No. 8, Para No. 56)

Land Management

The Committee feel that land management policies in regard to all lands in the Cantonments should be statutorily stated. The Committee, therefore, recommend that all the land policies now existing in various Government of India orders should be consolidated into statutory proposals and included as amendments to the Cantonments Act, 1924. The Committee also recommend that a provision for a five yearly land audit to detect abuse, non-utilisation and sub-optimal utilisation of land, should also be incorporated in the law. The Committee would like the Government to decide on the question whether the existing Cantonments Act is to be amended for the purpose or a new Act is to be substituted for the existing one.

Reply of the Government

The Cantonment Land Administration Rules framed under the Cantonments Act, 1924 is the basic provisions from which flows the various instructions issued by the

Govt. from time to time governing the management of Defence lands. It may therefore not be necessary to amend the Cantonments Act for this purpose or to incorporate these instructions in the Act. However, a few of the important aspects of these instructions as well as a provision for land audit to detect misuse, non-utilisation and sub-optimal utilisation of land could be considered for incorporation in the Cantonments Land Administration Rules as and when they are taken up for revision after the framing of a new Cantonments Act.

(Ministry of Defence O.M. No. 8(8)/99/D(Q&C) Dated 11.11.99)

Comments of the Committee

(Please *See* Para No. 17 of Chapter I of the Report.)

CHAPTER V

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH
FINAL REPLIES OF GOVERNMENT ARE STILL AWAITED

NEW DELHI;
August 10, 2000
Sravana 19, 1922 (Saka)

DR. LAXMINARAYAN PANDEY
Chairman
Standing Committee on Defence

MINUTES OF THE TWELFTH SITTING OF THE STANDING
COMMITTEE ON DEFENCE (1999-2000)

The Committee sat on Monday, the 7th August, 2000 from 1500 hrs. to 1545 hrs.

PRESENT

Dr. Laxminarayan Pandey — *Chairman*

MEMBERS

Lok Sabha

2. Shri S. A)aya Kumar
3. Smt. Sangeeta Kumari Singh Deo
4. Shri Jarbom Gamlin
5. Shri Raghuvir Singh Kaushal
6. Shri Chandrakant Khaire
7. Shri Vinod Khanna
8. Shri Ashok N. Mohol
9. Prof. Rasa Singh Rawat
10. Shri A.P. Jithender Reddy
11. Dr. Col. (Retd.) Dhani Ram Shandil
12. Dr. Jaswant Singh Yadav
13. Dr. (Smt.) Sudha Yadav
14. Shri Vijayendra Pal Singh Badnore
15. Shrimati Ranee Narah

Rajya Sabha

16. Shri Suresh Kalmadi
17. Dr. Raja Ramanna
18. Shri Shanker Roy Chowdhury
19. Shri T.N. Chaturvedi
20. Shri Kripal Parmar

SECRETARIAT

1. Dr. A.K. Pandey — *Additional Secretary*
2. Shri P.D.T. Achary — *Joint Secretary*
3. Shri Ram Autar Ram — *Director*
4. Shri K.D. Muley — *Assistant Director*

2. ** ** ** **

3. The Committee then considered the draft Report on Action Take by Government on recommendations contained in the Fifth Report the Committee (Twelfth Lok Sabha) on the subject 'Army Cantonments .The Chairman invited Members to offer their suggestions for incorporation into the draft Report. The Members suggested certain additions/modifications/amendments and desired that the same may be suitably incorporated into the body of the Report. The draft Report was then adopted.

4. The Committee authorised the Chairman to finalise the Report in the light of verbal and consequential changes and present the same to Parliament.

The Committee then adjourned.

APPENDIX

ANALYSIS OF ACTION TAKEN BY GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE FIFTH REPORT OF THE STANDING COMMITTEE ON DEFENCE (TWELFTH LOK SABHA) ON 'ARMY CANTONMENTS'

		Percentage of Total
(i) Total Number of Recommendations	9	
(ii) Recommendations/Observations which have been Accepted by Government	3	33.33
<i>(Vide recommendations at SI. Nos. 2, 3 and 4)</i>		
(iii) Recommendations/Observations which the Committee do not desire to pursue in view of Governments replies	2	22.22
<i>(Vide recommendations at SI. Nos. I and 9)</i>		
(iv) Recommendations/Observations in respect of which Governments replies have not been accepted by the Committee	4	44.44
<i>(Vide recommendations at SI. Nos. 5, 6, 7 and 8)</i>		
(v) Recommendations/Observations in respect of which final replies of Government are still awaited.		Nil