

THIRD REPORT
PUBLIC ACCOUNTS COMMITTEE
(1980-81)

(SEVENTH LOK SABHA)

UNAUTHORISED OCCUPATION OF RAILWAY LAND

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

Action taken by Government on the recommendations of the Public Accounts Committee contained in their 86th Report (Sixth Lok Sabha)]



सत्यमेव जयते

Presented in Lok Sabha on.....

Laid in Rajya Sabha on.....

LOK SABHA SECRETARIAT
NEW DELHI

March, 1981/Chaitra, 1903 (Saka)

Price : Rs. 2.10

Corrigenda to the 3rd Report of
Public Accounts Committee(7th Lok Sabha)

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**PUBLIC ACCOUNTS COMMITTEE
1980-81**

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Shri Chandrajit Yadav

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3. Shri Subhash Chandra Bose Alluri
4. Shri Tridib Chaudhuri
5. Shri K. P. Singh Deo
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22. Shri Indradeep Sinha

SECRETARIAT

Shri H .G. Paranjpe—*Joint Secretary.*

Shri D. C. Pande—*Chief Financial Committee Officer.*

Shri T. R. Ghai—*Senior Financial Committee Officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this 3rd Report on action taken by the Government on the recommendations of the Public Accounts Committee contained in their 86th Report (Sixth Lok Sabha) on Unauthorised Occupation of Railway land relating to the Ministry of Railways (Railway Board). The 86th Report dealt with the unauthorised occupation of Railway land by M/s. Oriental Furnishing & Building Co. Ltd., and its Sister concern M/s. Pure Drinks (Coca-Cola) in one of the prestigious areas of New Delhi since 1942. In that Report while criticising various acts of omission and commission on the part of Railway officials, the Committee (1978-79) had desired investigation into the whole episode by a high powered body independent of the Railway Board. In their action taken notes, the Ministry of Railways have stated that all decisions taken by them had been after due deliberations considering the various pros and cons and therefore, there appears to be no necessity for further probe.

2. In this Action Taken Report, the Committee have expressed their distress at the inordinate delays and several lapses on the part of the Railways officials in taking recourse to administrative and legal remedies available to them, resulting in huge accumulation of dues to the Railways and continued unauthorised occupation of Railway land. The Committee have urged that in view of the firm bringing pressure from high ups and also adopting various methods not only to escape the consequences of illegal occupation of the Railway land but also to perpetuate its possession by all the possible means, the whole matter may be placed before the Minister of Railways for early investigations by a high powered body independent of Railway Board with a view to fixing responsibility and taking necessary action against those found guilty.

3. On 20 August, 1980, the following 'Action Taken Sub-Committee's was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the PAC in their earlier Reports:—

Shri Chandrajit Yadav—*Chairman*

Members

2. Shri K. P. Unnikrishnan
3. Shri K. P. Singh Deo
4. Shri V. N. Gadgil
5. Shri Satish Agarwal
6. Shri N. K. P. Salve

4. The Action Taken Sub-Committee of the Public Accounts Committee (1980-81) considered and adopted the Report at their sitting held on 19 March, 1981. The Report was finally adopted by the Public Accounts Committee (1980-81) on March, 1981.

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

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

NEW DELHI;
29 March, 1981

8 Chaitra 1903 (S)

CHANDRAJIT YADAV,
Chairman,
Public Accounts Committee.

CHAPTER—I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the recommendations or observations contained in their 86th Report (Sixth Lok Sabha) on paragraph 37 of the Report of the Comptroller and Auditor General of India for the year 1975-76, Union Government (Railways) relating to Unauthorised Occupation of Railway Land (Ministry of Railways) which was presented to the Lok Sabha on 29 August, 1978.

1.2. Out of the 16 recommendations or observations contained in the Report, Government have indicated the action taken or proposed to be taken by them in respect of all the recommendations.

1.3. The Action Taken Notes received from Government have been broadly categorised as follows:

(i) *Recommendations or observations which have been accepted by Government.*

S. No. 11.

(ii) *Recommendations or observations which the Committee do not desire to pursue in the light of the replies of Government.*
S. Nos. 1, 3, 6, 9-10, 12-13 and 14.

(iii) *Recommendations or observations replies to which have not been accepted by the Committee and which require reiteration.*

S. Nos. 2, 4-5, 7.8 and 15-16.

(iv) *Recommendations or observations in respect of which Government have furnished interim replies.*
Nil.

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

Delay in the Execution of Agreement
(Paras 1.88 and 1.89—Sl. Nos. 4 & 5)

1.5. Expressing their concern at the laxity of Railway officials in executing the agreement with M/s. Oriental Building and Furnishing Co. (Pvt.) Ltd., the Committee in paras 1.88 and 1.89 of their 86th Report had observed:

“1.88. In February, 1962, the firm communicated its willingness to pay rent for the land in its possession on the basis of the old agreement (which was terminated in 1951) and also suggested negotiations for the outright sale of the land. The Railway Board decided in November, 1962 that arrears of rent should be recovered at 6 per cent of the lease hold value of the land and after the firm paid the rent fixed in that manner the land should be leased to it for a further period of 20 years, the rent being assessed at 6 per cent of present day value of land, subject to revision every five years to accord with the prevailing market price. The firm was asked by the Railway Administration in December, 1962 to accept these terms and to pay Rs. 2,04,815. The firm paid only Rs. 1,06,037 and made a counter proposal for outright sale of land to it without agreeing for a fresh lease for a further period of 20 years from 1 January, 1963. A settlement was reached between the Railways and the firm in 1963 and a letter of intent was issued in June, 1963. However, the agreement leasing the land to M/s. Oriental Building and Furnishing Co. was actually executed in May, 1969.

1.89. The Committee are distressed to note that the Ministry of Railways took six years to execute a simple agreement which, in the words of the Chairman, Railway Board himself ‘is ratifying the Letter of Intent. Nothing more than that’. During all these six years file had been moving up and down without any definite decision emerging. Precious time was lost in unnecessary and avoidable correspondence. The consequence was that in the absence of any legal instrument, the Railway Administration was helpless all these years to take any legal action against the firm for recovery of dues etc. The Committee are greatly concerned at the lax and perfunctory manner in which the whole case had been handled in the Ministry of Railways. The Committee cannot help observing that there is serious lacuna in the functioning of Railway Organisation in such matters.”

1.6. In their Action Taken Note dated 9 February, 1979, the Ministry of Railways have stated:

“As may be seen from the chronological history of events from 1-1-1963 reproduced at page 14—17 of the 86th Report of the Public Accounts Committee (1978-79) the delay was due to the party raising several issues before executing the Agreement. The firm had also desired certain changes in some of the clauses of the Agreement on which they had several discussions with the Railway Administration. It may, however, be submitted here that there was no financial loss to the Railways for the first quinquennium of the 10 years licence period and the firm had been paying the licence fee in terms of the letter of intent and as subsequently laid down in the Agreement.

It is, therefore, submitted that the Railway had been earnestly pursuing the matter of entering into an Agreement with the party but since the other party to the Agreement wanted to satisfy themselves about the various clauses of the Agreement before signing the same, the delay could not be avoided and was beyond the control of the Administration.”

Delay in starting Eviction Proceedings
(Para 1.91, S. No. 7)

1.7. Urging the Ministry of Railways to fix responsibility for undue delay in starting the eviction proceedings against M/s. Oriental Building and Furnishing Co. (P) Ltd., on the termination on the Agreement the Committee had observed:

“The Committee are disturbed to note that though a notice was served on the firm on 17 June, 1969 to pay the arrears of licence fee failing which legal action would be taken against them for recovery of the amount besides eviction from Railway premises, yet the application under the Public Premises (Eviction of Unauthorised Occupants) Act of 1971 was filed as late as in July, 1975, i.e. after a period of six years. The Committee are informed that all these years protracted correspondence had been going on up and down and no definite decision to evict the party was taken. The Committee see no grounds for the Ministry of Railways to drag on negotiations with the firm when a decision had been taken to initiate legal action against them. The Committee are not at all impressed by this line of reasoning and is of the view that there is more

to it than what meets the eye. This is a glaring case where the party had made substantial amounts of wrongful gains at the expense of public exchequer and this could not have been possible without collusion on the part of some Railway officials. It appears that the competent authority at the higher level shirked the responsibility and avoided taking concrete and conclusive decision in this regard. The Committee take a serious note of it and urge the Ministry of Railways to fix responsibility for this grave and costly lapse."

The Ministry of Railways in their action taken note dated 9 February, 1979 have stated:

"The Agreement was signed by the Railway Administration on 9-5-1969 and was valid from 1st January, 1963 to 31st December, 1972. The Railway issued a notice of termination of Agreement effective from 31-12-1972 on 15 July, 1972. As already stated earlier, the Railway was not in immediate need of the land in question and on the intervention of the then Minister for External Affairs, the question of extending the lease was considered, provided the party agreed to pay the revised rent as demanded by the Railway Administration. The Railway Administration was exploring all the possibilities for settling this matter amicably to the best advantage of the Administration and only after all such efforts failed action under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for vacation of the land and payment of damages was initiated in July, 1975. It should go to the credit of the Administration that in spite of pressures that were being exerted by the firm, the Administration had adhered to their stand of charging the licence fee on the basis of Rs. 600/- per sq. yard with effect from 1-1-1968.

The Railway Ministry would like to assure that there had been no *mala-fide* intention on the part of anybody in the Ministry of Railways to have wilfully prolonged the matter or act in a manner prejudicial to Railways interest and as such would urge the Committee to reconsider their observations contained in this para."

Failure to give timely directions (Para 1.92, Sl. No. 8)

1.9. Commenting on the delay in replying to Divisional Superintendent, Delhi Division, Northern Railway and not specifically replying to the point raised by him regarding initiation of eviction proceedings under the

Public Premises (Eviction of Unauthorised Occupants) Act, the Committee in Para 1.92 of their 86th Report had observed:

“The Committee further note that the Divisional Superintendent, Delhi Division, wrote to the General Manager, Northern Railway Headquarters office on 6 October, 1969 stating that the party [Oriental Building and Furnishing Co. and Pure Drinks (New Delhi) Pvt. Ltd.] had not cleared the Railway dues amounting to Rs. 2,35,020.24 pertaining to the balance of 1968 and licence fee for the year 1969 and asked whether they should initiate action against the party under the Public Premises Act for eviction and recovering the dues as damages. The Northern Railway Headquarters replied this letter on 8 June 1970, but on the specific issue raised by the Divisional Superintendent of initiating action against the firm, no direction was given by the Headquarters Office to the Division. The Committee view it seriously and are inclined to believe that the basic issues raised by the Divisional Superintendent were obviously side-tracked for reasons best-known to the competent authority. The Committee find that the Northern Railway Headquarters miserably failed not only in giving specific directions on the issue but they took avoidably long time also in replying the Divisional Superintendent’s letter. The Chairman, Railway Board, himself admitted that the delay is not fully justified. The Committee would like the Ministry of Railways to fix responsibility on the delinquent officers and apprise the Committee in this behalf.”

1.10. In reply, the Ministry of Railways (Railway Board) have on 9 February, 1979 stated :

“As has been admitted during the evidence before the Committee, there had been a delay in communicating the orders to the Divisional Superintendent. The delay was mainly due to the fact that the revised valuation of Rs. 600/- per sq. yard on which the revised rent was to be effective with effect from 1-1-1968 has been disputed by the firm for which they had made several representations against the correctness of the same. The Railway, therefore, were trying to confirm the rate from the Land and Development Officers to meet the objection made by the party.

In the meanwhile, the Public Premises (Eviction of Unauthorised Occupants) Act, 1958, was declared *ultra-vires* by the Allahabad High Court, which had made the position of the validity

of this Act uncertain. This was also one of the contributing factors for delay in reply.

The Railway Ministry would, therefore, respectfully submit that the responsibility for the delay in replying to Divisional Superintendent's communication was not due to lapse on the part of any individual officer but was inherent in the complicated nature of the disputed issue, which as explained during the evidence had to be considered at various levels, and as mentioned above the declaration of the Public Premises (Eviction of Unauthorised Occupants) Act *ultra vires* by the Allahabad High Court further added to uncertainty."

Setting up of a High-powered Committee (Para 1.99 - S. No. 15)

1.11. Urging the Government to set up a high-powered Committee for probing the whole episode, the Committee in para 1.99 of their 86th Report had observed :

"The Committee find that their observations on the subject in their 13th Report (3rd Lok Sabha) are very relevant even now-15 years later. The very same firm and its associates have made encroachment and violated the terms of the agreement. There have been unexplainable disinclination and inordinate delays on the part of Railway Administration in taking recourse to administrative and legal remedies available to them resulting in heavy accumulation of dues to the Railways. The whole episode requires to be probed in depth by a High-powered Committee with a view to fixing responsibility for the lapse on the part of the various authorities. Since the decisions in this case were taken by the Railway Board itself, the Committee desire that such investigation should be entrusted to a high powered body, independent of the Railway Board."

1.12. In their Action Taken Note dated 9 February, 1979, the Ministry of Railways have replied as under :

"It had always been the Administration's endeavour to get this issue resolved amicably and quickly. As has already been pointed out during the hearing the party was influential and had been raising various issues from time to time which was considered by the Administration whenever they were raised. While considerations were shown to the party to the point of considering the issue raised in order to arrive at an amicable settlement, at no point of time did the administration take any decision which was detrimental to its interest. All decisions

taken by the Railway Administration had been after due deliberations considering the various pros and cons. Therefore, Ministry would respectfully submit that there appears to be no necessity for further probe and would respectfully request for reconsideration of this recommendation.”

1.13. The Ministry of Railway (Railway Board) have furnished *vide* their communication dated 17 March 1981 the following latest position about the recovery of arrears of rent from the firm and about the eviction of the unauthorised occupation of the Railways Ltd—“The outstanding dues including the arrears of rent upto 31-12-1972 with interest thereon upto 31-12-1980 works out to Rs. 8,23,439.81 paise, as detailed below:

	Rs.
1. Total amount of rent claimed for the period 1-1-1968 to 31-12-1972	4,93,740.00
2. Less amount paid by the firm .	<u>1,22,447.52</u>
3. Balance outstanding	3,71,292.48
4. Add interest @ 12% per annum upto 30-6-1976.	2,82,261.27
5. Further actual of interest from 1-7-1976 to 31-12-1980 @ 12% per annum	<u>2,00,497.94</u>
TOTAL	8,54,051.69
6. Less security deposit already with the Railway Administration	<u>20,611.88</u>
	<u>8,23,439.81</u>

The licence ceased to exist from 1-1-1973 onwards rendering the occupation unauthorised for which only damages could be claimed. Accordingly the Railway has claimed an amount of Rs. 8,22,900 from 1-1-1973 to 30-3-1975 before the Court of Estate Officer and at the rate of Rs. 27,430/- per month thereafter till the date of vacation. At this rate, the total damages for the entire period from 1-1-1973 to 31-12-1980 works out to Rs. 26,33,280/-. No amount against the above outstandings has been paid by the party so far as the party has filed a suit in the High Court of Delhi. It is also to be appreciated that the entire claim of the Railways is, however, subject to the final decision of the Court.

Vacation of Railway land: The party continues to occupy the railway land and has filed a civil suit against the Railways. The case is still subjudice in Delhi High Court.”

1.14. The Committee had in their 86th Report pointed out that Railway Board issued a letter of intent to M/s. Oriental Building and Furnishing Co. (Pvt.) Ltd., in June 1963 for lease of land for a 10-year period from 1-1-1963 to 31-12-1972 but the agreement leasing the land was:

actually executed in May, 1969, i.e. after a period of six years. The Committee are not convinced with the reply of the Ministry that "the Railway had been earnestly pursuing the matter of entering into an Agreement with the party but since the other party to the Agreement wanted to satisfy themselves about the various clauses of the Agreement before signing the same, the delay could not be avoided and was beyond the control of the Administration".

1.15. The Committee had in their earlier report also pointed out that though a notice was served on the firm in June 1969 to pay the arrears of the licence fee failing which legal action would be taken against them for recovery of the amount besides eviction from Railway premises, eviction proceedings were initiated only in July, 1975, i.e. after a period of six years. The Ministry of Railways have tried to justify the delay by saying that "the Railway was not in immediate need of the land in question" and "the Railway Administration was exploring all the possibilities for settling this matter amicably". The fact remains that this firm had encroached on Railway land on several occasions since 1942, defaulted in paying licence fee demanded by the Railway and had adopted delaying tactics in executing agreement for lease of the land. The Committee therefore see no reason why the Railway authorities preferred to have negotiations with the firm and waited for six years before initiating eviction proceedings.

1.16. The present position is that the firm has defaulted in payment of licence fee at the enhanced rate with effect from 1 January, 1968 and the Agreement with the firm having been terminated on 31 December, 1972, the firm is in unauthorised occupation of the land with effect from 1 January, 1973. The Committee take a strong note that the Railway Administration has failed during the last over 13 years to recover the rent arrears and also evict the party from its premises. Their attempt to justify this delay is a matter of distress.

1.17. As pointed out in their earlier report also, there have been inordinate delays and several lapses on the part of the Railways in taking recourse to administrative and legal remedies available to them, resulting in accumulation of large dues to the Railways and continued unauthorised occupation of Railway land. All endeavours of the Railway Administration to get the issue resolve amicably and quickly have apparently failed. It is also on record that this party has been trying to influence and bring pressure from high-ups and also adopting various methods not only to escape all these years the consequences of illegal occupation of the railway land but also to perpetuate its possession by all possible means. In the light of such an unhappy state of affairs, the Committee are unable to

accept the contention of the Ministry of Railways that "there appears to be no necessity for a further probe". The Committee therefore urge that the whole matter be placed before the Minister of Railways for early investigation by a high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty.

1.18. The Committee have been informed on 17-3-1981 that the party continues to occupy the Railway land and has filed a civil suit against the Railways. The case is stated to be subjudice in Delhi High Court. The Committee desire that a high level officer should be entrusted with the responsibility of pursuing the matter vigorously.

Encroachment of Railway Lands (Paras 1.86 and 1.100—S. No. 2 & 16).

1.19. The Committee had, in para 1.86 of their 86th Report, desired to know the number of encroachments and the area encroached upon as on 31 December, 1973, 1974, 1975, 1976 and 1977 in each Zonal Railway and the steps taken to get these encroachments vacated. The Committee had also desired to know in how many cases the staff and officers responsible for negligence had been penalised and the amount of penalty realised from them.

1.20. In reply, the Ministries of Railways have in a note dated 10 September, 1980 stated as follows:

"A statement showing the number of encroachments and the area encroached upon for the years 1973, 1974, 1975, 1976 and 1977 in each Zonal Railway, number of cases of staff and officers responsible for negligence penalised, and the amount of penalty/damages realised from the encroachers is attached (Annexure I). The information given is as on 30 September, for which only information is compiled and readily available. Steps taken by the Zonal Railways for removing the formerly made encroachments on railway land are given below:

- (1) Filing of cases against the encroachers under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 in the court of Estate Officer for eviction from railway land.
- (2) After passing of eviction order by the Estate Officer, to remove the encroachers from railway land with the assistance of Civil Police.
- (3) In the case of metropolitan cities, like Bombay, Calcutta, Delhi, Madras and other large towns, the majority of

encroachments are by way of jhuggies and jhonparies on railway land for residential purposes. The Railway Administration cannot take eviction action in these cases as eviction of hutment dwellers en-masse may create serious law and order problem.

The State Governments concerned generally formulate their own scheme for their resettlement elsewhere, under various slum clearance schemes evolved by them. The Railway Administration keep a close liaison with the concerned State Government authorities/municipalities, as the case may be for their removal from railway land.

As already submitted in reply to recommendation made in para 1.100, there is a growing tendency to encroach and squat on public land including railway land in Metropolitan Cities and other large towns all over the country and in the absence of strong public opinion against lawlessness of this type it is very difficult for Government to take any effective action in this regard. Further the procedure of eviction under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is in itself a long drawn process and after a decision is given by the Estate Officer in favour of Railway, the parties go in appeal and taken recourse to other legal measures available to them, to delay execution of eviction orders and preventing the Railway Administration from any further action till a final decision is given by the higher Courts. This process drags on for years. During this period the parties also sometimes bring political pressure at various levels to permit them to continue.

In the face of the above constraints, the Railway Administrations have been trying their best to deal with the existing encroachments on railway land.

For stopping the encroachments in the future, instructions have been issued from time to time to the staff/officers for exercising utmost vigilance in preventing encroachments and to take energetic steps for their removal. However, it is becoming increasingly difficult to prevent/remove the encroachers from the Railway land because of aforesaid reasons.

There are also a number of encroachments on railway land by railway staff for residential purposes. It has been decided that all such encroachments should not be removed unless they come in the way of Railway development and that they should be regularised

by charging a nominal fee of Rs. 1/- per month. The Railways, in addition, should provide basic amenities in such hutment colonies. Action accordingly is being taken by the Zonal Railways in such cases."

1.21. The Committee had in paragraph 1.100 of the Report also observed:

"1.100 The Committee does not approve of the practice of the Railway Administration of negotiating with illegal occupants without taking proper steps for immediate ejection against such illegal occupants. The present case is an example of numerous similar cases where Railway lands which are often very valuable are being wrongfully and illegally enjoyed by unauthorised occupants and trespassers. The Committee is of the opinion that such misuse of Railway property becomes possible not merely because of negligence and lapses on the part of some Railway officials and other employees but also because of actual collusion and connivance by them with ulterior motives. If immediate action for ejection is taken at the earliest possible opportunity then the presumption for such malafides on the part of such Railway employees can be negated. Negotiations with such illegal occupants should be frowned upon because their result is generally to make the proceedings long drawn which is to the continuing advantage of the illegal occupants and designing employees."

1.22. The Ministry of Railways had in a reply furnished earlier on 9 February, 1979 stated:

"The observations of the Committee have been noted.

In this connection, the Ministry of Railways would submit that as may be seen from the replies to the observations of the PAC in the preceding paragraphs of their Report, the Railway Administration took every possible measure to safeguard Railways' interests. It is submitted to further that in every case of unauthorised occupation of Railway land, efforts are always made to get the unauthorised occupation vacated. Instances, if any, of negligence/lapse/collusion or connivance whenever noticed are also investigated and appropriate action taken.

The Railway Ministry would further submit that it is a fact that there is a growing tendency to encroach and squat on public

land (including railway land) in metropolitan cities and other large towns all over the country and the Government have not been in a position to effectively check the same in the absence of strong public opinion against lawlessness of this type. The leaders of public opinion instead of discouraging such acts, have been putting pressure on the Railway Administration to stay the eviction proceedings against the offenders. It may be pertinent to mention that recently in regard to the encroachments on Central Government lands in Greater Bombay area the matter was discussed at the highest levels between the Government of India and the Government of Maharashtra where it was decided that Central Government lands (including railway lands) which had been occupied by unauthorised persons should not be got vacated unless the same are required for sanctioned projects. The Railway Administration further were to permit the Municipal authorities to provide the basic facilities for these unauthorised settlements on railway land which are not immediately required. The Railway Administration were also required to pay a sum of Rs. 1,900/- per family to Government of Maharashtra in respect of land which are required to be vacated to accommodate their sanctioned works for their resettlement.

A similar situation also exists in Delhi where a decision was taken in 1973 in an interministeral meeting that unauthorised squatters would not be evicted unless the Railways wanted the land for their own use.

It can, therefore, be stated that in case of slum dwellers and other encroachers the Government has been adopting a deliberate policy of accommodating them as far as possible with a view to avoiding human suffering at the same time ensuring that the Government's long term interests are not jeopardised."

Sl. No. Railway No. and areas of railway land encroached (as on 30th September)
(Area in Hectares)

Sl. No.	Railway	1973		1974		1975		1976		1977	
		No.	Area	No.	Area	No.	Area	No.	Area	No.	Area
1.	Central	10,688 +274*	87.77 +0.253*	10,727 +171*	97.94 +0.507*	11,308 +171*	69.35 +1.390*	12,035 +628*	62.90 +1.070*	12,561 +542*	64.15 +0.89*
2.	Eastern	10,549	152.78	10,944	154.14	11,342	153.54	10,870	137.32	10,903	137.40
3.	Northern	8,229	327.40	8,772	402.70	9,767	262.20	6,726	289.00	4,467	202.00
4.	North Eastern	3,365	147.77	3,347	152.68	1,888	137.93	1,717	131.71	1,698	106.51
5.	Northeast Frontier	19,566	57.17	20,028	55.63	16,323	46.72	12,764	42.30	11,543	43.65
6.	Southern	2,371	7.71	2,218	2.07	2,668	2.25	2,204	4.76	2,265	1.58
7.	South Central	3,712	43.79	3,614	36.52	3,851	38.96	3,427	34.78	3,241	22.31
8.	South Eastern@	7,597	21.04	7,872	16.19	4,628	13.38	6,034	17.40	6,667	18.21
9.	Western	2,356	47.91	2,282	47.75	2,638	59.04	2,979	65.85	3,088	56.82
TOTAL :		68,485	893.45	69,779	965.89	64,171	786.74	59,384	787.37	57,930	652.80

*These relate to Sholapur Division transferred from South Central Railway to Central Railway with effect from 1-10-1977.

@The number of the staff penalised only on Southeastern Railway is 3.

ANNEXURE-I (Contd.)

Sl. No.	Railway	The amount of Penalty /damages realised from the encroachers.							
		1973	1974	1975	1976	1977			
1.	Central	.	.	.	..	..	..
2.	Eastern	.	.	.	..	..	..
3.	Northern	.	.	.	430	2,128	2,783	30,261	50,466
4.	North Eastern	.	.	.	180	8,776	46,697	24,086	27,862
5.	Northeast Frontier	.	.	.	..	..	..	..	..
6.	Southern	.	.	.	1,808	127	674	..	264
7.	South Central	.	.	.	1,177	1,177	1,177	3,871	2,817
8.	South Eastern	.	.	.	5,500	22,076	28,853	21,563	15,406
9.	Western	.	.	.	28,000	24,101	13,000	46,565	5,725
TOTAL :		.	.	.	39,439	58,385	93,184	126,346	102,540

1.23. The Committee are concerned to note that there is considerable encroachment on railway land under the various Unional Railways. The cases of encroachments reported were 68,485, 69,779, 64,171, 59,384 and 57,230 as on 30 September 1973, 1974, 1975, 1976 and 1977 respectively. The area encroached was 893, 966, 786, 787 and 653 hectares as on 30 September during the aforesaid years. The Ministry of Railways have stated that in metropolitan cities and large towns, "the Railway Administration cannot take eviction action in these cases as eviction of hutment dwellers en-masse may create serious law and order problem." Further, eviction procedure under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is a long drawn process and "drags on for years". The Ministry of Railways have further stated that it has been decided that encroachments by railway staff for residential purposes should not be removed unless they come in the way of railway development and that such encroachments should be regularised by charging a nominal fee of one rupee per month. In addition, the Railways are to provide basic amenities in such hutment colonies.

1.24. The Committee are of the view that encroachments of large chunks of railway land are indicative of negligence and apathy of officials who are entrusted with the responsibility of guarding railway land. The Committee would like the Ministry of Railways to take effective measures not only to get the existing encroachments cleared but also to check further encroachments on railway land. As regards encroachments on railway land by railway staff, the Committee are surprised to learn that the Railways have decided to regularise such encroachments by charging a nominal fee of one rupee per month and also to provide basic amenities in such hutment colonies. The Committee feel that regularisation of unauthorised occupation of railway land in such manner does not provide a solution to the accommodation problem of the railway staff. It would on the other hand give encouragement to further encroachments. The Committee would therefore suggest that the Ministry of Railways should review their decision in this regard.

CHAPTER II

RECOMMENDATIONS OR OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

Another disquieting feature which has come to the notice of the Committee during evidence is that after the termination of lease on 31 December 1972, the Chairman, Railway Board, on the basis of a telephonic message from the then Minister of External Affairs, had advised the General Manager, Northern Railway, that the lease might be extended for a period of 3 months upto 31 March 1973. The lease fee might be charged on the basis of Rs. 300 per sq. yard (provisional value) and the Railways should take immediate action to settle the land value with the Land and Development Officer. The Committee feel that these instructions would have wide repercussions had the General Manager, Northern Railway, not intimated to the Railway Board that "we should not extend it for a period of 3 months because it would lead us into complication. It would mean an extension for a period of 10 years. Until this question was allowed to settle we should charge Rs. 600 from them." The Committee are inclined to believe that whenever the party feared any action it came forward with fresh representation directly or through high-ups, without any sincere intention to settle the issue. Approaching the Ministry of External Affairs and thus putting pressure on the Railway Board is one of the tactics adopted by the firm. The Committee are constrained to observe that this does not bring credit to the firm nor to the Railway Board.

[Sl. No. 11, Para 1.95 of 86th Report of PAC (VI Lok Sabha)]

Action taken

It has been admitted during the evidence that the party being an influential one had been bringing pressures on the Administration. However, the Administration while giving due consideration to the requests/representations of the party never allowed their (Railways) interest to suffer.

[Ministry of Railways (Rly. Board) O.M. No. 78-BC-PAC/VI/86 dated 9-2-79|20 Magha 1900],

CHAPTER III

RECOMMENDATIONS OR OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURCHASE IN THE LIGHT OF THE REPLIES OF GOVERNMENT

Recommendation

The Committee note that M/s. Oriental Building and Furnishing Co. (Pvt.) Ltd. encroached on Railway land situated in one of the most prestigious area of New Delhi on various occasions in 1942 and 1943. The encroachments were subsequently regularised by the Railway Administration and an agreement was executed with firm in 1947. The firm again encroached on land measuring 2246 sq. yds. in 1950 and sub-let a portion of land to another sister concern M/s. Pure Drinks (Coca-Cola), New Delhi. The agreement was terminated in 1951. Eviction orders were given in June, 1956 by the "competent authority" under the Government Premises (Eviction) Act, 1950 but were stayed by the appellate authority (Chairman, Railway Board) in July, 1956. After a new Eviction Act was promulgated by Government in 1958 notices for vacation of the land and payment of damages were served by the Railway Administration in October, 1959, but proceedings under the Act were again stayed on the orders of Chairman, Railway Board in February, 1962. The above subject was then considered by the Public Accounts Committee (1963-64) and the Committee in their 13th Report had adversely commented on the failure of the Railway Administration to check encroachments and violation of agreements entered into between the Railways and the encroaching party from time to time. From the Audit paragraph now under examination and the further information gathered by the Committee, the Committee are constrained to point out that there has been no change in the position from what was reported to them about 15 years back but rather it has worsened. It is painful to learn from the Ministry of Railways that the last encroachment by the firm was detected for the first time on 1 July, 1975 when details of the area already under the firm's unauthorised occupation was being collected for starting eviction proceedings for non-payment of arrears of rent. Surprisingly, this encroachment was not shown in the certificates furnished by the Supervisors. The Committee fail to understand as to why encroachment was not detected earlier by the Engineering Supervisory Staff such as Permanent Way Inspectors and Works Inspectors who, under the Indian Railway Code for Engineering Department and Indian Railways Way and Works Manual are responsible for keeping watch on vacant Railway land and are required to ensure that there is no encroachment on Railway land

within their jurisdiction. It is also therefore doubtful whether periodic certificates furnished by these officers in terms of instructions contained in para 3720, Chapter XXXVII of Indian Railway Way and Works Manual and the encroachment registers maintained by them contained any useful and pertinent information.

[S. No. 1, Para 1.85 of 86th Report of PAC—Sixth Lok Sabha,
1978-79]

Action Taken

The observations of the Committee are noted.

The encroachment of railway land by M/s. Oriental Building and Furnishing Co. and Pure Drinks (Coca-Cola) in 1975 was not shown in the certificates furnished by the supervisors as this being an important case was kept under special watch by the Railway Administration. The encroachment made in 1975 was 84 Sq. yards. Being adjacent to the land in possession of the firm it was used for parking cycles, only. It came to the notice of the Railway in July, 1975 and the Railway took immediate action to have the same vacated and demanded damages for the unauthorised occupation. The Railway Administration ultimately got the land vacated on 17-5-1976. In view of this case being kept under special watch by the Railway Administration as stated above, this did not figure in the annual certificate submitted by the Engineering supervisory staff. It is now submitted that the party had paid the damages as demanded by the Railway.

However, instructions to Railways are being issued reiterating the provisions of para 3720 of Way and Works Manual impressing upon them to see that the supervisory staff submit the annual statements as required correctly and to keep a special watch on their submission every year.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC[VI]86,
dated 9.2.79/20 Magha, 1900]

Recommendation

The Committee note that in the instant case in the Master Plan of Delhi finalised in 1957 the piece of Railway land in question adjoining railway lines near Connaught Place area of New Delhi was reserved for flat-ted factories. However, after the finalisation of Master Plan many changes were made in it by the Ministry of Works and Housing. Nevertheless, the Ministry of Railways did not consider it proper to approach the Ministry of Works and Housing to alter the land use of this piece of Railway land in the Master Plan so that the land could be beneficially utilised by the Railways. Whether it did not strike to the Ministry of Railways at all or

it was considered impracticable is an unanswered question. The Committee cannot help gain the impression that serious thought was not given to put the valuable land to optimum use. Instead of making any serious efforts to get the land vacated after its first unauthorised occupation, the Railway authorities chose the easy and convenient course of regularising the encroachments on the grounds that the land was not required by the Railways for its purposes. The initial lapse enabled the firm to gain foothold on Railway land for further encroachments on the adjacent land. The Committee would like the Ministry of Railways to consider whether this land can be put to some use particularly when the Minto Bridge Station is situated very closely.

[S. No. 3, Para 1.87 of 86th Report of PAC—Sixth Lok Sabha, 1978-79]

Action Taken

It is submitted that the width of the railway land under unauthorised occupation is about 50 ft. Being close to the track the area will be required to meet the future operational needs of the Railways, when the plan for development of suburban/intra-urban train services materialises. Until such time the schemes come up, the Railway could only derive revenue from this piece of land by licensing the same for temporary periods. This was also explained during the oral evidence as may be seen at page 11 of the 86th Report. It may be further mentioned that the Railway Administration is not bound by the land use shown in master plans for those areas which are required by them for operational purposes. In view of the above the question of asking the Ministry of Works and Housing for changing the land use does not arise.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC/VI/86
dated 9-2-1979/20 Magha, 1900]

Recommendation

The Committee are surprised to note that the agreement executed with the firm in 1969 leasing the Railway land for ten years from 1963 to 1972 neither specified the amount nor the rate of licence fee to be charged by the Railways for the five years from 1-1-1968. In fact, a vague clause was inserted in the agreement that "the occupation money provided for in the lease agreement shall be liable to be enhanced by the Railway Administration every five years on the basis of 6 per cent per annum of revised valuation of land lease to be fixed in consultation with the Land and Development Officer Delhi." It is interesting to note that land lease rates calculated on the basis of Rs. 600 per sq. yard effective from 1-7-1963 to be applied in this case from 1968 onwards had already been advised to the Ministry of Railways by the Land and Development Officer, Ministry of Works and Housing as early as 28 March, 1964, but the Ministry of Rail-

ways advised the amount to the private firm only on 24 September, 1968: The Committee do not find any substance in the argument that the amount or rate of occupation money 'could not be specified in the agreement as the rate was disputed by the party and the Railway Administration felt that if a new element of dispute was introduced at that late stage (1968-69), the party might delay the signing of the agreement'. The Committee feel that since the question of rate was disputed it was all the more necessary that this matter should have been amicably resolved before finalisation of the agreement. The Committee are also not impressed by the argument that the delay in informing the rate/amount to the firm 'could be attributed to the fact that there had been correspondence between the party and the Division in regard to the changes suggested in certain clauses of the agreement and changes which were suggested had a vital bearing on the question of rates also'. In fact, the the Committee are led to the impression that the Ministry of Railways itself did not take the revised land lease valuation very seriously. The Committee are inclined to conclude that it was a deplorable lapse on the part of Railway Administration to conclude agreement even after negotiating the matter for long 6 years without setting the issue of occupation money for the period 1 January, 1968 to 31 December, 1972. This lapse ultimately proved detrimental to the interests of the Railways. Interestingly, the Ministry of Railways woke up suddenly in 1969 and appeared to be more enthusiastic than the other party to execute the agreement as early as possible. It was also sheer negligence that the firm was advised of the revised valuation of land lease effective from 1 January, 1968 as late as 24 September, 1968, more particularly when the Ministry of Railways knew it since 1964. The Committee are of the opinion that had the settlement about the revised valuation of land lease been arrived at, with the firm in time and made part of the Agreement, the later litigations could have been avoided. Whether the lapses were under pressure from above or under influence from outside, the matter needs to be probed thoroughly.

(Sd. No. 6, para 1.90 of 86th Report of PAC—
Sixth Lok Sabha, 1978-79)

Action taken

In the letter of intent communicated to the firm on 25th June, 1963 it was made clear that for the first 5 years from 1963 to 1968 the rent would be calculated at 6 per cent of the valuation of Rs. 186/- per sq. yard and for the period beyond the first 5 years they were advised as under:

“Further to Railway Board’s letter of even number dated 21st June, 1963, I am to add that the other normal conditions governing lease of railway land by outside parties will also apply as was in fact made clear to your Shri Daljit Singh by the undersigned on 12th June, 1963 (e.g.) re-assessment of the market value

of land every 5 years for determining the rental payable to the Railway, about which there should be no difficulty considering that the Land and Development Officer has been able to give the necessary figures readily on the present occasion, the lessee not being permitted to put up any permanent structures on the plot of land, etc.*

In accordance with the above, the Railway drew up the Agreement fixing the occupation money for the first 5 years specifically as Rs. 30,611.88 in clause 17 of the Agreement, and in clause 18 laid down the basis on which the rent would be revised after every subsequent 5 years as made out in the letter of intent. It is a common practice in all the licence agreement to specify the mode of revision of licence fee/occupation money rather than the actual amount thereof and in accordance with this practice the Railway had included the revision clause in the Agreement.

Further as rightly observed by the Committee the Railway was anxious to settle the matter amicably. It is also accepted that it would have been advantageous for the Administration to have incorporated a clause specifying the revised occupation fee with effect from 1-1-1968. However, when in September, 1968 the firm was advised to the effect that the rent will be revised with effect from 1-1-1968 on the basis of Rs. 600/- per sq. yard they represented that this rate applied to land where multi-storey construction was permitted and that the rate should be lower where the same was not permitted. It was, therefore, clear that the firm would not sign the agreement containing the specific enhanced occupation amount unless the same was clearly settled.

In fact it was only in May, 1974 that the Land and Development Officer finally confirmed the valuation of Rs. 600/- per sq. yard for this area.

It is, therefore, respectfully submitted to the Committee that had the Railway insisted on incorporating the revised rent in the Agreement the firm would not have executed the Agreement even now. In that eventuality the Administration would have been in a weaker position in initiating legal action against the firm.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC/VI/86 dated 9-2-1979/20 Magha, 1900].

Recommendation

The Committee note that the Ministry of Railways enhanced the lease rent of the land to Rs. 98,748 per annum for the five years from 1st January, 1968 to 31st December, 1972 on basis of revised lease land valuation at the rate of Rs. 600 per sq. yard as determined by the land and development officer, Delhi. However, the Firm continued to pay the lease rent at the rate of Rs. 30,611.88 per annum on the basis of pre-revised

valuation of Rs. 186 per sq. yard. The Ministry of Railways maintained that it was a part payment. The Committee are unable to share this view of the Ministry.

In fact, the company had disputed the very basis of fixation of lease rent at the rate of Rs. 98,748 per annum and was not willing to pay the revised lease rent. The Committee would like to be informed of the basis on which the Railway Administration had decided to accept part payment, as the agreement did not provide for it. The Committee feel that this initial mistake in accepting the part payment in clear violation of the agreement by the firm helped the latter to enter into unending correspondence with the Railway authorities to the disadvantage of the Railways.

[Sl. No. 9, para 1.93 of 86th Report of PAC (Sixth Lok Sabha)].

Action taken

In regard to revision of occupation money with effect from 1-1-1968 it may be mentioned that on 20-12-1967 the firm had been advised that the occupation money for the premises would be revised with effect from 1-1-1968 on the basis of market value which would be intimated to them in due course. The firm had, in the meantime, submitted a cheque for Rs. 30,611.88 on 23-12-1967 in the normal course. Subsequently on 24-9-1968 the firm was advised that the revised occupation money would be Rs. 98,748 per annum and they were requested to pay the balance amount of Rs. 68,136.12 on account of the balance occupation money for the year 1-1-1968 to 31-12-1968 and also an equal amount towards making up the security deposit. They were, therefore, requested to forward a cheque for Rs. 1,36,272.24. On this Firm had represented on 31-10-1968 stating that the revised occupation money had been worked out on the basis of Rs. 600/- per sq. yard which was not applicable in their case. They said that this valuation was applicable in these cases where multi-storeyed construction was permitted and as in their case multi-storeyed structures were not permitted their valuation should be less. It would, therefore, be seen that the firm had questioned the correctness of adopting the land value of Rs. 600/- per sq. yard for fixing the occupation money. This, therefore, necessitated a reference to the Land and Development Officer for clarification.

In the meantime, however, as the agreement was current upto 31-12-1972, the subsequent payments made by the party upto 31-12-1971 at the old rate were accepted by the Railway Administration as part payments towards the Railway's outstanding dues. Although the agreement did not envisage acceptance of part payment it was felt that it would not be prejudicial to the interest of the Railway. It is reiterated that between 1968 and 1971 all the amounts remitted by the firm at the old rates were being adjusted against the outstanding Railway dues.

It may also be added that it was only in May 1974 that the Land and Development Officer had finally clarified that the valuation of Rs. 600/- per sq. yard for commercial purposes as indicated in September, 1968 shall hold good for this plot of land. Between the years 1968 and 1971 the Administration felt that there was no harm in accepting part payment and it was their reasonable expectation that once the basis of fixation of licence fee was finalised, the firm would pay the arrears.

[Ministry of Railways (Rly. Board) OM No. 78-BC-PAC/VI/86 dated 9-2-79/20 Magha 1900]

Recommendation

The Committee are concerned to note that the Ministry of Railways failed to invoke clause 19 of the agreement about arbitration when the firm disputed the revised valuation of land lease as determined by the Land & Valuation Officer. The reasoning put forth by the Ministry of Railways that right upto 1974, the triangular correspondence between the firm, Railways and Land & Development Officer was there and that asking for arbitration by the Administration was unusual is meaningless. The Committee take a serious view of the lapse on the part of Railway Administration. It is a pity that the firm which encroached on the Railway land, refused to pay the lease rent, went on enjoying the precious land and yet the Railway Administration failed in applying whatever legal remedies were available to them for eviction of encroachment and realisation of Government's dues. No action appears to have been taken even to consult the Ministry of Law at any stage though the Ministry was associated with the issue for over 35 years. This weak-kneed policy of the railway not only helped the firm in prolonging their unauthorised stay on the Government land year to year but also emboldened them to hold over the payment of railway dues which according to the Audit have piled upto Rs. 17.20 lakhs (June 1976).

(S. No. 10, Para 1.94 of 86th Report of PAC—VI Lok Sabha)

.. Action Taken

The Railway Administration had asked for revised occupation fee with effect from 1-1-1968. This revised fee was calculated on the basis of a formula given in Clause 18 of the Agreement in accordance with the revised valuation of land given by the Land & Development Officer. The formula given in Clause 18 was never disputed by the party. It was only the figure of land value given by the Land & Development Officer that was being disputed by the party. In the context of the above, therefore, so far as the railways were concerned, a clarification was necessary from Land & Development Officer who had given the revised value of land and there was no issue whatsoever of referring the case to an arbitrator. This final clarification had come from the Land & Development Officer only in May 1974.

It is, however, submitted that the outstanding dues including the "arrears of rent" with interest thereon upto 30-6-1978 is only Rs. 6,22,941.37 as detailed below :

	Rs.
Total amount of rent claimed for the period 1-1-68 to 31-12-1972	4,93,740.00
Less Amount paid by the firm	1,22,447.52
	<hr/>
Balance outstanding	3,71,292.48
Add Interest @ 12% per annum upto 30-6-1976.	2,82,261.27
	<hr/>
	6,53,553.75
Less Security Deposit already which the Railway Administration	30,611.88
	<hr/>
Net outstanding	6,22,941.87

The licence ceased to exist from 1-1-1973 onwards rendering its occupation unauthorised for which only damages could only be claimed. Accordingly, the Railway has claimed an amount of Rs. 8,22,900/- from 1-1-1973 to 30-6-1975 before the court of Estate Officer and at a rate of Rs. 27,430/- per month thereafter till the date of vacation.

[Ministry of Railways (Rly. Board) OM No. 78-BC-PAC/VI/86 dt.
9-2-79/20 Magha 1900]

Recommendation

The Committee are distressed to note that the eviction proceedings initiated against the firm on 10 July 1975 under the Public Premises Eviction Act could not be finalised by the Estate Officer till 30 August 1977 when the firm got stay orders from the Delhi High Court restraining the Government to evict the party from Railway land till further orders. The hearing were adjourned eight times during November 1975 to December 1976. The Committee would like the Ministry of Railways to examine whether the repeated grant of adjournments were on bonafide consideration and the attitude taken by the Railway Administration in this matter. They would also desire that responsibility be fixed for the costly lapse and appropriate steps be taken.

(S. No. 12, Para 1.96 of 86th Report of PAC - VI Lok Sabha)

Action Taken

An Officer appointed as Estate Officer, under Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, functions as a quasi-judicial authority and the powers conferred upon him is to be

exercised by him in his sole discretion and Government is not competent to interfere with the exercise of his discretion. The Railway Administration can, therefore, exercise no control over his functioning or interfere with his decisions. It may also be mentioned that the Railway's case was being conducted by an advocate and therefore, Administration had been doing every thing possible to safeguard their interests.

[Ministry of Railways (Rly. Board) O.M. No. 78-BC-PAC/VI/86
dt. 9-2-79/20 Magha 1900]

Recommendation

The Committee note that the firm obtained stay orders in 1977 from the Delhi High Court restraining the Railways from evicting the firm from the railway land. It is interesting to note that the stay orders were granted on the basis of a letter dated 25 October 1974 written by the Railway Administration to the firm stating that the licence fee for the railway premises had to be revised from 1st of November 1974 and that the firm was required to pay the railway dues at the revised rates which would be advised separately. The Committee are greatly perturbed to note as to how such a letter could be sent in 1974 to the firm with whom the agreement had already expired on 31-12-72. The Committee regret that the name of the firm continued to be on the Index Register alongwith the names of all other lease holders and licences as on 26 October 1974 though the firm was neither lease holder nor licensee on that date. The Committee are not convinced with the reasoning that the letter had been sent inadvertently. Since enquiries are being conducted by Railway Administration in this episode, the Committee would like to be apprised of the action taken against those who are found responsible for this grave mistake.

(S. No. 13, Para 1.97 of 86th Report of PAC-VI Lok Sabha)

Action Taken

The party's name continued in the Lease Register because there were sizeable outstandings against the party and unless these were cleared it may not have been proper to strike off the name. From the Lease Register, the Bills and all outstanding claims are preferred on the basis of information available therein.

It was, however, an inadvertent mistake that notice was issued to the party in 1974. Enquiries have been conducted by the Northern Railway and they have found that no malafide intention was involved in the issue of the letter which was issued inadvertently in a routine way.

[Ministry of Railways (Rly. Board) OM No. 78-BC-PAC/VI/86.
dt. 9-2-79/20 Magha 1900]

Recommendation

The Committee are surprised to note that the Railway Administration did not prefer any appeal from the order of the Delhi High Court. Nor was any proper legal opinion taken as to whether such appeal should be preferred.

(S. No. 14, para 1.98 of 86th Report of PAC-VI Lok Sabha)

Action taken

The decision not to prefer an appeal was taken after obtaining the advice of the Legal Adviser attached to the Ministry of Railways who had opined that the order of the Delhi High Court being interlocutory in nature no useful purpose would be served in going in for an appeal against the order in the Supreme Court. It was his opinion that the Railway should contest the main petition of the party in the court.

[Ministry of Railways (Rly. Board) OM No. 78-BC-PAC/VI/86
dt. 9-2-79/20 Magha 1900]

CHAPTER IV

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

Recommendation

Besides the above case, the Committee note that in Delhi area alone 71 hectares of Railway land is under unauthorised occupation. Eviction orders are stated to have been passed in the case of 65 hectares and the rest of the area falling under isolated pockets continues to be under unauthorised occupation since as early as 1948. The Committee also note that during the last 5 years (1973 to 1977) the various Railway Administrations had evictions carried out and taken possession of land in as many as 77,743 cases, the incidence being the highest in Eastern Railway (16,678), followed by Northeast Frontier Railway (14,735) and South Eastern (12,323). But if the fate of eviction in the instant case of M/s. Oriental Furnishing Co. (Pvt) Ltd. and the extent of actual non-eviction in Delhi is any indication, the Committee feel that the extent of encroachment on Railway land must be very large. That in spite of the officers of the Engineering Department being required to keep a watch on encroachment during routine inspections, they could not detect additional encroachments by M/s. Oriental Furnishing shows that the inspections machinery is woefully lacking. The Committee would, therefore, like to know the number of encroachments and the area encroached upon as on 31 December, 1973, 1974, 1975, 1976 and 1977 in each Zonal Railway and the specific steps taken from year to year to get these formerly made encroachments vacated and to stop them in future. The Committee would also like to know in how many cases the staff and officers responsible for negligence have been penalised and the amount of penalty realised from the encroachers. The Committee apprehend that unless stringent and timely measures are taken for protection of the land and the defaulting officers are dealt with sternly for negligence of their duties, the encroachments might pose serious problem to future development of railway lands.

(S. No. 2, Para 1.86 of 86th Report of PAC - Sixth Lok Sabha, 1978-79)

Action taken

A statement showing the number of encroachments and the area encroached upon for the years 1973, 1974, 1975, 1976 and 1977 in each

Zonal Railway, number of cases of staff and officers responsible for negligence penalised, and the amount of penalty/damages, realised from the encroachers is attached (Annexure-I). The information given is as on 30th September for which only information is compiled and readily available. Steps taken by the Zonal Railways for removing the formerly made encroachments on railway land are given below :

- (1) Filing of cases against the encroachers under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 in the court of Estate Officer for eviction from railway land.
- (2) After passing of eviction order by the Estate Officer, to remove the encroachers from railway land with the assistance of Civil police.
- (3) In the case of metropolitan cities, like Bombay, Calcutta, Delhi, Madras and other large towns, the majority of encroachments are by way of jhuggies and jhonparies on railway land for residential purposes. The Railway Administration cannot take eviction action in these cases as eviction of hutment dwellers en masse may create serious law and order problem.

The State Governments concerned generally formulate their own scheme for their resettlements elsewhere, under various slum clearance schemes evolved by them. The Railway Administration keep a close liaison with the concerned State Government authorities/municipalities, as the case may be for their removal from railway land.

As already submitted in reply to Recommendation made in para 1.100, there is a growing tendency to encroach and squat on public land including railway land in Metropolitan Cities and other large towns all over the country and in the absence of strong public opinion against lawlessness of this type it is very difficult for Government to take any effective action in this regard. Further the procedure of eviction under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is in itself a long drawn process and after a decision is given by the Estate Officer in favour of

Railway, the parties go in appeal and take recourse to other legal measures available to them, to delay execution of eviction orders and preventing the Railway Administration from any further action till a final decision is given by the higher Courts. This process drags on for years. During this period the parties also sometimes bring political pressure at various levels to permit them to continue.

In the face of the above constraints, the Railway Administrations have been trying their best to deal with the existing encroachments on railway land.

For stopping the encroachments in the future, instructions have been issued from time to time to the staff/officers for exercising utmost vigilance in preventing encroachments and to take energetic steps for their removal. However, it is becoming increasingly difficult to prevent/remove the encroachers from the railway land because of aforesaid reasons.

There are also a number of encroachments on railway land by railway staff for residential purposes. It has been decided that all such encroachments should not be removed unless they come in the way of Railway development and that they should be regularised by charging a nominal fee of Re. 1/- per month. The Railways, in addition, should provide basic amenities in such hutment colonies. Action accordingly is being taken by the Zonal Railways in such cases.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC/VI/86
dated 10-9-1980/9 Bhadra 1902]

ANNEXURE I

Sl. No.	No. and Area of Railway land encroached (as in goth (Sept.)		1976		1977		The amount of Penalty/damages realised from the encroachers .								
	(Area in Hectares)		No.		Area		No.		Area		1973	1974	1975	1976	1977
	No.	Area	No.	Area	No.	Area	No.	Area	No.	Area					
1. Central	10,688 +274*	87.77 +0.253*	10,727 +171*	97.94 +0.907*	11,308 +171*	65.35 +0.39*	12,035 +528*	62.90 +1.07*	12,561 +542*	64.15 +0.89	2,344				
2. Eastern	10,549	152.76	10,944	156.14	11,342	153.54	10,870	137.32	10,903	137.40					
3. Northern	8,229	327.40	8,712	202.70	9,767	262.20	6,726	289.90	4,467	202.00	430	2,128	2,783	30,271	50,465
4. North Eastern	3,365	147.77	3,347	158.68	1,888	137.93	1,717	131.71	1,698	106.51	180	8,776	46,697	24,086	27,862
4. Northeast Frontier	19,566	57.06	20,026	55.44	16,423	46.58	12,702	42.49	11,543	48.70					
6. Southern	2,374	7.68	2,218	2.02	2,668	2.43	2,204	4.85	2,265	1.61	1,808	127	674		264
7. South Central	3,764	43.79	3,569	36.32	3,409	38.96	3,468	34.78	3,296	22.31	1,171	1,177	1,177	3,871	2,817
8. South Eastern*	7,597	21.04	7,872	16.19	4,628	13.38	6,034	17.80	6,867	18.21	15,500	22,076	28,853	21,103	15,406
9. Western	2,353	47.91	2,282	47.75	2,638	59.04	2,979	55.85	3,088	56.82	28,000	24,101	13,000	46,565	5,725
TOTAL :	68,485	893.45	69,779	965.89	64,771	786.77	59,984	787.37	57,230	652.60	39,439	58,385	93,184	126,346	10,23,540

* These relate to Sholapur Division transferred from South Central Railway to Central Railway with effect from 1-10-1977.

* The number of staff penalised only on Southeastern Railway is 3.

Recommendation

In February, 1962, the firm communicated its willingness to pay rent for the land in its possession on the basis of the old agreement (which was terminated in 1951) and also suggested negotiations for the outright sale of the land. The Railway Board decided in November, 1962 that arrears of rent should be recovered at 6 per cent of the lease hold value of the land and after the firm paid the rent fixed in that manner the land should be leased to it for a further period of 20 years, the rent being assessed at 6 per cent of present day value of land, subject to revision every five years to accord with the prevailing market price. The firm was asked by the Railway Administration in December, 1962 to accept these terms and to pay Rs. 2,04,815. The firm paid only Rs. 1,06,037 and made a counter proposal for outright sale of land to it without agreeing for a fresh lease for a further period of 20 years from 1 January, 1963. A settlement was reached between the Railways and the firm in 1963 and a letter of intent was issued in June, 1963. However, the agreement leasing the land to M/s. Oriental Building and Furnishing Co. was actually executed in May, 1969.

The Committee are distressed to note that the Ministry of Railways took six years to execute a simple agreement which, in the words of the Chairman, Railway Board himself 'is ratifying the Letter of Intent. Nothing more than that'. During all these six years file had been moving up and down without any definite decision emerging. Precious time lost in unnecessary and avoidable correspondence. The consequence was that in the absence of any legal instrument, the Railway Administration was helpless all these years to take any legal action against the firm for recovery of dues etc. The Committee are greatly concerned at the lax and perfunctory manner in which the whole case had been handled in the Ministry of Railways. The Committee cannot help observing that there is serious lacuna in the functioning of Railway Organisation in such matters.

[S. Nos. 4 and 5, Paras 1.88 and 1.89 of 86th Report of PAC—Sixth Lok Sabha 1978-79]

Action taken

As may be seen from the chronological history of events from 1-1-1953 reproduced at pages 14—17 of the 86th Report of the Public Accounts Committee (1978-79) the delay was due to the party raising several issues before executing the Agreement. The firm had also desired certain changes in some of the clauses of the Agreement on which they had several discussions with the Railway Administration. It may, however, be

submitted here that there was no financial loss to the Railways for the first quinquennium of the 10 years licence period and the firm had been paying the licence fee in terms of the letter of intent and as subsequently laid down in the Agreement.

It is, therefore, submitted that the Railway had been earnestly pursuing the matter of entering into an Agreement with the party but since the other party to the Agreement wanted to satisfy themselves about the various clauses of the Agreement before signing the same, the delay could not be avoided and was beyond the control of the Administration.

[Ministry of Railways (Railway Board O.M. No. 78-BC-PAC/VI/86
daed 9-2-1979/ 20 Magha 1900]

Recommendation

The Committee are disturbed to note that though a notice was served on the firm on 17 June, 1969 to pay the arrears of licence fee failing which legal action would be taken against them for recovery of the amount besides eviction from Railway premises, yet the application under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 was filed as late as in July, 1975, *i.e.*, after a period of six years. The Committee are informed that all these years protracted correspondence had been going on up and down and no definite decision to evict the party was taken. The Committee see no grounds for the Ministry of Railways to drag on negotiations with the firm when a decision had been taken to initiate legal action against them. The Committee are not at all impressed by this line of reasoning and is of the view that there is more to it than what meets the eye. This is a glaring case where the party had made substantial amounts of wrongful gains at the expense of public exchequer and this could not have been possible without collusion on the part of some Railway officials. It appears that the competent authority at the higher level shirked the responsibility and avoided taking concrete and conclusive decision in this regard. The Committee take a serious note of it and urge the Ministry of Railways to fix responsibility for this grave and costly lapse.

(S. No. 7 Para 1.91 of 86th Report of PAC - Sixth Lok Sabha, 1978-79)

Action taken

The Agreement was signed by the Railway Administration on 9-5-1969 and was valid from 1st January, 1963 to 31st December, 1972. The Railway issued a notice of termination of Agreement effective from 31-12-1972 on 15th July, 1972. As already stated earlier, the Railway was not in immediate need of the land in question and on the intervention of the then Minister for External Affairs, the question of extending the lease was

considered, provided the party agreed to pay the revised rent as demanded by the Railway Administration. The Railway Administration was exploring all the possibilities for settling this matter amicably to the best advantage of the Administration and only after all such efforts failed, action under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for vacation of the land and payment of damages was initiated in July, 1975. It should go to the credit of the Administration that in spite of pressures that were being exerted by the firm, the Administration had adhere to their stand of charging the licence fee on the basis of R s. 600/- per sq. yard with effect from 1-1-1968.

The Railway Ministry would like to assure that there had been no mala-fide intention on the part of anybody in the Ministry of Railways to have wilfully prolonged the matter or act in a manner prejudicial to Railways interest and as such would urge the Committee to re-consider their observations contained in this para.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC/VI/86
dated 9-2-79/20 Magha 1900]

Recommendation

The Committee further note that the Divisional Superintendent, Delhi Division, wrote to the General Manager, Northern Railway Headquarters office on 6th October, 1969 stating that the party [Oriental Building and Furnishing Co. and Pure Drinks (New Delhi) Pvt. Ltd.] had not cleared the Railway dues amounting to Rs. 2,35,020.24 pertaining to the balance of 1968 and licence fee for the year 1969 and asked whether they should initiate action against the party under the Public Premises Act for eviction and recovering the dues as damages. The Northern Railway Headquarters replied this letter on 8th June, 1970 but on the specific issue raised by the Divisional Superintendent of initiating action against the firm, no direction was given by the Headquarters Office to the Division. The Committee view it seriously and are inclined to believe that the basic issues raised by the Divisional Superintendent were obviously side-tracked for reasons best-known to the competent authority. The Committee find that the Northern Railway Headquarters miserably failed not only in giving specific directions on the issue but they took avoidably long time also in replying the Divisional Superintendent's letter. The Chairman, Railway Board, himself admitted that the delay is not fully justified. The Committee would like the Ministry of Railways to fix responsibility on the delinquent officers and apprise the Committee in this behalf.

(S. No. 8, Para 1.92 of 86th Report of PAC - Sixth Lok Sabha, 1978-79)

Action taken

As has been admitted during the evidence before the Committee, there had been a delay in communicating the orders to the Divisional Superintendent. The delay was mainly due to the fact that the revised valuation of Rs. 600 per sq. yard on which the revised rent was to be effective with effect from 1-1-1968 has been disputed by the firm for which they had made several representations against the correctness of the same. The Railways therefore, were trying to confirm the rate from the Land and Development Officer to meet the objection made by the party.

In the meanwhile, the Public Premises (Evection of Unauthorised Occupants) Act, 1958, was declared ultra-vires by the Allahabad High Court, which had made the position of the validity of this Act uncertain. This was also one of the contributing factors for delay in reply.

The Railway Ministry would, therefore, respectfully submit that the responsibility for the delay in replying to Divisional Superintendent's communication was not due to lapse on part of any individual officer but was inherent in the complicated nature of the dispute issue, which as explained during the evidence (pages 24 and 25) had to be considered at various levels, and as mentioned above the declaration of the Public Premises (Eviction of Unauthorised Occupants) Act ultra vires by the Allahabad High Court further added to uncertainty.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC/VI/86
dated 9-2-1979/Magha, 1900]

Recommendation

1.99 The Committee find that their observations on the subject in their 13th Report (3rd Lok Sabha) are very relevant even now 15 years later. The very same firm and its associates have made encroachment and violated the terms of the agreement. There have been unexplainable disinclination and inordinate delays on the part of Railway Administration in taking recourse to administrative and legal remedies available to them, resulting in heavy accumulation of dues to the Railways. The whole episode requires to be probe in depth by a high powered Committee with a view to fixing responsibility for the lapse on the part of the various authorities. Since the decisions in this case were taken by the Railway Board itself, the Committee desire that such investigation should be entrusted to a high powered body, independent of the Railway Board.

(Sl. No. 15, para 1.99 of 86th Report of PAC—Sixth Lok Sabha, 1978-79)

Action taken

It had always been the Administration's endeavour to get this issue resolved amicably and quickly. As has already been pointed out during the hearing the party was influential and had been raising various issues from time to time which was considered by the administration whenever they were raised. While considerations were shown to the party to the point of considering issue raised in order to arrive at an amicable settlement, at no point of time did the administration take any decision which was detrimental to its interest. All decisions taken by the Railway Administration had been after due deliberations considering the various pros and cons. Therefore, Ministry would respectfully submit that there appears to be no necessity for further probe and would respectfully request for reconsideration of this recommendation.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC|VI|86 dated 9.2.1979|20 Magha, 1900].

Recommendation

1.100. The Committee does not approve of the practice of the Railway Administration of negotiating with illegal occupants without taking proper steps for immediate ejection against such illegal occupants. The present case is an example of numerous similar cases where Railway lands which are often very valuable are being wrongfully and illegally enjoyed by unauthorised occupants and trespassers. The Committee is of the opinion that such misuse of Railway property becomes possible not merely because of negligence and lapses on the part of some Railway officials and other employees but also because of actual collusion and connivance by them with ulterior motives. If immediate action for ejection is taken at the earliest possible opportunity then the presumption for such malafides on the part of such Railway employees can be negated. Negotiations with such illegal occupants should be frowned upon because their result is generally to make the proceedings long drawn which is to the continuing advantage of the illegal occupants and designing employees."

(S. No. 16 para 1.100 of 86th Report of PAC - Sixth Lok Sabha 1978-79).

Action taken

The observations of the Committee have been noted.

In this connection, the Ministry of Railways would submit that as may be seen from the replies to the observations of the PAC in the preceding paragraphs of their Report, the Railway Administration took every possible measure to safeguard Railways' interests. It is submitted further that in every case of unauthorised occupation of railway land, efforts are always

made to get the unauthorised occupation vacated. Instances, if any, of negligence/lapse/collusion or connivance whenever noticed are also investigated and appropriate action taken.

The Railway Ministry would further submit that it is a fact that there is a growing tendency to encroach and squat on public land (including railway land) in metropolitan cities and other large towns all over the country and the Government have not been in a position to effectively check the same in the absence of strong public opinion against lawlessness of this type. The leaders of public opinion instead of discouraging such acts, have been putting pressure on the Railway Administration to stay the eviction proceedings against the offenders. It may be pertinent to mention that recently in regard to the encroachments on Central Government lands in Greater Bombay area the matter was discussed at the highest levels between the Government of India and the Government of Maharashtra wherein it was decided that on Central Government lands (including railway lands) which had been occupied by unauthorised persons should not be got vacated unless the same are required for sanctioned projects. The Railway Administration further were to permit the Municipal authorities to provide the basic facilities for these unauthorised settlements on railway land which are not immediately required. The Railway Administration were also required to pay a sum of Rs. 1,900/- per family to Government of Maharashtra in respect of land which are required to be vacated to accommodate their sanctioned works for their resettlement.

A similar situation also exists in Delhi where a decision was taken in 1973 in an interministerial meeting that unauthorised squatters would not be evicted unless the Railways wanted the land for their own use.

It can, therefore, be stated that in case of slum dwellers and other encroachers the government has been adopting a deliberate policy of accommodating them as far as possible with a view to avoiding human suffering at the same time ensuring that the government's long term interest are not jeopardised.

[Ministry of Railways (Railway Board) O.M. No. 78-BC-PAC/VI/58
dated 9.2.1979/20 Magha, 1900].

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

Nil

New Delhi;
March 29, 1981
Chaitra 8, 1903 (S)

CHANDRAJIT YADAV,
Chairman,
Public Accounts Committee

APPENDIX

Conclusions/Recommendations

S.No.	Para No.	Ministry/Department concerned	Recommendations
I	2	3	4

1 1.14 of Railways
1.15

The Committee had in their 86th Report pointed out that the Railway Board issued a letter of intent to M/s. Oriental Building and Furnishing Co. (Pvt.) Ltd., in June 1963 for lease of land for a 10-year period from 1.1.1963 to 31.12.1972 but the agreement leasing the land was actually executed in May, 1969, i.e. after a period of six years. The Committee are not convinced with the reply of the Ministry that "the Railway had been earnestly pursuing the matter of entering into an Agreement with the party but since the other party to the Agreement wanted to satisfy themselves about the various clauses of the Agreement before signing the same, the delay could not be avoided and was beyond the control of the Administration".

The Committee had in their earlier report also pointed out that though a notice was served on the firm in June 1969 to pay the arrears of licence fee failing which legal action would be taken against them for recovery of the amount besides eviction from Railway premises, eviction proceedings were initiated only in July, 1975, i.e. after a period of six years. The Ministry of Railways have tried to justify the delay by saying that "the Railway was not in immediate need of the land in question" and "the Rail-

way Administration was exploring all the possibilities for settling this matter amicably". The fact remains that this firm had encroached on Railway land on several occasions since 1942, defaulted in paying licence fee demanded by the Railway and had adopted delaying tactics in executing agreement for lease of the land. The Committee therefore see no reason why the Railway authorities preferred to have negotiations with the firm and waited for six years before initiating eviction proceedings.

The present position is that the firm has defaulted in payment of licence fee at the enhanced rate with effect from 1 January, 1968 and the Agreement with the firm having been terminated on 31 December, 1972, the firm is in unauthorised occupation of the land with effect from 1 January, 1973. The Committee take a strong note that the Railway Administration has failed during the last over 13 years to recover the rent arrears and also evict the party from its premises. Their attempt to justify this delay is a matter of distress.

As pointed out in their earlier report also, there have been inordinate delays and several lapses on the part of the Railways in taking recourse to administrative and legal remedies available to them, resulting in accumulation of large dues to the Railways and continued unauthorised occupation of Railway land. All endeavours of the Railway Administration to get the issue resolved amicably and quickly have apparently failed. It is also on record that this party has been trying to influence and bring pressure from high-ups and also adopting various methods not only to escape all these years consequences of illegal occupation of the railway land but also to perpe-

2
1.5.74
4.5/76
1.12
1.17
3

5 I. 23&1. 24

Railway

to vacate its possession by all possible means. In the light of such an unhappy state of affairs, the Committee are unable to accept the contention of the Ministry of Railways that "there appears to be no necessity for a further probe". The Committee therefore urge that the whole matter be placed before the Minister of Railways for early investigation by a high powered body independent of the Railway Board with a view to fixing responsibility and taking necessary action against those found guilty.

61 / 1.15 Railway

"1.16B. The Committee have been informed on 17.3.1981 that the party continues to occupy the Railway land and has filed a civil suit against the Railways. The case is stated to be subjudice in Delhi High Court. The Committee desire that a high level officer should be entrusted with the responsibility of pursuing the matter vigorously."

8 1.23A - 66
1.24

The Committee are concerned to note that there is considerable encroachment on railway land under the various Zonal Railways. The cases of encroachments reported were 68485, 69779, 64171, 59384 and 57230 as on 30 September 1973, 1974, 1975, 1976 and 1977 respectively. The area encroached was 893, 966, 786, 787 and 653 hectares as on 30 September during the aforesaid years. The Ministry of Railways have stated that in metropolitan cities and large towns, "the Railway Administration cannot take eviction action in these cases as eviction of hutment dwellers *en masse* may create serious law and order problem." Further, eviction procedure under the Public Premises (Eviction of Unauthorised Occupants)