

List of Pending Para
REVNUE & LAND REFORMS DEPARTMENT

Year		Pending Para as per PAC
2000-01	(Rev Recei)	6.02, 6.04, 6.07
2001-02	(Rev Recei)	<u>5.02, 5.03</u>
2002-03	(Rev Recei)	<u>4.6, 4.8, 4.9 (4.9.1, 4.9.2)</u>
2003-04	(Rev Recei)	<u>5.3, 5.4</u>
2007-08	(Rev Recei)	<u>5.2, 5.3</u>
2008-09	(Rev Recei)	<u>1.4</u>

REVNUE & LAND REFORMS DEPARTMENT

2001-02

5.02 Non-removal/non-settlement of encroachment on public land

Under the Bihar Public Land Encroachment Act, 1956, if a person has encroached any public land, he may be served a notice to vacate the encroachment or to settle such land on payment of rent and damages, as per rules laid down in the Bihar Government Estates (*Khas Mahal*) Manual, 1953. Accordingly, in case of impairment of the value of public land by its use for residential/commercial purposes, *salami* at the prevailing market value together with annual commercial / residential rent at one fiftieth /one twentieth of *salami* respectively is payable. Mention was made regarding encroachment of Government land in Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2000 vide paragraph 6.02 (B).

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In Additional Collector's Office, Purnea it was noticed (May 2002) that 196 persons had encroached (during 1999-2000 and 2000-01) 10.11 acres of land by constructing buildings for residential purposes. No action was taken either to get the encroached land evicted or to regularise the same. This resulted in non-realisation/ of *salami* and residential rent of Rs. 4.50 crore.

On this being pointed out (May 2002), the Additional Collector, Purnea stated (May 2002) that action was being taken to vacate the encroached land. Further reply has not been received (November 2002).

The cases were reported to the Government (May 2002); their reply has not been received (November 2002).

5.03 Non-fixation and non realisation of land rent

Under the provisions of the Bihar Tenancy Act, 1885 amended with effect from 26 August 1993, a *raiyyat* may, with previous permission of the Collector, use his land for purpose other than those specified in the original Act. The Collector, before giving such permission shall re-determine the

rent of such land to the extent of five per cent but not less than three per cent of the market value of such land. Provided further that if a *raiyyat* has not taken prior permission for such use, the Collector may give *post-facto* permission on payment of double the amount of rent which he would have been liable to pay, had he applied in time for the period between the date of use and the date of application.

In 6 Revenue Anchals¹, in 3 districts², 96 *raiyyats* having tenancy for agricultural purposes converted 57.9708 acres of land for other purposes by installing thereon Brick kiln, Crusher Machines, Shops, Petrol Pumps etc. for the period between 1990-91 and 2000-01. Action to evict the tenants or to regularise the occupancy by re-fixing rent had not been taken in any of these cases and the *raiyyats* continued to hold their tenancy on agricultural rent. This resulted in non-realisation of revenue amounting to Rs.1.05 crore calculated for the period from 1995-96 to 2000-2001.

On this being pointed out (May and June 2001), the Anchal Adhikaries (AA), Dehri and Nasriganj stated (June 2001) that process for realisation was being expedited. AAs, Munger Sadar and Gaighat stated (June 2001) that the cases had been referred to the Dy. Collector, Land Reforms. AA, Nokha stated (May 2001) that notices were issued to the leaseholders while AA, Vikramganj stated (June 2001) that certificate proceedings had been started for realisation of rent. Further replies have not been received (April 2002).

The cases were reported to the Government (May 2002); their reply has not been received (November 2002).

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2002-03

LAND REVENUE

4.6 Non-fixation and non-realisation of land rent

Under the provisions of the Bihar Tenancy Act, 1885 amended with effect from 26 August 1993, a *raiyyat* may, with previous permission of the Collector, use his land for purpose other than those specified in the original Act. The Collector, before giving such permission shall re-determine the rent of such land in the prescribed manner to the extent of five per cent but not less than three per cent of the market value of such land. If a *raiyyat* has not taken prior permission for such use, the Collector may give *post-facto* permission on payment of double the amount of rent which he would have been liable to pay, had he applied in time for the period between the date of use and the date of application or detection as the case may be.

In 37 Revenue Anchals³, in 19 districts⁴ 1,954 *raiyyats* having tenancy for agricultural purposes, converted 286.19 acres of land for other purposes such as shops, petrol pumps, saw mills, cinema

¹ Dehri, Gaighat, Nasriganj, Munger Sadar, Nokha and Vikramganj.

² Rohtas, Munger and Muzaffarpur.

³ Babubarhi, Bagaha, Barauni, Barhiya, Barharia, Baniapur, Bettiah, Chandi, Dawath, Dinara, Forbesganj, Ghosi, Hasanpur, Kanti, Koilwar, Krityanand Nagar, Kurtha, Lakhisarai, Mainatand, Maner, Manjhi, Majhoulia, Mennapur, Nawada, Pandaul, Parsa, Rajauli, Rajgir, Sasaram, Shambhuganj, Singhia, Surajgarh, Taraiya, Udakishanganj, Ujiarpur, Baisi and Wazirganj.

halls, hotels, etc. during the period 1983-1984 to 2001-2002. Action to regularise the occupancy by re-fixing rent under the laws had not been taken and the *raiya*s continued to hold their tenancy on agricultural rent. This resulted in non-realisation of revenue amounting to Rs.2.58 crore calculated for the period April 1997 to February 2003.

On these being pointed out, the Anchal Adhikaries (AA) stated between August 2001 and February 2003 that action for realisation was going on. Further replies have not been received (August 2004).

The cases were reported to the Government in June 2003; their reply has not been received (August 2004).

4.8 Non-settlement of vested land

The rights of intermediaries in Gair Mazarua (GM) *Khas*⁶ land were abolished under the provisions of the Bihar Land Reforms Act, 1950 and all such lands were vested with the Government. Instructions were issued by the Government from time to time to Revenue Officers to examine all cases of unsettled GM *Khas* land and to settle such land with persons of eligible categories, such as scheduled castes, scheduled tribes, backward classes and the landless persons at fair and equitable rent.

In six Revenue Anchals⁵ in five districts⁶ 36,972.31 acres of GM *Khas* land were vested in the Government, out of which 25,838.49 acres of GM *Khas* land were fit for settlement. It was noticed in audit that only 11,039.01 acres of land was settled till January 2003 and the remaining 14,799.48 acres of land were yet to be settled by the Department. Non-settlement of these lands on fair and equitable rent since 1997-1998 to 2001-2002 had a revenue effect of Rs 6.77 lakh in the shape of land rent and cesses.

On these being pointed out AA, Nawada stated in August 2002 that survey was being done on the GM land and proposal for settlement of land had been put up to the Deputy Collector Land Reforms (DCLR), Nawada while AA, Sasaram stated in August 2002 that the land had been illegally encroached upon by some persons in some areas and hills and forests were covered in balance area. The other AAs stated between February 2002 and January 2003 that action was being taken for settlement of the balance land. The reply of AA, Sasaram was not tenable as details of land under forest and hills were not produced to audit. Further reply had not been received (August 2004).

The cases have been reported to the Government in June 2003; their reply was not received (August 2004).

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⁴ Araria, Banka, Begusarai, Bhojpur, Gaya, Jehanabad, Lakhisarai, Madhepura, Madhubani Muzaffarpur, Nalanda, Nawada, Patna, Purnea, Rohtas, Samastipur, Saran, Siwan and West Champaran.

⁵ Khagaria, Nawada, Manjha, Rajauli, Rajgir and Sasaram.

⁶ Gopalganj, Khagaria, Nalanda, Nawada and Rohtas.

4.9 Irregular reduction in demand/ short levy of cesses on holdings exempted from payment of land rent

Under the Bihar Land Rent (Exemption from Payment) Act, 1981, Government exempted with effect from 1 April 1978 small holdings upto two hectares in the state from levy of land rent. However, such holdings were not exempted from levy of various cesses like road cess, education cess, health cess and agricultural development cess leviable under the relevant Cess Act. In September 1982, Government while communicating the revised rates of different cesses had also instructed all the Revenue Officers in Bihar to levy and collect cesses in respect of all tenants (*raiyats*) including those who were exempted from payment of land rent, as aforesaid.

4.9.1 In two Revenue Anchals Krityanandnagar and Sahar of two districts (Bhojpur and Purnea) in course of scrutiny of records for the years 1994-1995 to 2000-2001, it was noticed that demands of cesses were raised at reduced rates without assigning any reasons. This resulted in an irregular reduction of demand by Rs 10.41 lakh.

On this being pointed out, the AAs stated between December 2001 and January 2002, that the result would be intimated to audit after verification. Further reply has not been received (August 2004).

The matter was reported to the Government in June 2003; their reply was not received (August 2004).

4.9.2 In two Revenue Anchals, Gogri and Parbatta of Khagaria district, it was noticed that cesses were not levied in respect of holdings exempted from payment of land rent. This resulted in non-realisation of cesses of Rs 6.66 lakh for the years 1996-1997 to 2001-2002.

On this being pointed out, the AAs stated, between November and December 2002 that the amount would be raised after examination of the cases. Further reply has not been received (August 2004).

The case was reported to the Government in June 2003; their reply was not received (August 2004).

2003-04

LAND REVENUE

5.3 Loss of revenue due to non-renewal/violation of terms and conditions of leasehold Khas Mahal land

Under the Bihar Government Estates (Khas Mahal) Manual, 1953 and Rules framed thereunder, the State Government is to issue notices to the lessees, for grant of lease, six months prior to the expiry of lease to apply for renewal of such lease, whereas a lessee is required to apply for renewal thereof three months prior to the expiry of his lease. A lessee continuing to occupy lease-hold property without payment of rent and renewal of lease is to be treated as a trespasser and shall have no claim for renewal on previous terms and conditions.

On fresh leases, Salami⁷ at the current market value of land besides annual rental (one fiftieth and one twentieth of such *Salami* for residential and commercial leases respectively), is leviable. In case of arrears, the lessees are liable to pay double the rent at a rate of rent as determined in fresh lease from the date of non payment of rent together with interest on arrear rent at 10 per cent per annum.

Mention was also made in paragraph 2.4 of the Report of the Comptroller and Auditor General of India (Revenue Receipts), Government of Bihar for the year ended 31 March 1998 on the above subject and revenue implications thereof. The Public Accounts Committee had recommended (December 2002) that survey of leased land be completed within six months.

A test check of records between April 2002 and April 2004 in the office of Additional Collector, Patna revealed that three leases in respect of 6.17 acres of land had expired between February 1998 and March 2000, in which neither the Department issued notices nor the lessees had applied for renewal of expired leases in time. These lessees continued to occupy leasehold property without payment of rent. Inaction on the part of the Department to levy and collect rental dues resulted in non-levy/recovery of Rs 6.70 crore as detailed below:

(Rupees in crore)								
Sl. No.	Name and address of lessees	Area involved (in acre)	Date of expiry of lease	Rate per decimal (Rs)	Salami	Penal rent	Penal interest	Total
1.	New Patna Club, Gardiner Road Patna	4.13	28.2.1998	72,000	2.97	1.47	0.22	4.66
2	M/S Sahay property & investment Pvt. Ltd, Patna Gaya Road	1.01	25.8.1998	72,000	0.72	0.36	0.05	1.13
3.	Sri B. Fransis, Patna Gaya Road	1.03	31.3.2000	72,000	0.74	0.15	0.02	0.91
Total		6.17			4.43	1.98	0.29	6.70

The case was reported to the Department in April 2002 and April 2004 and to the Government in July 2004; their reply has not been received (September 2004).

5.4 Non-remittance of Education and Health cess into Government account

By Government notifications issued under the provisions of the Bihar and Orissa Municipal Act, 1922 and the Patna Municipal Corporation Act, 1951, the collection of education and health cess was entrusted to all the Municipal bodies in December 1959 and May 1972 with the direction to remit the proceeds of those cess to the State treasuries after deducting 10 per cent thereof as collection charges which shall form part of the Consolidated Fund of the State.

In 15 Bodies⁸, it was noticed between June 2002 and June 2004 that collected amount of education and health cess of Rs 1.92 crore and Rs 2.21 crore respectively between 1998-1999

⁷ *Salami is the Government share in increased value of land*

⁸ *Municipal corporation - Bhagalpur and Darbhanga
Municipalities - Dehri - Dalmianagar, Forbesganj, Gopalganj, Hajipur, Jamalpur, Kahalgaon, Nawada and Raxaul
Notified Area Committee - Birpur, Bettiah, Murliganj, Naugachia and Pero*

and 2002-2003 were not remitted to the Government account. Thus, a sum of Rs 4.13 crore remained out of the Consolidated Fund of the State.

The matter was reported to the Department and the Government in September 2003, June 2004 and August 2004; their reply has not been received (September 2004).

2007-08

LAND REVENUE

5.2 Non-realisation of revenue due to non-renewal of leasehold *khas mahal* land

Under the Bihar Government Estates (*khas mahal*)¹ Manual, 1953 and Government orders issued thereunder, the State Government is to issue notices to the lessees, six months prior to the expiry of original lease, to apply for renewal of such lease, whereas a lessee is required to apply for renewal thereof three months prior to the expiry of his existing lease. A lessee continuing to occupy leasehold property without the payment of rent and renewal of lease or who changes the purpose of lease or transfers his property without the approval of the competent authority is to be treated as a trespasser and shall have no claim for renewal on past terms and conditions of lease agreement and the Government may resume such land. However, the present occupier may be asked to notify his intention by a fixed date if he is desirous of taking fresh lease.

On fresh lease, *salami*⁹ at the current market value of the land besides annual rental (one fiftieth and one twentieth of such *salami* for residential and commercial leases respectively) is leviable. In case of arrears, the lessees are liable to pay double the rent as determined in the fresh lease from the date of non-payment of the rent together with the interest on arrear rent at 10 *per cent* per annum.

Mention was made in paragraph 5.3 of the Report of the Comptroller and Auditor General of India (Revenue Receipt), Government of Bihar for the year ended 31 March 2000 on the above subject and revenue implications thereof. It was recommended that if the lessee has not paid the total rent within three months, the same may be recovered, otherwise, lease may be terminated within six months. In spite of this recommendation, no action was taken by the department.

During test check of the records of the district *khas mahal* officers, Ara and Buxar between June 2007 and May 2008, it was noticed that though the lease on 142.75 acres of *khas mahal* land held by 2,701 occupiers expired in 1956-57, yet, these lessees continued to occupy the land unauthorisedly till date. No action was taken by the department to cancel the existing leases and resume the land for fresh settlement with the present occupiers as per the provisions of the Manual. Thus, inaction on the part of the department to resume the land and settle with the present occupiers on fresh terms and conditions resulted in non-realisation of revenue of Rs. 153.60 crore for the period from 2003-04 to 2007-08 including penal rent and interest as mentioned below:

(Rupees in lakh)

Sl. No.	Name of the district town	Area of lease land (in acres)	No. of original lessee	<i>Salami</i> payable on renewal	Penal rent payable for five years	Penal interest	Total
1	Ara	34.11	1,242	2,902.90	580.58	87.09	3,570.57
2	Buxar	108.64	1,459	9,584.60	1,916.92	287.54	11,789.06
Total		142.75	2,701	12,487.50	2,497.50	374.63	15,359.63

⁹ *Salami* is the Government share on the market value of land.

After the cases were pointed out, the Deputy Collector Land Reforms (DCLR), Ara stated in May 2008 that this is due to not taking timely action previously. However, action is being taken in accordance with the instructions of the department. The Anchal Adhakari (AA), Buxar stated in May 2008 that departmental action to levy and collect revenue is being taken.

The matter was reported to the Government in May 2008; their reply has not been received (October 2008).

5.3 Non-levy of rent and cess due to non-fixation of rent on *kabil lagan* land

Under the Bihar Tenancy (BT) Act, 1885, the Government may, in any case if it thinks fit, make an order directing that a survey be made and *khatian*¹⁰ be prepared by a revenue officer in respect of a land in any local area, estate of tenure or part thereof. The revenue officer may revise the *khatian* at the draft stage after giving a reasonable opportunity to the party concerned at any time before the final publication of records of right.

In case of land which were declared *kabil lagan*¹¹ in the finally published *khatian*, the AA is required to prepare the case records for fixation of rent of *kabil lagan* land under his jurisdiction and forward it to the DCLR for approval. Under the provisions of the Bihar Urban Land Tax Act, 1965, rent at the rate of 0.2 to 0.5 *per cent* of the value of the land together with the applicable cess at the rate of 145 *per cent*¹² of rent is leviable on every land owner of urban land annually for residential and commercial use respectively.

During test check of the records relating to the fixation of rent of *kabil lagan* land in two town *anchal* offices, Buxar and Gaya and DCLR office at Ara between March and May 2008, it was noticed that 11,223 plots covering area of 2,532.99 acres of land were declared *kabil lagan* in the finally published *khatian* (published between June 1992 and March 2005). But, rent on *kabil lagan* land was not assessed till the date of audit, which resulted in non-levy of rent and cess amounting to Rs. 51.12 crore for the period 2003-04 to 2007-08 as mentioned below:

(Rupees in lakh)									
B A C K	Sl. No.	Name of the district town	No. of wards	No. of plots of <i>kabil lagan</i> land	Area involved (in acres)	Value of land	Non-levy of residential rent at the rate of 0.2 <i>per cent</i> of the value of land for five years	Non-levy of cess for five years	Total
	1	Ara	9	2,679	178.97	18,800.40	188.00	272.61	460.61
	2	Buxar	13	4,662	2,204.08	1,67,976.12	1,679.76	2,435.65	4,115.41
	3	Gaya	7	3,882	149.94	21,883.33	218.83	317.31	536.14
	Total			11,223	2,532.99	2,08,659.85	2086.59	3,025.57	5,112.16

After the cases were pointed out, the AA, Gaya stated in March 2008 that process of rent fixation had been initiated while AA, Buxar and DCLR, Ara stated in May 2008 that due to defects in *khatian* and non-availability of rates, rent fixation could not be initiated. A report on further development has not been received (October 2008).

¹⁰ *Khatian* (records of right) is the main document of the record containing for all classes of proprietors and tenants and all other information as prescribed in Section 102 of the Bengal Tenancy Act.

¹¹ *Kabil lagan* holdings are those, which are legally assessable to rent but on which rent has not been assessed so far, such as new reclamations, new settlements and encroachments which are recognised.

¹² Education cess: 50 *per cent*; health cess: 50 *per cent*; road cess: 25 *per cent* and agriculture cess: 20 *per cent*.

The matter was reported to the Government in May 2008; their reply has not been received (October 2008).

2008-09

1.4 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessment of taxes on sales, trade *etc.*, during the year 2008-09 and corresponding figures for the preceding four years as furnished by the Finance (Commercial Taxes) Department is mentioned below:

(Rupees in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalty for delay in payment of taxes and duties	Amount refunded	Net collection as per department	Net collection as per Finance Account	Percentage of column 3 to 8
1	2	3	4	5	6	7	8	9
Taxes/ VAT on sales, trade <i>etc.</i>	2004-05	1,809.59	78.79	1.37	9.18	1,879.20	1,890.54	95.72
	2005-06	1,664.13	69.92	0.89	17.36	1,716.70	1,733.60	95.99
	2006-07	2,002.62	81.25	2.81	11.96	2,071.92	2,081.49	96.21
	2007-08	2,537.11	39.86	2.24	38.00	2,538.97	2,534.80	100.09
	2008-09	3,049.18	54.22	1.04	38.92	3,065.52	3,016.47	101.08

Thus, the percentage of tax collected before regular assessment has been consistently increasing from the year 2004-05 and during 2008-09 it reached 101.08 *per cent*. However, the department collected Rs. 361.54 crore after regular assessments conducted during the years 2003-04 to 2007-08¹³, while tax due in the cases detected during test check of selective cases conducted by audit during the period from 2004-05 to 2008-09 amounted to Rs. 1,216.89 crore¹⁴ which is almost three fold higher. **The high amount of leakage of revenue detected by audit only in the test checked cases vis-à-vis the amount collected after regular assessments points towards a need for the Government to strengthen the tax administration. Besides, the refunds allowed during the years 2004-05 to 2008-09 also registered a consistent increase and during 2008-09, it reached Rs. 38.92 crore while during the same year the department collected Rs. 54.22 crore. Thus, during the year 2008-09 the department collected Rs. 15.30 crore only after regular assessments.**

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¹³ Amount collected after regular assessments during 2003-04 = Rs. 91.72 crore.

¹⁴ 2004-05 = Rs. 142.82 crore; 2005-06 = Rs. 30.32 crore; 2006-07 = Rs. 62.82 crore; 2007-08 = Rs. 315.60 crore and 2008-09 = Rs. 665.33 crore.