Report of Sub-Committee constituted by the Cabinet Sub-Committee.
Report of Sub-Committee constituted by the Cabinet Sub-Committee.

The Cabinet Sub-Committee was constituted by the Punjab Government for considering ways and means to get encroached lands of the Government and that of the Panchayat Department vacated. The Cabinet Sub-Committee then called the undersigned for a meeting of the Cabinet Sub-Committee on 16.04.2018. In the said meeting, the said Cabinet Sub-Committee nominated the undersigned and others including the Financial Commissioner (Revenue and Panchayat), Punjab; Principal Secretary, Local Government, Punjab; EIC, Local Government, Punjab and other government officials, besides, Deputy Commissioner, SAS Nagar, Mohali; the Mayors of various Municipal Corporations, etc. as members of a further Sub-Committee to work out modalities and discuss ways and means for getting the encroached lands vacated.

The present Sub-Committee then on 04.05.2018 called a meeting of all the members that were nominated for discussion and drawing up modalities for getting the encroached lands vacated. Those who attended the meeting included Shri Anurag Verma, Financial Commissioner (Revenue and Panchayat), Punjab; Shri A. Venu Prasad, Principal Secretary, Local Government, Punjab; Shri Ajay Kanwar, EIC, Local Government, Punjab; Smt. Madhvi Kataria, Special Secretary, PWD (B&R), Punjab; Shri Sunil Bhatia, Special Secretary, Revenue, Punjab; Smt. Surinder Kaur Waraich, Additional Secretary, Finance, Punjab; Shri Jaspal Singh, PSWR, Punjab; Smt. Gurpreet Kaur Sapra, Deputy Commissioner, SAS Nagar, Mohali; Shri D.V. Ratna Kumar, CCF (Hq.), Forest Department; Shri Joginder Pal, Govansh Sewa Sadan; Shri Sanjeev Sharma (Bittu), Mayor, Patiala; Shri Jagdish Raj, Mayor, Jalandhar; Shri Balkar, Mayor, Ludhiana and Shri Karamjit Singh, Mayor, Amritsar.
The members that had assembled were apprised of the steps to be taken for getting the encroached land vacated. The issues involved were discussed in detail and at length. A format was circulated in the meeting for the identification of the encroached lands and it was emphasised for initiating action for getting these lands vacated in accordance with the appropriate procedure applicable to such lands. In other words, those, who were present, were apprised that necessary and proper procedure provided under the law to the lands that are under encroachment should be applied. That is to say that in case the land encroached is a municipal land, then the procedure provided for such eviction under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 is to be followed. Similarly, in case the land is ‘shamlat’ land, the procedure provided under the Punjab Village Common Lands (Regulation) Act, 1961 is to be followed. The same would be the position in case of encroachment of the package deal properties/land, the Punjab Package Deal Properties (Disposal) Act, 1976 would be applicable in terms of Section 16 (2) thereof and the procedure under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 would be inapplicable. In case the land encroached upon is such, which is recorded in the revenue records as ‘Jumla Malkan Wa Digar Haqdaran Arazi Hasab Rasad Raqba’ or similar nomenclature, then the procedure provided under the Punjab Gram Panchayat (Common Purposes Land) Eviction and Rent Recovery Act, 1976 is to be followed. The identification of the proper procedure is of utmost necessity as the cases mostly fail where incorrect procedure is followed or the proper procedure is not followed.

Therefore, it was emphasised that each and every department, at the first instance, should identify the lands which they own or is under their ownership and then ascertain the lands which
are in illegal occupation and proceed against the illegal occupants in accordance with law. It was further emphasised that each department like for instance the PWD (Building and Roads) Department should identify their lands which are in illegal occupation and proceed against the illegal occupants. Similarly, the Department of Rural Development and Panchayats should identify the 'shamlat' lands which are in illegal occupation and proceed against the illegal occupants under the relevant law i.e. the Punjab Village Common Lands (Regulation) Act, 1961. The Local Self-Government Department and the Municipalities in a similar manner are to identify the illegal occupants of their lands and proceed against them.

For carrying out this task, which would be quite substantial and omnibus, it was suggested that each department should form a Coordination or a Monitoring Committee which should meet periodically and review the progress that is being made. The said Committee may also consider the process of apprising the department of getting adequate legal back-up so that there is no lapse in pursuing the matters. The District Attorneys in the respective districts may be associated for getting this work carried out and wherever a need is felt, private counsel may be engaged to pursue the litigation to its logical conclusion.

The undersigned held various meetings and considered further modalities for implementation of the report of the earlier Committee. At this stage, it may be emphasised that one of us, i.e. Dr. Chander Shekhar, IPS, Former DGP, Punjab, had earlier on the directions of the Hon'ble High Court inquired into the occupation of 'shamlat' lands in the periphery of Chandigarh and other adjoining areas in the State of Punjab. The report of Justice Kuldip Singh’s Committee was examined in extenso by the undersigned. A perusal of the report would show that nothing substantial in this regard has been
done as a follow up of the said Committee’s report. It may briefly be mentioned that there are mainly three aspects of Justice Kuldip Singh’s Committee report.

The Special Tribunal of Justice Kuldip Singh, in its report dated 11.03.2013, with respect to village Mirzapur, District SAS Nagar, highlighted that a few residents of village Mirzapur filed a collusive suit titled ‘Ami Chand and others v. Gram Sabha village Mirzapur C/o Sehi Ram, Sarpanch’ seeking declaration of the title of land measuring 16734 bigha 10 biswa in favour of the villagers. In the said suit, Sarpanch Sehi Ram appeared before the Court and made a statement that all the proprietors of the village including the plaintiffs were the owners of the suit property and that they had been in possession for the last 100 years. The said land in fact had been mutated in the name of ‘Gram Panchayat deh’ vide mutation No.570 dated 14.06.1955; however, the plaintiffs in the said suit were admitted and accepted by Sarpanch Sehi Ram to be the owners. On the basis of said statement of Sarpanch, the suit was decreed within a period of three months. The order and decree that was passed accepting the plaintiffs to be the owners of the ‘shamlat’ land was not appealed against. A reference was made in the report of Justice Kuldip Singh’s Committee to the Jamabandi for the year 1962-63 in which the Gram Panchayat stood recorded as owner of 16734 bigha 10 biswa. The nature of the land, as per Jamabandi, is ‘Gair Mumkin Pahar’ and ‘Gair Mumkin Nadi’ to the extent of 16078 bigha 7 biswa, ‘Banjar Jadid’ to the extent of 5 bigha 16 biswa, ‘Banjar Qadim’ to the extent of 305 bigha 9 biswa and the remaining land was mentioned as ‘Barani’. Thus, the land was uncultivable and could not be construed or taken to be under the possession of any person except the Gram Panchayat which was recorded as owner. Independent of that, the

1 First interim report by the Special Tribunal.
entire land, it is mentioned, was covered under Sections 4 and 5 of the Punjab Land Preservation Act, 1900. The nature of the land, as per Jamabandi for the year 2003-04, was still the same and was locked under the Punjab Land Preservation Act, 1900. On the basis of Civil Court decree, the Revenue Department without any authority or rationale went ahead to determine the fictitious shares of the villagers in the ratio of the proportion of the proprietors' land in the total proprietary land of 1552 bigha. The net result, it was found, was that through the said exercise, the Revenue Department allotted land to each of the proprietor 11 times of original land in the village. It was found that the fraud was writ large on the face of it and there was no limitation to undo a fraudulent transaction.

The conclusions recorded, in the first interim report, by the Special Tribunal needs to be emphasised, which are as follow:

"Before parting with this report, we submit that during the course of our investigation, we summoned and met large number of Revenue officers/officials, officers/officials of the Forest Department and other officials/persons who are concerned and helpful to the investigation we have undertaken. We are of the considered view that that a "land grab scam" is operating specially in the Punjab villages in the periphery of Chandigarh. Thousands of acres of land has (have) either been grabbed or is (are) in the process of being grabbed. Several cases have come before us where the governmental authorities have taken indifferent attitude towards a patent fraud being committed in respect of such lands. The Director/Additional Directors of Consolidation in collusion with the revenue officers and the right holders have passed orders which are patently illegal and smack
of fraud, collusion and conspiracy. The work of protecting Panchayat/Govt./Public lands cannot be left to the governmental authorities. We, therefore, respectfully submit and make the following recommendations for the kind consideration of the Hon’ble High Court:

i) Special officers with the powers of Collector and Commissioner in terms of the various special Acts dealing with the land matters be created as exclusive courts/authority to deal with the pending as well as the fresh cases pertaining to the land laws. We are suggesting this on the parity of “Fast Track Courts” created to deal with criminal cases. At least one Special Court should be created in each district. Likewise in each Division, one Commissioner’s Court be created to deal with the appeal/revision etc., from the orders of the Collector.

ii) A Special Attorney be appointed in each district to deal with the cases on behalf of the Panchayat/Public Authorities before the Special Courts.

iii) The orders of the Civil Courts/Consolidation and Revenue Authorities which were prima facie illegal and based on fraud/collusion and conspiracy – though never challenged, should be reopened and decided afresh by the Hon’ble High Court in exercise of its extraordinary jurisdiction and by invoking suo motu powers.
iv) The Hon'ble High Court may consider constituting a Special Bench to monitor the above said cases. The Special Bench may also deal with all the fresh writ petitions/complaints relating to the above said matters.

v) We suggest that all those persons/societies/corporations etc., who are shown to be in possession of the above said land in terms of the latest Jamabandi entries, must be dispossessed and ordered to pay mesne profits for all the period during which they were illegally occupying the public lands.

vi) We further suggest that the officers/officials of the Revenue/Consolidation Departments who are found to be involved during investigations by a competent independent authority, be punished suitably along with the persons who took possession of the lands and enjoyed it illegally over the years. It has been brought to our notice that the State Vigilance is seized of some criminal cases and is holding investigations into the same for years but without any result. We suggest that some authority like CBI or any other such authority be entrusted with the criminal investigations into the "land grab cases" where the conspiracy with the revenue officials and other high ups cannot be ruled out.
The terms of reference of the Special Tribunal are very wide. To unearth “the land grab scam” all over Punjab is a gigantic work. It may take years to complete.

This Tribunal has undertaken the work in relation to the Punjab villages in the periphery of Chandigarh. The total number of villages are near about 336. This work relating to the periphery of Chandigarh will take a minimum of one year.

Submitted for the kind consideration of the Hon’ble High Court.”

The second report relates to various villages including village Nada. In respect of village Nada, it is mentioned that Consolidation in the village was carried out in 1962-63 and 'Misl Hakiat' was prepared at that time. The total area of the village is mentioned as 17773 kanals 11 marlas. The 'Jumla Mustarka Malkan Wa Digar Haqdaran Arazi Hasab Rasad Raqba' had an area of 718 kanals 16 marlas. The holdings of the Gram Panchayat measure 15394 kanals 17 marlas. In this manner, the total area of Gram Panchayat is 16113 kanals 13 marlas. The land personally owned by the villagers was only 1659 kanals 18 marlas. As per record, 48 kanals 12 marlas of land was transferred to the Provincial Government (Capital Project) and the remaining land was recorded as 'Shamlat Deh Hasab Rasad Jar Khewat'. According to the record brought by the Village Patwari, mutation No.1057 was entered on 17.08.1985. Column No.13 (type of mutation) records 'Kiami Hisseys' as per cut imposed during consolidation and as per 'Naksha Haqdaran Var'. It was observed that there was no order from any authority or Court for apportioning the shares of the village proprietors. The

---

2 Second interim report by the Special Tribunal at pages 145 to 152.
The aforesaid mutation was sanctioned on 02.05.1986 vide which 576 kanals 16 marlas of 'Jumla Mustarka Malkan' land was apportioned by way of shares in the names of Kauri etc. In the remarks column of said mutation No.1057, it was recorded that Dhanna Ram, Sarpanch and other right holders had filed an application for determination of the shares of the right holders and on the said application, mutation No.1057 was entered. In this manner, out of the total area of 718 kanals 16 marlas of 'Jumla Mustarka Malkan' land, shares were apportioned in respect of 576 kanals and only 142 kanals 19 marlas remained with the 'Jumla Mustarka Malkan'. Besides, 576 kanals land consisted of 'Gair Mumkin Nadi' (476 kanals 8 marlas), 'Gair Mumkin Khala' (84 kanals 0 marla) and 'Gair Mumkin Panchayat Ghar' (11 kanals 12 marlas). It was found to be very clear that no part of the land measuring 576 kanals was capable of being partitioned and no actual physical possession was ever delivered to any of the so-called right holders through the process of the Revenue Department.

In respect of village Nada, it was further observed that the matter did not end with the sanction of mutation No.1057 but the greed of the land grabbers was evident by subsequent events. There was a photocopy on record of mutation No.1313 based on the Jamabandi for the year 1993-94. This mutation, as per column No.13, had been entered for 'Kiami Hisses Barue Darkhast Wa Hukam Janab Tehsildar Sahib dt..... '. This pertain to 1009 kanals 13 marlas of land owned by 'Shamlat deh Hasab Rasad Jar Khewat' and was shown to be in possession of 'Malkans' (owners). The mutation was entered by Kuldip Singh, Patwari without any date. It also bore the signatures of Dalip Singh, Joridar Patwari dated 26.7.1994. Through this mutation, 300688 shares were worked out in the name of Smt. Kauri etc. Before any decision regarding sanction/rejection of this mutation could be taken, the share holders shown in column No.9 of
the mutation started selling the land in anticipation of sanction of the mutation and 78 sale-deeds were executed in the month of June and July, 1994 and 78 mutations bearing Nos. 1317 to 1394 were entered on 13, 14, 16 and 17 February, 1995 and sanctioned on 24.2.1995. However, the original mutation No.1313 was rejected by the Assistant Collector 2nd Grade on 28.7.1994. It was said as needless to mention that there was no order or direction from any authority or Court for determination of the shares of the right holders. Harbhajan Singh Kahlon and his family were the largest purchasers of the land through 78 sale-deeds and in their favour mutation Nos.1317 to 1394 had been sanctioned by the Assistant Collector 1st Grade, Kharar. The said land was subject matter of civil litigation with the learned trial Court dismissing the suit on 11.03.2002 and the learned Additional District Judge, Ropar dismissing the appeal on 22.08.2003. Regular Second Appeal filed in the High Court was admitted on 27.02.2004, when the order dated 30.12.2003 was passed by the Commissioner, Patiala Division, Patiala directing the implementation of the mutation on the basis of the sale-deeds which was brought to his notice. The mutation was sanctioned after review. Various other instances have been mentioned with respect to village Nada and it is mentioned as a classic case where huge ‘Gram Panchayat deh’ land measuring 16113 kanals was being systematically grabbed with the active connivance of the Gram Panchayat and the revenue officers/officials. It was observed that the land grab scandal was operating actively right under the nose of the authorities, who were supposed to safeguard the panchayat land.

Another case that needs to be noticed is that of village Siswan3, which has a total area of land measuring 19887 bighas 17 biswas (1678 hectares). Out of this area, 17916 bighas 11 biswas is

---

3 Second interim report at pages 171-172.
"Gair Mumkin" (Hilly, Nadi, Choe etc.), 627 bighas 10 biswas is 'Banjar Qadim' and 133 bighas 17 biswas is 'Banjar Jadid'. According to the Jamabandi for the year 1972-73, land measuring 15821 bighas 10 biswas is 'Gram Panchyat deh'. According to the record, one share of this land belongs to Bhim Sain and ten shares to the 'Gram Panchayat deh'. The 'shamlat deh' land in the village in terms of the Jamabandi for the year 1972-73 was 1403 bighas 17 biswas. It is mentioned that though the 'shamlat' land in the year 1962-63 was 97 bighas 12 biswas, but in 1972-73, it had been shown as 1403 bighas 17 biswas. Out of this land, Bhim Sain had been entered in record as having one share against ten shares of Gram Panchayat. In the 1972-73 Jamabandi, at page 42, the entry showing the share of Bhim Sain, it was observed, had overwriting and cuttings. The entries, it was observed, seemed to be interpolated and tampered with. The Jamabandi for the year 1977-78 showed that in the 'panchayat deh', one share of Bhim Sain was got transferred to Sampuran Singh vide mutation No.727-30 sanctioned on 09.03.1979. The Jamabandi for the year 1982-83 showed that Sampuran Singh got his share in the 'Gram Panchayat deh' and 'shamlat deh' separated and got a separate 'Tak' in his name vide mutation No.737 dated 03.07.1980. This was done by order dated 22.10.1979 passed by the Tehsildar, Kharar. A separate 'Tak' of Sampuran Singh was created in respect of his share in the 'Panchayat deh' as well as 'shamlat deh'. After division, the Gram Panchayat area remained 14383 bighas 0 biswa, 'shamlat deh' 1276 bighas 1 biswa and that of Sampuran Singh 1539 bighas 18 biswas. The mutation in the name of Bhim Sain and later on in the name of Sampuran Singh of 1/11th share of the total 'shamlat deh', it was observed, was wholly illegal. They (Bhim Sain and Sampuran Singh) were residents of Ludhiana district and had nothing to do with village Siswan and there seemed to be no explanation in the revenue
record as to how they became entitled to 1/11th share in the 'shamlat deh'. Before partition, this village was pre-dominantly inhabited by Muslims. It seemed that after the migration of the Muslim residents, the Patwari or some other revenue officers illegally and mala fide made an entry in the name of Bhim Sain which was later on changed in the name of Sampuran Singh. In terms of clear provisions of the Punjab Village Common Lands (Regulation) Act, 1961, it was observed, that there was no way that any part of the 'shamlat deh' could be entered in the name of any individual much less an outsider.

Another example is that of village Parchh. A reference was made to the 'Misi Hakiat' (Jamabandi for the year 1962-63), according to which, 826 kanals 11 marlas of land, it was noticed, was 'Jumla Mustarka Malkan Wa Diger Haqdaran Arazi' and 17512 kanals 15 marlas was Gram Panchayat land. Later on, vide mutation No.999 sanctioned on 11.03.1964 and mutation No.988 sanctioned on 11.03.1964, the Panchayat land was mutated in the name of 'shamlat deh'. The total area comprising 'shamlat deh' and 'Jumla Mustarka Malkan' land came to 18339 kanals 6 marlas. It was noticed that according to the Patwari and other revenue officials/officers, almost the entire land had been taken possession of by many persons who were further selling the same. The Gram Panchayat had no control over this land. Neither the revenue officers nor the department, it was observed, was mindful of thousands of acres of 'shamlat' land being taken control of by the land mafia with the connivance of the revenue staff and the Panchayats. A list of some of the persons who were occupying the 'shamlat deh' land illegally was given.

Another case that may be noticed is that of village Togan (HB No.17). It is noticed that consolidation in this village took place...
in 1955-56 and 'Misl Haqiyat' was prepared at that time. The first page of 'Misl Haqiyat' of 1955-56 records Note No.2 to the effect that the 'shamlat deh' had been transferred to the Civil Panchayat. The Civil Panchayat had an area of 262 kanals 7 marlas and vide mutation No.1700, sanctioned on 05.02.1976, an area of 104 kanals 2 marlas of Gram Panchayat land was transferred to 'Shamlat deh Hasab Rasad Jar Khewat' under the orders of the Civil Court at Kharar dated 21.10.1975. The same land was transferred to Baldev Singh etc. on the basis of judgment dated 31.03.1998 passed by the Additional Sub-Judge, Naib. The Civil Court, it was observed, was not competent to the transfer of property firstly from Gram Panchayat to 'Shamlat deh Hasab Rasad Jar Khewat' in the year 1975 and again transfer the 'Shamlat deh Hasab Rasad Jar Khewat' to Baldev Singh etc. in the year 1998. After examining the Civil Court record, it was found to be clear that both the Civil Court judgments were collusive in nature and conspiracy was writ large between the plaintiffs and the defendants and the Court had been muted in whose face fraud was apparently being played regarding the valuable 'shamlat' property measuring 102 kanals 4 marlas.

There are similar other instances which need to be attended to for seeking steps that have been initiated by the State Government for removal of the encroached lands.

In the second interim report, the learned Special Tribunal reiterated that it had made certain recommendations in its first report dated 11.03.2013. The State Government made a statement before the Hon'ble High Court that it would accept most of the recommendations made by the Special Tribunal. However, apart from the paper work, it was submitted, nothing practical had been done by the State Government and that none of the recommendations had till then been put into practice or practically implemented. Accordingly,
the learned Special Tribunal reiterated the earlier recommendations for kind consideration of the Hon’ble High Court. It was primarily emphasised that the persons/societies/corporations etc., who were in possession of 'Shamlat/Panchayat deh' etc. land in terms of the latest Jamabandi entries, should be issued notices and process to dispossess them be undertaken. Besides, they be also ordered to pay mesne profits for all the period during which they were illegally occupying the public lands. The said recommendations were to be followed by the State Government.

During the course of discussions with the Mayors and the government officials, it was emphasised that the year 1991, for the present, be taken as the base year from which the encroachments have been made and the steps be taken to dispossess the unauthorised occupants and encroachers of public lands. This process needs to be fully followed and dealt with. The Sub-Committee, therefore, recommends:

(i) that the public lands which are under unauthorised occupation of any person/society/corporation etc. should be identified in the context of the nature of land that is to say in whose ownership that land vests and which is the Act applicable to such lands. This identification is necessary so that proper and legal course is followed and adopted for evicting the unauthorised occupants and encroachers of public lands;

(ii) that the State Government may constitute Special Courts or Tribunals vesting them with appropriate powers under the relevant statutes and Acts for carrying out the work of evicting the unauthorised occupants and encroachers;

(iii) that Special Government Pleaders may be engaged and they be trained for working out the modalities firstly for
identifying the land and then for filing necessary application under the relevant Act/statues/regulations/rules for the eviction of the unauthorised occupants;

(iv) that a Monitoring/Controlling Committee be set up in each department for ascertaining the land in its ownership and the land that has been encroached upon and this exercise should be carried out from the village level followed by tehsil, district, division and State level. The exercise, which has been carried out by the Special Tribunal headed by Justice Kuldip Singh relates primarily in the periphery of Chandigarh in the districts of Mohali, Fatehgarh Sahib and Ropar, and such an exercise needs to be carried out throughout the State from village, tehsil, district and division level to the State level;

(v) that the Monitoring/Controlling Committee of the department should meet periodically at least once in a month to carry out the assessment of the progress made at each district within the State of Punjab for removing the unauthorised occupants in accordance with law and it should submit its monthly report after an interval of two months mentioning the steps that have been taken at the district level and wherever shortcomings are noticed in the performance of duties and these can be improved upon;

(vi) that one of us, i.e. Dr. Chander Shekhar, IPS, Former DGP, Punjab, has been involved in this exercise from the very beginning and the Special Tribunal was also constituted on the basis of his report, he has expressed his willingness and agreed to offer his services and it would be desirable that his services are availed to
effectively carry out the exercise of removing the unauthorised occupants and encroachers;

(vii) that the exercise should not be taken as an act of vengeance but should be done in accordance with law and after affording every alleged unauthorised occupant a suitable opportunity to show cause and represent his case. An act of voluntary surrender of the encroached land should be encouraged and not adversely commented upon;

(viii) that the recommendations of the report of Justice Kuldip Singh’s Committee should be implemented in letter and spirit and in this respect the State stands committed according to the statements made on their behalf before the Hon’ble Supreme Court and the Hon’ble High Court;

(ix) that the lapses on the part of various revenue officials should be examined and wherever these are found, an action in accordance with law should be taken against them;

(x) that wherever orders have been passed by the Courts or revenue authorities in respect of lands which are in the ownership or management and control of the Gram Panchayats, these should be assailed in accordance with law before the Higher Forums and Courts;

(xi) that the registration of land and property belonging to the Government, the Panchayat, including ‘shamlat land’, ‘Nazool’ lands should be stopped;

(xii) that the encroachment around the ‘Nadi’, ‘Choe’, rivulets, streams and natural flow of water-courses should be removed as these can create a havoc. The floods in the State of Kerala in the recent past and also earlier the
floods at Chennai in the year 2015, the flood like situation in Uttrakhand, Himachal Pradesh, Gujarat, Madhya Pradesh and Rajasthan had created substantial damage, which should be avoided in the State of Punjab by taking effective steps and remedial measures at this stage.

The Sub-Committee report is accordingly submitted and it shall be glad to carry out any further exercise which the Cabinet Sub-Committee may so desire.

Dated: 27.03.2019

Sd/-
(Dr. Chander Shekhar)
Former DGP, Punjab

Sd/-
(Justice S.S. Saron)
(Retired)

Shri Navjot Singh Sidhu,
Minister for Local Government,
Tourism & Cultural Affairs and
Archieves & Museums/Chairman,
Cabinet Sub-Committee.