

NATIONAL ASSEMBLY SECRETARIAT
REPORT OF THE SPECIAL COMMITTEE ON RAILWAYS

I, the Chairman of the Special Committee on Railways, have the honor to present, this report on the issue of allotment of Railways land to Royal Palm Golf and Country Club, Lahore on nominal prices.

This Committee was constituted, by Madam Speaker, in pursuance of the resolution unanimously adopted by the National Assembly of Pakistan on 22nd April, 2008. The Committee discussed and investigated the matter of allotment of Railways land to Royal Palm Golf and Country Club, Lahore on nominal prices. The Committee comprised of the following members:-

1.	Mr.Nadeem Afzal Gondal	Chairman
2.	Mr. Muhammad Tariq Tarar	Member
3.	Mr. Tariq Shabir	Member
4.	Syed Nasir Ali Shah	Member
5.	Mr. Nauman Islam Sheikh	Member
6.	Mrs. Fauzia Wahab	Member
7.	Mr. Noor Alam Khan	Member
8.	Sardar Ayaz Sadiq	Member
9.	Ch. Abid Sher Ali	Member
10.	Raja Muhammad Asad Khan	Member
11.	Mr. Abdul Majeed Khan Khanan Khail	Member
12.	Malik Shakir Bashir Awan	Member
13.	Haji Rozud Din	Member
14.	Mr. Pervaiz Khan	Member
15.	Sheikh Waqqas Akram	Member
16.	Ms. Marvi Memon	Member
17.	Mr. Arbab Zakaullah	Member
18.	Engineer Shaukat Ullah	Member
19.	Mr. Ghulam Murtaza Khan Jatoi	Member
20.	Mr. Iqbal Muhammad Ali Khan	Member
21.	Minister for Railways	Ex-Officio Member

The Committee comprehensively undertook the examination of the specific issues relating to allotment of Railways land focusing, mainly, on the following Terms of References (TORs):

- I. **To investigate the matter of allotment of the Railways Land to the Golf Club Lahore on nominal prices.**
- II.
- III. **To recommend steps for taking legal action against the responsible persons.**

In order to achieve clarity regarding the above TORs the Committee specially examined and focused on the following:-

- i. To locate the original file of the contract containing the advertisement as well as the proposals of the International parties which went missing in June 2000;
- ii. Layout and contents of advertisement inviting expressions of interest from private sector parties;
- iii. Pre-qualification documents of the existing lessee;
- iv. The extent of due diligence practiced in Pakistan Railways when the bids were being finalized. (The official mechanism through which Pakistan Railways verified the credentials of the final bidders and specially the successful party);
- v. Why the construction of hotel was not mentioned in TOR completed on 20th April 2001
- vi. Why the Executive Committee of Pakistan Railway accorded two different approvals of the same deal within three months so; what was its purpose and what were its affects for Pakistan Railways?
- vii. Was The General Code of Engineering for Pakistan Railways, commonly known as Engineering Code, which gives guidelines on how to rent out lands and other assets of Railways, consulted before calculating the lease payments and all other charges in this deal?
- viii. Was there any major deviation or difference in the final agreement signed on July 26th 2001(between the successful bidder and Pakistan Railways) from what was the final approval of the Executive Committee of Railways Board dated July 21st 2001?

- ix. Ratification by the Railways Board;
- x. Why final terms & conditions contracted upon with the successful bidders were not in accordance with the public offering invited through advertisement?
- xi. Under what circumstances, for what purpose and for what consideration the possession of additional land, comprising about 38 acres upon which more than 32 Bungalows of Pakistan Railways in the form of a Colony stood constructed, was handed over to the lessees by demolishing all the bungalows? Why the area of land, in clear violation of the advertisement, was enhanced from 104 to 142 acres? Why the period of lease, in violation of advertisement, was increased from 33 years to 49 years.
- xii. Circumstances under which one year extension for Phase-I was granted to the present lessee and whether it had financial implications for Pakistan Railways?
- xiii. Implications of adding Phase II and Phase III in the deal whereas the advertisement was only about the Golf Club. These phases had been introduced in violation of the advertisement. The lessee had built wedding hall etc without renegotiating the contract and without paying any thing to the Pakistan Railways.
- xiv. Defaults on the part of lessees and the actions taken thereon by the management of Pakistan Railways;
- xv. Out of way favors extended to the lessees and its financial affect for Pakistan Railways;
- xvi. Status of Maxcorp (the Malaysian Firm);
- xvii. The role of Government Audit and their opinion about this matter;
- xviii. Letter written by Mainland Husnain Pakistan Limited on Dec 19th 2009 presented by Pakistan Railways in Special Committee meeting held on March 25th 2010 in response to letter written by Pakistan Railways on Dec 1st 2009;

- xix. Whether the contract was signed in *indecent haste*. Bid/prequalification documents were approved in Lahore on 21st July 2001 and a summary for the approval of the Executive Committee was prepared. This summary was put for the approval of the Executive Committee which held its meeting in Islamabad on 21st July 2001 and accorded approval on the same day i.e. 21st July 2001. In this indecent haste the Railways had been deprived of its 10% share on the sale of Food and Beverages. Which had been excluded from the gross revenue share of the Pakistan Railways.
- xx. The nature and extent of undue pressure on Railway's employees from high-ups of Railways to execute the deal; and
- xxi. Role of the present Railways administration during the proceedings of this Committee.

The Committee thoroughly examined these issues in its meetings held on 17th December, 2008, 1st April, and 11th June, 10th July and 30th September, 2009 and 25th March 2010. This report could not be compiled earlier because of lack of interest on the part of the administration of Pakistan Railways. The Committee had to dig things out, press hard to get the desired documents, made an effort to hear all the parties and characters involved in the said deal because most of them had retired, some were not in Pakistan and the remaining did not have anything of value to add or were totally non co-operative, barring a few.

Strictly adhering to the old aged principle of Natural Justice as embodied in the famous maxim "*Audi Alterem Partem*" meaning that no one should be condemned unheard, the Committee provided due opportunities to all the persons to clarify their position and record their point of view. The following were summoned to appear before the Committee:-

- 1) Lieutenant General (R) Javed Ashraf Qazi, Ex-Minister for Railways;
- ii) Lieutenant General (R) Saeed-uz-Zafar, Ex-Secretary/ Chairman Pakistan Railways;
- iii) Mr. Khurshid Alam Khan, Ex-Secretary/Chairman Pakistan Railways;

- iv) Major General (R) Hamid Hassan Butt, Ex-General Manager, Pakistan Railways;
- v) Mr. Kashif Murtaza, Ex-Secretary/Chairman (Railways);
- vi) Mr. Sami ul Haq Khilji, Secretary Railways;
- vii) Mr. Saeed Akhtar, G.M. (Operation);
- viii) Mr. Jahangir Aziz, Member Finance;
- ix) Mr. Irfan Jahangir Wattoo, D.G (Audit) Railways;
- x) Mr. Rizwan Bhatti, Executive Director (Marketing), Pakistan Railways
- xi) Mr. Ramzan Sheikh, Director Royal Palm Golf Club.
- xii) Mr. Pervaiz L. Qureshi, Director Royal Palm Golf Club.

The National Assembly Secretariat did its best to contact Mr. Iqbal Samad Khan, Ex-G.M. (Operations) but somehow he didn't appear before the Committee. It was informed that Mr. Khalid Naqi, who replaced Mr. Shafiq Ullah as Director Marketing, had left the country in the year 2000.

I. TO FIND THE ORIGINAL FILE OF THE CONTRACT CONTAINING THE ADVERTISEMENT AS WELL AS THE PROPOSALS OF THE INTERNATIONAL PARTIES WHICH WENT MISSING IN JUNE 2000?

The Secretary/Chairman Railways gave a briefing on 17th December 2008 and the Committee came to know that the most important file containing the bid documents of International Firms from Doha UAE, USA and Japan went missing in 2000. Mr. Shafiq Ullah had handed that file to Mr. Khalid Naqi who replaced him as Director Marketing.

An FIR No. 114 dated 8-6-2007 under Section 379 of PPC, was registered only when Sardar Muhammad Tufail Chairman Standing Committee on Railways had directed for its registration. The Committee observed that no serious effort was made by Railways Police to investigate the matter. The Committee was informed that the Investigating Officer recorded the statements of four witnesses and a questionnaire prepared by Police was sent to Mr. Shafiq Ullah (A practice that surprised the Committee, as public representatives have never seen this generous practice in their constituencies by Police towards a common Pakistani).

It was also reported by the Police that Mr. Shafique Ullah was repeatedly requested for a reply to the questionnaire but he never responded.

The Committee questioned why he was not arrested, the Police had no answer. In the year 2007 the then Inspector General Railways Police Major Retired Mian Zaheer Ahmed vide letter No. PS/IGP/2007 dated 14/04/2007 requested the then the Standing Committee on the Railways to ensure the availability of Khalid Naqi through Foreign Office to finalize the enquiry.

II. LAYOUT AND CONTENTS OF ADVERTISEMENT INVITING EXPRESSIONS OF INTEREST FROM PRIVATE SECTOR PARTIES.

As per record following were the dates of Advertisements inviting Expression of Interest:

March 16, 2000

August 23, 2000

September 10, 2000

- **March 16, 2000:** The Committee observed that the advertisement was simple and non professional for a golf course of an international standard. The advertisement did not mention the lease period, did not give the criteria for interested parties, did not ask for any business plan, for instance, whether the companies or consortium should be registered, if any foreign investor is interested, literally there was nothing in the advertisement except that the land was 103 Acres and Mr. Shafique Ullah's office telephone numbers were given for contact purposes.
- **August 23, 2000:** In this advertisement Pakistan Railways provided little more information about the existing facility such as a Golf Course on approximately 103 Acres. Experience was demanded and proposals regarding design and management were demanded; proof of funds was also required. The Committee observed that this was also a dodgy advertisement. However one thing was added that the Railways was not only looking for Lease/ Rentals but also for Joint Ventures.

- **September 10, 2000** :This advertisement had provided almost similar details, however a sentence was added which was seeking experience in financing, development, and management of golf courses with recreational facilities, here they also added “and/or 5 star hotel”. Though there is no mention of construction of hotel in all three advertisements. It was seen how this small addition was converted into a full fledge proposal for hotel and the second phase of the project later on. The Honorable Members of the National Assembly of Pakistan may kindly note that the area advertised in all advertisements was approximately 103 acres.

III. PRE-QUALIFICATION DOCUMENTS OF THE EXISTING LESSEE

The prequalification application for P.R Golf Club provided by Marketing Directorate of Pakistan Railways in respect of the successful bidder clearly shows that the name of the firm given therein was HCCL-Unicorn Joint Venture and HUSNAIN CONSTRUCTION CO (PVT) LTD (HCCL) LEAD PARTNER. There was no mention of any Malaysian Company as partners. MAXCORP MALAYSIA and LDR Consultants Malaysia and their company profile were mentioned in response to a clause of the bidding document regarding the previous experience of managing, planning, designing and construction of golf courses. This pre qualification document was filled and signed on 20th September 2000 for and on behalf of HCCL/UNICORN Joint Venture by Mr. Ramzan Sheikh.

IV. WHAT KIND OF DUE DILIGENCE WAS PRACTICED WHEN THE BIDS WERE BEING FINALIZED. (THE OFFICIAL MECHANISM THROUGH WHICH PAKISTAN RAILWAYS VERIFIED THE CREDENTIALS OF THE FINAL BIDDERS AND ESPECIALLY THE SUCCESSFUL PARTY)

During the meeting of 10th July 2009 in response to a question regarding mechanism adopted to verify the experience of the said party, Gen Hamid Hassan Butt replied that he was a golfer himself and that there were some highly experienced people. Upon insistence by the Committee regarding the pre requisites Gen Hamid Hassan Butt replied that the taste of the pie is in the eating.

Thus the then Railways Administration didn't follow any officially prescribed procedure for the verification of the documents submitted by the successful bidder.

The same question was replied by Mr. Rizwan Bhatti Director Marketing in these words "Golf Course is in excellent shape which is a proof in itself that the party selected for the purpose was capable of doing it successfully".

In the same meeting present Secretary Railways Mr. Sami ul Haq Khilji told the Committee that in all projects details are provided but no physical verification is done. He added that due diligence is important but small details cannot be verified.

In response to another question Secretary Railways Mr. Sami ul Haq Khilji replied that whenever people talk about prerequisites and if it relates to details of machinery, it is never checked whether machinery actually exists or not. He also told the Committee that no department in Pakistan does that.

The Committee dismissed this argument of the Secretary and told him that the rules and regulations with regard to the verification of the documents of the bidders have to be followed in letter and spirit and a Secretary should not make an irresponsible statement before the committee.

Mr. Rizwan Bhatti, Director Marketing, however, admitted that no such verification was done and Railways had not been allowed any exposure in this matter.

In another meeting held on 30th of September 2009 the Committee enquired about the government's practice to verify the credentials of the Overseas parties by involving Board of Investment, Commercial Attaché, Pakistan's Honorary & Commercial Consulates and whether this was done in the case of Malaysian firm? The Committee was just shocked to listen General Javed Ashraf Qazi who said that the best option, in his opinion, was to approach Shaukat Aziz the then Prime Minister who had good contacts in Malaysia because he had headed a bank there.

He further stated that Mr. Shaukat Aziz informed him, i.e. General (R) Javed Ashraf Qazi that this was a genuine party and recommended to welcome this investment. This was not done in writing but in the utmost informal way. This single sentence of Mr. Shaukat Aziz had completed, in the estimation of the retired General, the whole process of verification.

V) THE CONSTRUCTION OF HOTEL WAS NOT MENTIONED IN TOR COMPLETED ON 20TH APRIL 2001.

There was no mention of construction of a hotel in TOR Evaluation form filled between 17th April 2001 to 20th April 2001 and on basis of this evaluation the land was awarded to the lessee as the Executive Committee approval was given on the same date.

VA) INDECENT HASTE

On 20th April, 2001 Mr. Waseem Aslam from Directorate of Railways, Lahore wrote a letter No.DM-I C-0013. This letter was addressed to Mr. Khalid Naqi and contained the bids of both parties. Mr. Naqi prepared an approval there upon. This letter mentioned a lease period of 33 years. Mr. Naqi brought this letter along with all relevant records to Islamabad on the same date i.e. 20th April, 2001 where the Executive Committee had been waiting for him. This letter mentioned licensing fee 2.5 millions, land uses charges Rs.21.6 millions to be increased @ 15% every three years. The Executive Committee accorded its approval on the same date. This approval excluded food and beverages from the 10% gross revenue share of Pakistan Railways.

VI) NO JUSTIFICATION FOR TWO DIFFERENT APPROVALS FOR THE SAME DEAL THE SECOND APPROVAL DRASTICALLY TILTED IN THE FAVOUR OF THE LESSEE

The most surprising piece of evidence that came on record was the fact that the same deal was finalized, approved and signed twice within three months by the same Executive Committee. The **First final approval** was given by the Executive Committee of Pakistan Railways on **20th April 2001** which clearly states that:

Licensing Fee:	US\$2.5M (Rs. 150M)
Land Usage Charges:	Rs 21.6M p.a. (15% increases every three years)
Combined Royalty:	10% of Gross Revenue

Or Minimum Guaranteed: Rs 1.8M p. a
Period of Lease: 33 Years, Extendable

There was no mention of Phase-II and Phase-III.

THIS APPROVAL BY THE EXECUTIVE COMMITTEE CLEARLY STATES THE AREA OF THE CLUB WOULD BE 103 ACRES.

Second approval was given on **21st July 2001** which states that:

Phase I

Licensing Fee: US\$2.5M
Land Usage Charges: Rs 4/-per yard (15 % increase every three years)
Combined Royalty: 10% of Gross Revenue
Or Minimum Guaranteed: Rs 1.8M p. a
Period of Lease: 49 Years, Extendable

Phase II

Licensing Fee: US\$0.5 M
Fixed Guaranteed Revenue Share: Rs: 40,000,000p.a (15 % increase every three years)

There was no mention of Phase-III.

A comparison of both the approvals disclosed that in the second approval the terms and conditions were dramatically and drastically changed to give undue benefit to the lessee to the entire disadvantage of Pakistan Railways and Public Interest. In the second approval land usage charges were reduced from Rs. 52.43 per sq yard to Rs 4.00 per sq yard besides increasing area from 103 acres to 141 acres and period of lease from 33 to 49 acres. Phase II was also introduced in second approval which was not mentioned anywhere before not even in the advertisement.

The Railway Administration could not answer as to why the Second Approval was given and that too completely disadvantageous to public interest. The Railway administration couldn't provide minutes of the meetings of the Executive Committee in which the Second Approval was given. The Committee asked when and where this decision was made which approved the second approval; the Railways administration had no answer.

This so called Second Approval would cause an estimated loss of rupees 4829.12 millions during the lease period because the land usage charges were reduced from rupees 52.43 to just rupees 4.00 per square yard.

The calculation is given as follows:

TABLE SHOWING EARNINGS ON THE BASIS OF FIRST FINAL APPROVAL

Period	Original Rent (PKR)	Area	Earnings
21-07-2001 to 20-07-2004	52.43	564680 sq yard	88818517.00
21-07-2004 to 20-07-2007	60.29	-do-	102133671.00
21-07-2007 to 20-07-2010	69.33	-do-	117447793.00
21-07-2010 to 20-07-2013	79.77	-do-	135133570.00
21-07-2013 to 20-07-2016	91.73	-do-	155394289.00
21-07-2016 to 20-07-2019	105.49	-do-	178704279.00
21-07-2019 to 20-07-2022	121.31	-do-	205503992.00
21-07-2022 to 20-07-2025	139.50	-do-	236318580.00
21-07-2025 to 20-07-2028	160.42	-do-	271757896.00
21-07-2028 to 20-07-2031	184.48	-do-	312516499.00
21-07-2031 to 20-07-2034	212.15	-do-	359390586.00
21-07-2034 to 20-07-2037	243.97	-do-	413294938.00
21-07-2037 to 20-07-2040	280.56	-do-	475279862.00
21-07-2040 to 20-07-2043	322.64	-do-	546565065.00
21-07-2043 to 20-07-2046	371.03	-do-	628539661.00
21-07-2046 to 20-07-2049	426.68	-do-	722812987.00
21-07-2049 to 20-07-2050	490.68	-do-	277077182.00
49 Years		Total Earnings	5226689367.00

TABLE SHOWING EARNINGS ON THE BASIS OF 2nd FINAL APPROVAL

Period	Original Rent (PKR)	Area	Earnings
21-07-2001 to 20-07-2004	4.00	564680	6776160.00
21-07-2004 to 20-07-2007	4.60	-do-	7792584.00
21-07-2007 to 20-07-2010	5.29	-do-	8961471.00
21-07-2010 to 20-07-2013	6.08	-do-	10299763.00
21-07-2013 to 20-07-2016	6.99	-do-	11841339.00
21-07-2016 to 20-07-2019	8.03	-do-	13603141.00
21-07-2019 to 20-07-2022	9.23	-do-	15754572.00
21-07-2022 to 20-07-2025	10.61	-do-	17973764.00
21-07-2025 to 20-07-2028	12.20	-do-	20667288.00
21-07-2028 to 20-07-2031	14.03	-do-	23767381.00
21-07-2031 to 20-07-2034	16.13	-do-	27324865.00
21-07-2034 to 20-07-2037	18.55	-do-	31424442.00
21-07-2037 to 20-07-2040	21.33	-do-	36133873.00
21-07-2040 to 20-07-2043	24.52	-do-	41537860.00
21-07-2043 to 20-07-2046	28.19	-do-	47754987.00
21-07-2046 to 20-07-2049	32.41	-do-	54903836.00
21-07-2049 to 20-07-2050	37.27	-do-	21045623.00
49 Years		Total Earnings	397562949.00

Net expected loss: 5226689367.00 – (minus) 397562949.00 = 4829126418.00 or Rs.4829.12 million

VII. VIOLATION OF RAILWAYS CODE OF ENGINEERING. THIS CODE PROVIDES THAT THE ANNUAL RENT SHOULD NOT BE LESS THAN 15% OF THE MARKET VALUE OF THE LAND.

The Committee observed that the Engineering Code was not consulted at all. The contract was signed in complete disregard to Railways Code of Engineering. The Railways failed to show any document which could prove that Railways Code of Engineering was changed/ repealed before this transaction. Then Administration had intentionally violated this Code to give undue and unprecedented favor to the lessee.

The Railways could have received the following amounts if the Railways Code of Engineering had been followed. These payments are worked out on the basis of different D.C rates provided by the Revenue Department Lahore.

Total Area = 564680 square yards
Area in Acres = 680/00 = 141 Acres
Area in Kanals = 141x8 = 1128 Kanals
Area in Marlas = 1128x20 = 22560 Marlas

Value of leased land:

- a) Value of land @ 85000 (Rs)/Marla = 1917.60 million*
 - b) Value of land @ 102000 (Rs)/Marla = 2301.12 million**
 - c) Value of land @ 300000 (Rs)per Marla + 6768.00 million***
- * This is a value on the basis of 2001 DC rates for non-front areas.
** This is a value on the basis of 2001 DC rates for front side areas.
*** This is value on the basis of 2006 DC rates.

Revenue calculation on the basis of above values of land :

Per Year rent @ 15% on value at (a) above = 287.650 million

Per year rent @ 15% on value at (b) above = 345.168 million

Per year rent @ 15% on value at (c) above = 1015.200 million

Earnings of Railways on the basis of (a) in 49 years = 14089.95 million

Earnings of Railways on the basis of (b) in 49 years = 16913.232 million

Earnings of Railways on the basis of (c) in 49 years = 49744.800 million

Expected earnings in the next 39 years if the contract with Royal Palm Golf Club is terminated and the land is leased out afresh = **39592.800 million**

VIII. THE AGREEMENT SIGNED WITH THE LESSEE WAS NOT IN ACCORDANCE WITH THE FINAL APPROVAL OF THE EXECUTIVE COMMITTEE.

Perusal of the record revealed that there was major deviation or difference in the final agreement signed on July 26th 2001 (Between the successful bidder and Pakistan Railways) from what was the final approval of the Executive Committee of Railway Board on 21st July 2001. Land was suddenly increased from 103 acres to 141.17 acres.

The agreement has excluded food and beverages from the gross revenue share of the Railways. This was in violation of the final approval of the Executive Committee. The Railways Authorities couldn't give any justification for this exclusion which will cause a loss of millions of rupees to National Exchequer.

The project has been expanded to Phase-III Construction of a 5Star hotel was also added. There were no documents to prove the experience and expertise of the lessee in running/maintaining any five star hotels. The Committee concluded that General (R) Saeed Ud Zafar, in the galaxy of other fellow retired Generals was calling the shots and directing all transactions.

IX. RATIFICATION BY THE RAILWAYS BOARD.

The minutes of meetings of the Executive Committee which decided to award the contract were ratified by the Railways Board months after the final agreement was signed. A futile exercise. When enquired if Railways Board would have refused to ratify the deal what would have been the situation? The Secretary Railways replied that it was understood that Board would ratify the decision of the Executive Committee.

X. FINAL TERMS OFFERED TO THE SUCCESSFUL BIDDERS WERE NOT IN ACCORDANCE WITH THE PUBLIC OFFERING INVITED THROUGH THE ADVERTISEMENT.

The Committee observed that the final terms and conditions offered to the lessee were not in accordance with the advertisements whereby the Expression of

Interest were invited. This was one of the main reasons of the annulment of the privatization of Pakistan Steel Mills (P.S.M) by the Supreme Court of Pakistan.

XI. THE POSSESSION OF LAND AND THE DEMOLITION OF THE BUNGALOWS

The additional land was provided to the Lessees by demolishing 32 Bungalows in Railway Officers Colony, Canal Bank Road Lahore. These Bungalows were got vacated in a highly objectionable manner. The Committee was apprised that most of the Bungalows were got vacated forcibly and without giving alternate accommodations to the affected officers. Lt General (R) Ashraf Kazi refused to admit the existence of any bungalows; however he admitted that only 3 houses were there. Lt. General (R) Saeed-uz-Zafar, Ex-Secretary Railways endorsed this statement. He said that only 3 houses were there which were in a very dilapidated condition.

Mr. Irfan Jahangir Wattoo, Director General Audit (Railways) vehemently contradicted versions of both the Generals and stated that he had documentary evidence that could establish it beyond any shadow of doubt that there were at least 32 Officers Bungalows which were got vacated for handing over the associated land to the present lessees. He was also supported by an officer of Pakistan Railways Mr. Anjum Pervaiz (Additional GM Infrastructure Pakistan Railways) who contradicted both the Generals and stated that it was a matter of record and that there existed more than 30 high class bungalows consisting of 3 to 4 bed rooms and he used to live in one of them. From the discussion it was clearly established that many officers were forced to vacate their houses without giving them any notice and without providing any alternate accommodation. It was also established that the said bungalows were demolished in a precarious manner. The debris of these Bungalows like wooden doors, girders, bricks, furniture & fittings etc., went missing. Had this material been auctioned in a transparent manner, a handsome amount might had been added to the National Exchequer. The Committee observed by going through the record that there were 54 small and big bungalows in the said Officers Colony of Pakistan Railways and after demolishing these residences, the released materials were left on the discretion of lessee.

XII. ONE YEAR EXTENSION

One year extension in respect of completion period of Phase-I was granted by Pakistan Railways on 15.5.2007 and this was done in a meeting chaired by Secretary /Chairman Railways. The lack of facilitation by the Railways was cited an excuse for this extension. This project was inaugurated by General (R) Pervez Mushraf himself, and that it was evidently according to the choice of the present lessee, therefore, no body in Pakistan Railways would have dared to refuse any facilitation and support to the lessee. There was no justification whatsoever to grant this extension and that too without imposing any penalty as provided in the agreement.

XIII. PHASE II AND PHASE III

Phase-II was not mentioned in the advertisement nor in the first approval of the Executive Committee dated 20th April 2001. The agreement was expanded to Phase-III as well which is indeed an open ended proposition which vaguely mentioned the construction of apartments, condominiums, office blocks and any other facilities with the mutual consent. The Secretary Railways and his team just couldn't convince the Committee about the inclusion of Phase-III. This phase-III was not mentioned in any advertisement etc.

XIV. DEFAULT AND NOTICES

Commissioner Income Tax in the meeting of 30th September, 2009 informed the Committee:

- The FBR had offered facilities to the Tax Payers in the year 2008 but the present lessee did not file the returns;
- The lessee doesn't comply with their notices;
- They did not receive audited accounts of the lessee till 2007; and
- The lessee doesn't comply with the notices issued by the tax authorities.

DEFAULTS ON THE PART OF LESSEE TOWARDS PAKISTAN RAILWAYS

S. No.	Description	Due Date	Amount Due	Receipt Date	Period of delay in days
1	Commitment Fee Phase-I 2001-02				
	-do- 2002-03	10-09-2002	15,000,000	18-12-2002	98

	-do- 2003-04	10-09-2003	15,000,000	24-02-2004	164
	-do- 2007-08	10-09-2007	12,857,143	01-02-2008	141
	-do- 2008-09	10-09-2008	12,857,143	25-06-2009	286
	-do- 2009-10	10-04-2009	12,857,143	OUTSTANDING	169
2.	Revenue Share Phase-I (05-06)	30-10-2006	93,842,660	15-05-2005 1700000/-	592
				01-07-2006 1700000/-	
				10-02-2008 40000000/-	
				17-06-2008 25000000/-	
				17-06-2008 25054213/-	
				17-06-2008 388447/-	
3.	Revenue Share Phase-I (06-07)	30-10-2007	23,011,524	17-06-2008 14611553/-	300 days
				11-07-2008 1700000/-	
				31-08-2008 669997/-	
4.	Revenue Share Phase-I (07-08)	30-10-2008	22700000	29-09-2009 4000000/- 25-10-2009 7000000	425 days
				25-11-2009 1700000/- 28-12-2009 1000000/-	
5.	Revenue Share Phase-I (08-09)	30-10-2009		OutStanding	11 days
6.	Minimum Rent Phase-I (2001-02)				
	-do- 2006-07	15-11-2007	2,597,529	31-08-2008	285 days
	-do- 2007-08	15-11-2008	2,987,157	19-05-2010	175 days
	-do- 2008-09	15-11-2009	2,987,157	12-03-2010	117 days
	Phase-II				
7.	Commitment Fee Phase-II 2004-05	15-05-2005	US\$ 100,000	05-04-2007	685 days
	-do- 2005-06	15-12-2005	US\$ 100,000	05-04-2007	685 days
	-do- 2006-07	15-12-2006	US\$ 100,000	03-07-2007	198 days
	-do- 2007-08	15-12-2007	US\$ 100,000	30-06-2008	195 days
	-do- 2008-09	15-12-2008	US\$ 100,000	25-11-2009	340 days
	-do- 2009-10	15-12-2009	US\$ 100,000	OutStanding	74 days
8.	Fixed Guaranteed, Revenue share Phase-II	15-12-2009	40,000000	OutStanding	212 days

On this issue, Mr. Irfan Jahangir Wattoo, DG Audit stated before the Committee more than once that the lessee has never submitted its audited accounts in time and that was done deliberately because if the audited accounts are submitted in time, i.e., on 30th October every year as per agreement, then the 10% share out of the gross receipts of the lessees which is payable to Pakistan Railways can be determined and recovered consequently but the lessee opts for maximum delays because it has to pay simple interest on the outstanding amount and not compound interest in case of default as is done by the banks and financial institutions. The Committee asked why any notice of termination wasn't given on instances of defaults and what the termination clause is meant for if it is not to be used? The Secretary Railways replied that the legal opinion sought for this purpose advised us not to go for termination. The Committee observed that the Railways were bound to give notice of termination in each and every case of default as per provisions of the contract/agreement and for this purpose they did not require any legal opinion. The Committee further observed that the contract was very clear on this issue as in the termination clause the word "shall" used making it obligatory and binding upon Pakistan Railways to terminate the contract in each and every case of default when it had got finalized and had the word "may" been used the option of termination or otherwise might have been available to Pakistan Railways.

XV. OUT OF THE WAY FAVOURS GIVEN TO LESSEE

The Committee observed that the Executive Committee's approvals were tailored according to the needs of the lessee; and some of the concessions/favors granted to the lessee without any monetary benefits to Pakistan Railways are as under:-

- ii) The area was increased from 103 acres to 141.15 acres.
- iii) The lease period increased from 33 to 49 years.
- iv) Food and beverages had been excluded from the 10% revenue share of Pakistan Railways. The Railways will not earn even a penny from the sales of food and beverages.
- v) Extension in completion period was granted without imposing any penalty.

vi) Official residences were demolished within 15 days and the expenditure incurred on demolishing was borne by the Pakistan Railways.

vii) The lessee was allowed to occupy the land meant for phase-II and phase-III without paying any rent.

viii)

XVI. MAXCORP (THE MALAYSIAN FIRM)

This firm whose credentials were verbally verified by Mr. Shaukat Aziz and no official procedure was followed to see if they are what they claim to be? This Malaysian firm was used to gain the contract as MLHP had no prior experience in the development of golf courses. The experience of MaxCorp was used to get the contract. The Committee observed that a lot of arm twisting was done to buy the shares of MaxCorp at cheaper prices and at the end it was forced to leave Pakistan.

The Secretary Railways and Ex-General repeatedly argued that the termination of this agreement will discourage foreign investment whereas their own acts of omission and commission had made Maxcorp a foreign investor to dispose of its shares and leave Pakistan crying. The Committee noted that MHPL had in fact used Maxcorp for the sole purpose of pre-qualification.

XVII. THE OBJECTION RAISED BY THE AUDIT DEPARTMENT.

The record produced before the Committee by Mr. Irfan Jahangir Wattoo, Director General Audit (Railways) disclosed that his office had raised serious audit objections on this deal repeatedly in the Audit reports. For example the Audit Report on The Accounts of Pakistan Railways for the Audit Year 2006-07 reads as follows:-

“In terms of General Manager, Land Management circular dated 11th August 1987 the rental charges of Railways land, licensed out for commercial purposes not connected with Railways working, should be fixed @ 15% of the market value. The additional land was of a very high commercial value which could have earned Pakistan Railways substantial revenue, had its rent been worked out on the above lines. In this way Pakistan Railways sustained estimated annual loss of Rs.196.800 million and estimated total loss of Rs.9, 463.20 million for the lease period”.

This paragraph was in respect of provision of additional land of 38.15 acres to the lessee as discussed above. Mr. Wattoo also explained that he has developed very substantial audit objection on all areas Specially defaults and has also been reminding Mr. Rizwan Bhatti, Director Marketing, Pakistan Railways about the fact that undue favors were being extended to the lessee in sheer disregard of public interest. He repeatedly contended that it was not in public interest to let this deal continue in its present form.

XVIII. A LETTER OF MHPL PRESENTED TO THE COMMITTEE.

Despite the fact that the lessee MHPL was given a fair chance to record their statement but they refused to co-operate with Pakistan Railways. Instead they preferred on 19th December 2009 to write a letter addressed to Pakistan Railways which was presented to the Special Committee on 25th March 2010. In this letter the lessee had argued that this Committee had no jurisdiction to probe the allotment of land.

XIX. GROSS REVENUES MINUS FOOD AND BEVERAGES

The Railways had been deprived of any earning which the lessee will receive from the sales of food and beverages. The Secretary Railways couldn't produce any record to show who authorized this exclusion. The Executive Committee approved 10% share of gross revenue of the lessee. But in the agreement which was signed with the lessee, the Railways have been deprived of any share from the sales of food and beverages. The Committee concluded that this exclusion was allowed without any approval of the Executive Committee.

XX. UNDUE PRESSURE ON RAILWAYS EMPLOYEES FROM HIGH UPS OF RAILWAYS TO EXECUTE THE DEAL

Mr. Shafique Ullah informed the Committee that he was harshly treated, victimized and transferred to far flung areas for the simple reason that he had refused to compromise on the public interest. When the Committee asked Javed Ashraf Qazi why Mr. Shafique Ullah was removed and treated inhumanly. He replied that the advertisement prepared by him was unimpressive and he refused to admit any harsh treatment to Mr. Shafique Ullah.

XXI.ROLE OF THE PRESENT RAILWAYS ADMINISTRATION DURING THE INVESTIGATION

The Committee observed that the present Secretary Railways and Mr. Rizwan Bhatti Director Marketing had deliberately tried to mislead the Committee in their own ways. For example, information was held back, efforts were made to protect the wrong doings Ex-Officials of Railways of the Railways Administration tried to approach the members of the Committee from different channels to influence these recommendations and made efforts to distort the data pertaining to this deal. They kept on protecting the lessee at the cost of public interest.

The Sub-Committee couldn't compile its findings.

A Sub-Committee consisting of Mr. Pervaiz Khan as Convener and Raja Muhammad Asad Khan as Member couldn't compile its recommendations/ findings. Raja Muhammad Asad Khan, in a letter, addressed to Special Committee had informed that the Sub-Committee was unable to compile its findings. Raja Muhammad Asad Khan requested that the Special Committee as a whole may examine the legal aspect of the contract.

CONCLUSIONS:

1. On the basis of what has been produced before the Committee and Specially in view of the fact that there exist two approvals of the same deal one of which, i.e., accorded on July 21st 2001 is highly suspicious as it drastically reduced the financial effect to the entire disadvantage of the public exchequer and gave an overwhelmingly advantageous position to the present lessees in financial terms and also keeping in view that the record of the bidding proposals is completely missing, we strongly feel that the contract was secured by the present Lessees through deceit and fraud in active connivance of the then high ups of Pakistan Railways and is not in accordance with the approved terms or the advertised terms. It is illegal / void Specially in light of the Supreme Court decision on the privatization of Pakistan Steel Mills. It was signed in indecent haste on the same day the Executive Committee approved the terms & conditions of the deal. The people in helm of affairs in Pakistan railways and three retired Generals who appeared before the Committee miserably failed to explain as to how

all the work, approval of the deal, preparation of the contract documents and signing of the same was managed in one day. It appears that it was actually a private contract between those retired Generals and the lessee.

2. The inclusion of Phase-II in the deal was also illegal not based on any expression of interest and was not mentioned in the advertisement. It was also required to be completed within five years, but eight years have lapsed with land in their possession but without any revenue for Pakistan Railways. The reasons of delay given by the party are baseless excuses. Phase-III is also completely illegal.
3. Revenue share of the golf course should be from gross revenue including everything as approved by the Executive Committee.
4. As per Railways record, the lessee has been repeatedly committing defaults and its contract is liable to be terminated on this sole ground because it has made no attempt to get the defaults regularized in accordance with the provisions of the contract which necessitates that all the defaults or major deviations in the performance of the contract should be regularized by way of ancillary agreements for the purpose. It is further added that the Lessee has failed to make payments which were due to Pakistan Railways.
5. The Agreement has no legal or moral standing as it had been obtained through deceit, deception, misrepresentation and should be terminated accordingly.
6. The replies given by Railways officers, Ex-Chairman and the Lessees were not satisfactory and did not address the issues at all.
7. The lessee has been occupying the land meant for phase-II and III without paying any rent.
8. The Committee calculated net present value (NPV) of the land which substantiates that it was a very poor deal.
9. The Committee agrees with the opinion of the Director General Audit (Railways) to the effect that even if we accept the value of the land to be Rupees 3.2 billion approximately as was claimed by Major General (R) Hamid Hassan Butt, even in that case the Railways shall suffer a loss of Rupees 25 billion due to this deal if it is allowed to continue, because the rent is not calculated according to Railways Code of Engineering which

provides that the annual rent should not be less than 15% of the market value of the land. This contract is, therefore, detrimental to public interest.

10. The Committee recommends that the Honorable Members of the National Assembly of Pakistan may kindly give consideration to the following facts and figures which are reproduced again for their kind perusal.

Total Area = 564680 square yards
Area in Acres = 680/00 = 141 Acres
Area in Kanals = 141x8 = 1128 Kanals
Area in Marlas = 1128x20 = 22560 Marlas

Value of the leased land:

- a) Value of land @ 85000 (Rs)/Marla = 1917.60 million*
b) Value of land @ 102000 (Rs)/Marla = 2301.12 million**
c) Value of land @ 300000 (Rs)per Marla + 6768.00 million***

* This is a value on the basis of 2001 DC rates for non-front areas.

** This is a value on the basis of 2001 DC rates for front side areas.

*** This is value on the basis of 2006 DC rates.

Revenue calculation on the basis of above values of land:

Per Year rent @ 15% on value at (a) above = 287.650 million

Per year rent @ 15% on value at (b) above = 345.168 million

Per year rent @ 15% on value at (c) above = 1015.200 million

Earnings of Railways on the basis of (a) in 49 years = 14089.95 million

Earnings of Railways on the basis of (b) in 49 years = 16913.232 million

Earnings of Railways on the basis of (c) in 49 years = 49744.800 million

Expected earnings in the next 39 years if the contract with Royal Palm Golf Club is terminated and the land is leased out afresh = **Rs. 39592.80 million**

(1015.200 million X 39=39592.80 million)

The Special Committee on Railways, therefore, concludes that the continuation of this agreement is causing recurring losses to the Public Exchequer. This contract was achieved through deceit, deception, fraud, cheating and misrepresentation, therefore the Committee recommends:-

- 1) The Contract should be terminated and all the dues and losses should be recovered from the lessee with interest.
- 2) Legal proceeding should be initiated against:
 - i) Lt. General (R) Javaid Ashraf Qazi, Ex-Minister for Railways;

- ii) Lt. General (R) Saeed-uz-Zafar, Ex-Secretary/ Chairman Railways;
 - iii) Mr. Khurshid Alam Khan, Ex-Secretary/Chairman Railways;
 - iv) Major General (R) Hamid Hassan Butt, Ex-General Manager;
- 3) The Committee further recommends that All Members of the Executive Committee should be prosecuted. The Executive Committee was comprised of the following Officers:-
- | | |
|-----------------------|----------|
| 1) Secretary Railways | Chairman |
| 2) G.M. (Operations) | Member |
| 3) G.M. (S & M) | Member |
| 4) G.M. (Finance) | Member |
- 4) The Special Committee recommends that the Members of the Committee which examined the pre-qualification criteria should also be brought to justice. This Committee was consisted of the following:-
- i) Divisional Superintendent Lahore, ii) Director Property and Land;
 - iii) Director Marketing, Mr. Khalid Naqi;
- 5) The Committee recommends that the properties of the persons mentioned at serial No. 2 to 4 above should be confiscated and auctioned to make up the losses which the National Exchequer has suffered due to their negligence, connivance and sheer disregard to public interest.
- 6) The Committee appreciates the services rendered by Mr. Irfan Jahangir Wattoo, D.G. Audit. (Railways)
- 7) The Committee recommends that the interest of the Members of the Royal Golf Palm and Country Club should be protected and an adhoc Committee consisting of Senior Members of the Club may be constituted for an interim period not exceeding 90 days.
- 8) Efforts should be made to lease out Royal Golf Palm and Country Club in an open and transparent way so that maximum revenue is got ensured for Pakistan Railways.

(KARAMAT HUSSAIN NIAZI)
Secretary
National Assembly Secretariat

(NADEEM AFZAL GONDAL)
Chairman
Special Committee on Railways

Islamabad, the 26th August, 2010