

# Infopack

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EDITORIAL

## Land: Not for Tillers But for Buyers

- Piyush Pant

The Indian State seems to have adopted duplicity of character. This has been so particularly after the year 2000. The Indian State is getting weaker on the plank of providing welfare programmes for the people whereas it is becoming tougher when it comes to serving the interests of the corporates, that too at the cost of the interest of the people. So subservient it has become to the interests of the corporates that it has started dictating over the communities who had their own traditional laws for thousands of years, and who have never imposed their laws on any one. By taking recourse to the Land Acquisition Act of 1894, the State is violating the indigenous people's inalienable rights over the natural resources which were recognized even by the Constitution by making provisions such as Scheduled Areas and guarantees like PESA (Panchayat Extension to the Scheduled Areas) Act and Forest Rights Act.

This onslaught on the indigenous community's rights has been unleashed through the mechanism of state driven displacement on the pretext of slogans like 'Development' and 'National Interest'. Studies point out that between 1947 and 2000 the number of displaced persons (DP) or project affected persons (PAP) throughout India stood at 50 to 60 million. This figure includes around 3 million displaced in Jharkhand, 3 million in Orissa, 5 million in Andhra Pradesh, 1 million in Kerala, 1 lakh in Goa, 2 million in Assam, 4.2 million in Gujrat and 7.5 million in West Bengal. These 60 million people have been displaced from 25 million hectares of land, including 7 million hectares of forest and 6 million hectares of other common revenue and forest lands known as common property resources (CPR). But these displaced or project affected persons remain neglected by the administration. The result is that fewer than 20% of the displaced have been rehabilitated only partially and the rest are left to fend for themselves. The bitter truth is that 40% of these 60 million displaced persons are tribals who constitute just 8.08 % of India's population while 20% are dalits and another 20% are from other rural poor communities like fisherfolk and quarry workers. Moreover, around 25% of India's tribal have been displaced at least once as their regions are mostly rich in natural resources. There are also many tribals who have been displaced more than once.

The tragedy is that the areas inhabited by tribals are usually selected for projects because much of the land is community-owned, and as the colonial laws continue to be in force in India, what belongs to the community is considered State property and the inhabitants living on the land for centuries are called encroachers. Thus they are displaced from the land without being compensated. Such has become the character of the Indian as well State governments that by remaining unfettered by the woes of these people they are hell bent upon displacing them with fresh zeal by bringing fresh amendments to the Land Acquisition Act and other land related laws. The Land Acquisition (Amendment) Bill 2007 is a step in that direction.

But, of late, local people have started resisting and raising their voice against the displacement through sit-in protests and mass movements. Feeling the heat, the Union government was forced to bring the Rehabilitation & Resettlement Bill 2007. But this Bill was not received well by the critics. Many provisions of this Bill as well as that of Land Acquisition (Amendment) Bill 2007 were subjected to criticism. This action of the Government is being seen not merely as an attempt to deceive project affected families into believing that their lost rights will be restored but also to quell the large-scale protests against forcible land acquisition that has erupted all over the country.

Seeing the mounting criticism, the Government decided to send these two Bills to a Group of Ministers (GOM) for scrutiny.

In this issue of **INFOPACK** we have given the summary of various land related Acts and Bills.

# The Rehabilitation and Resettlement Bill, 2007

By:

Government of India

## Bird's Eye View

The document says that this Bill will be enacted by Parliament in the Fifty-eighth year of the Republic of India. The objective of the Bill is to provide for the rehabilitation and resettlement of persons affected by the acquisition of land for projects of public purpose or involuntary displacement due to any other reason, and for matters connected therewith or incidental thereto.

*The 27-page document is divided into seven chapters.*

Chapter I: Short title, extent and commencement; Chapter II: Social Impact Assessment of Projects; Chapter III: Authorities for Rehabilitation and Resettlement; Chapter IV: Schemes or Plans for Rehabilitation and Resettlement; Chapter V: Rehabilitation and Resettlement of Affected Families; Chapter VI: Rehabilitation and Resettlement for the Affected Families; Chapter VII: Miscellaneous.

In Chapter I, under the Preliminary heading, the document says that this Act may be called the Rehabilitation and Resettlement Act, 2007, and would extend to the whole of India except the State of Jammu and Kashmir.

The Act will come into effect on such date as the central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States.

The provisions of this Act shall apply to the rehabilitation and resettlement of persons affected by acquisition of land under the Land Acquisition Act, 1894 or any other Act of the Union or a State for the time being in force; or involuntary displacement of people due to any other reason.

In this chapter, the document also gives a list of some important definitions related to this Act. For example,

- a) "Administrator for Rehabilitation and Resettlement" means an officer appointed for the purpose of rehabilitation and resettlement of affected persons under sub-section (1) of section (9);
- b) "affected family" means-
  - a family whose primary place of residence or other property or source of livelihood is adversely affected by the acquisition of land for a project or involuntary displacement due to any other reason;
  - any tenure holder, tenant, lessee or owner of other property, who on account of acquisition of land in the affected area or otherwise, has been involuntarily displaced from such land or other property;
  - any agricultural or non-agricultural labourer, landless person, rural artisan, small trader or self-employed person, who has been residing or engaged in any trade, business, occupation or vocation continuously for a period of not less than five years in the affected area preceding the date of declaration of the affected area, and who has been deprived of earning his livelihood or alienated wholly or substantially from the main source of his trade, business, occupation or vocation because of the acquisition of land in the affected area or being involuntarily displaced for any other reason;
- c) "affected area" means area of village or locality notified by the appropriate Government under sub-section (1) of section 20;
- d) "agricultural labourer" means a person primarily resident in the affected area for a period of not less than five years immediately before the declaration of the affected area, who does not hold any land in the affected area but who earns his livelihood mainly by manual labour on agricultural land therein immediately before such declaration and who has been deprived of his livelihood;

- e) "below poverty line or BPL Family" means below poverty line families as defined by the Planning Commission of India, from time to time, and those included in a BPL list for the time-being in force;
- d) "family" includes a person, his or her spouse, minor sons and brothers, unmarried daughters and sisters, father, mother and other relatives residing with him or her and dependent on him or her for their livelihood; and includes 'nuclear family' consisting of person, his or her spouse and minor children;
- e) "land acquisition" or "acquisition of land" means acquisition of land under the Land Acquisition Act, 1894, as amended from time to time, or any other Act of the Union or a State for the time being in force;
- f) "marginal farmer" means a cultivator with an unirrigated land holding up to one hectare or irrigated land holding up to half hectare;
- g) "non-agricultural labourer" means a person who is not an agricultural labourer but is primarily residing in the affected area for a period of not less than five years immediately before the declaration of the affected area and who does not hold any land under the affected area but who earns his livelihood mainly by manual labour or as a rural artisan;
- h) "occupier" means a member of a Schedule Tribes community in possession of forest land prior to the 13th day of December,2005;
- i) "requiring body" means a company, a body corporate, an institution, or any other organization for whom land is to be acquired by the appropriate Government, and includes the appropriate Government.
- j) "small farmer" means a cultivator with an un-irrigated land holding upto two hectares or with an irrigated land holding upto one hectare, but more than the holding of marginal farmer.

In Chapter II, the document says that whenever, it is desired to undertake a new project or expansion of an existing project, which involves involuntary displacement of four hundred or more families en mass in plain areas, or two hundred or more families en mass in tribal or hilly areas, DDP (Desert Development Programme) blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, the appropriate Government shall ensure that a social impact assessment study is carried out in the proposed affected areas in the manner as may be prescribed.

The document also says that while undertaking a social impact assessment under sub-section (1), the appropriate Government shall take into consideration the impact that the project will have on public and community properties, assets and infrastructure; particularly, roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities, such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, places of worship, land for traditional tribal institutions, burial and cremation grounds.

It says that the social impact assessment report shall be submitted to the appropriate Government for its examination by an independent multi-disciplinary expert group, as may be notified by the appropriate Government.

There will be concurrent social impact assessment study in cases requiring environmental impact assessment study.

The document further points out that the conditions laid down in the social impact assessment clearance shall be followed by all concerned, including the Administrator for Rehabilitation and Resettlement while preparing and

implementing the rehabilitation and resettlement plan.

The projects involving emergency acquisition of minimum area of land by the Central Government for the purpose of defence or national security shall be exempted from the provisions of this Chapter, subject to such institutional safeguards as may be prescribed for protecting the interest of the affected families.

In chapter III, the document says that subject to the superintendence, directions and control of the appropriate Government and the Commissioner for Rehabilitation and Resettlement, the Administrator for Rehabilitation and Resettlement shall take all measures for the rehabilitation and resettlement of the affected families.

Subject to any general or special order of the appropriate Government, the Administrator for Rehabilitation and Resettlement shall perform the following functions, namely:-

- minimize displacement of persons and to identify non-displacing or least displacing alternatives in consultation with requiring body;
- hold consultation with the affected persons while formulating a rehabilitation and resettlement scheme or plan;
- ensure that the interests of the adversely affected persons of the Schedule Tribes and weaker sections are protected while formulating the rehabilitation and resettlement scheme or plan;
- prepare a budget including estimated expenditure of various components of acquisition of land, rehabilitation and resettlement activities or programmes in consultation with representatives of the affected families and the requiring bodies;
- arrange land for rehabilitation and resettlement of the affected families;
- allot land and ensure providing of benefits to the affected families;

The document further points out that the appropriate Government shall appoint, in such manner as may be prescribed, an ombudsman for time-bound disposal of the grievances arising out of the matters covered under this Act.

It also says that any affected person, if aggrieved, for not being offered the benefits admissible, may move a petition for redressal of his grievances to the ombudsman.

The ombudsman shall have the power to consider and dispose of all petitions relating to resettlement and rehabilitation against the decision of the Administrator for Rehabilitation and Resettlement or Resettlement and Rehabilitation Committee and issue such directions to the requiring body, the Administrator for Rehabilitation and Resettlement, the District Collector or Deputy Commissioner of the districts, as he may deem proper for the redressal of such grievances.

The document further says that in case a project covers an area in more than one State or Union territory where the project affected families are or had been residing, or proposed to be resettled, the Central Government shall, in consultation with the concerned States and Union territories, appoint the Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement, a common Rehabilitation and Resettlement Committee, and the Ombudsman for the purposes of this Act.

The Central Government shall constitute a National Monitoring Committee for reviewing and monitoring the implementation of rehabilitation and resettlement schemes or plans under this Act. The States and Union territories shall provide all the relevant information on the matter covered

under this Act, to the National Monitoring Committee in a regular and timely manner, and also as and when required.

In Chapter IV, the document states that where the appropriate Government is of the opinion that there is likely to be involuntary displacement of four hundred or more families en masse in plain areas, or two hundred or more families en masse in tribal or hilly areas, DDP blocks or areas mentioned in the Fifth Schedule or Sixth Schedule to the Constitution, due to acquisition of land for any project or due to any other reason, it shall, declare, by notification in the Official Gazette, area of villages or lands as an affected area.

It also says that every declaration made under sub-section (1) shall be published in at least three daily newspapers, two of which shall be in the local vernacular, having circulation in villages or areas which are likely to be affected, and also by affixing a copy of the notification on the notice board of the concerned gram panchayats or municipalities and other prominent place or places in the affected area as well as the resettlement area, or by any other method as may be prescribed in this regard by the appropriate Government.

Every survey under sub-section (1) shall contain the following village-wise information of the affected families, namely:-

- members of the family who are permanently residing, engaged in any trade, business, occupation or vocation in the affected areas;
- families who are likely to lose, or have lost, their house, agricultural land, employment or are alienated wholly or substantially from the main source of their trade, business, occupation or vocation;
- agricultural labourers and non-agricultural labourers;
- families belonging to the Schedule Caste or Schedule Tribe categories;
- vulnerable persons such as the disabled, destitute, orphans, widows, unmarried girls, abandoned women, or persons above fifty years of age, who are not provided or cannot immediately be provided with alternative livelihood, and who are not otherwise covered as part of family;
- families that are landless and below poverty line, but residing continuously for a period of not less than five years in the affected area preceding the date of declaration of the affected area; and
- the Schedule Tribes families who are or were in possession of forest lands in the affected area prior to the 13th day of December, 2005.

The document further points out that every survey undertaken under sub-section (1) shall be completed within a period of ninety days from the date of declaration made under sub-section (1) of section 20.

It also says that within a period of forty five days from the date of receipt of the details of the survey and recommendations of the Administrator for Rehabilitation and Resettlement, the appropriate Government shall publish the final details of survey in the Official Gazette.

After completion of baseline survey and census of the affected families under section 21, and assessment of the requirement of land for resettlement under section 22, the Administrator for Rehabilitation and Resettlement shall prepare a draft scheme or plan for the rehabilitation and resettlement of the affected families after consultation with the representatives of the affected families including women and the representative of the requiring body.

The draft rehabilitation and resettlement scheme or plan shall be made known locally by wider publicity in the affected area and the resettlement

area in such manner as may be prescribed by the appropriate Government which shall also be discussed in the concerned gram sabhas and in public hearings in urban and rural areas where gram sabhas do not exist:

Provided that the consultation with Gram Sabha or the Panchayats at the appropriate level in Scheduled Areas under the Vth Schedule shall be in accordance with the provisions of the Provisions of the Panchayats(Extension to the Scheduled Areas) Act, 1996:

Provided further that, in case of involuntary displacement of two hundred or more Scheduled Tribes families from the Scheduled Areas, the concerned Tribes Advisory Councils shall also be consulted.

The document further says that the draft rehabilitation and resettlement scheme or plan shall contain the following particulars, namely:-

- the extent of land to be acquired for the project or lost otherwise and the names of the affected villages;
- a village-wise list of the affected persons, the extent and nature of land and immovable property owned or held in their possession in the affected area, and the extent and nature of such land and immovable property which they are likely to lose or have lost, indicating the survey numbers thereof;
- a list of agricultural labourers in such area and the names of such persons whose livelihood depends on agricultural activities;
- a list of persons who have lost or are likely to lose their employment or livelihood or who have been or likely to be alienated wholly or substantially from their main sources of trade, business, occupation or vocation consequent to the acquisition of land for the project or involuntary displacement due to any other cause;
- a list of non-agricultural labourers, including artisans in such area;
- a list of affected landless families, including those without homestead land and below poverty line;
- a list of public utilities and government buildings which are affected or likely to be affected;
- a list of benefits and packages which are to be provided to the affected families;
- the time schedule for shifting and resettling the displaced families in the resettlement area; and
- such other particulars as the Administrator for Rehabilitation and Resettlement may consider necessary.

The document further says that while preparing a draft scheme or plan in case of a project involving land acquisition on behalf of a requiring body, the Administrator for Rehabilitation and Resettlement shall ensure that the entire estimated cost of rehabilitation and resettlement scheme or plan is included in the cost of the project for which the land is being acquired on behalf of the requiring body; and the entire expenditure of rehabilitation and resettlement benefits including the expenditure incurred on rehabilitation and resettlement of the affected families are borne by the requiring body.

The document also points out that in case of a project involving land acquisition on behalf of a requiring body, it shall be the responsibility of the appropriate Government to obtain the consent of the requiring body, to ensure that the necessary approvals as required under this Act have been obtained, and to make sure that the requiring body has agreed to bear the entire cost of rehabilitation and resettlement benefits and other expenditure for rehabilitation and resettlement of the affected families.

Under chapter V, provisions for Rehabilitation and Resettlement of Affected

Families have been given. For example,

- The affected families may, wherever possible, be settled in a group or groups.
- In case the entire population of the village or area to be shifted belongs to a particular community, such population or the families may, wherever possible, be settled en masse in the resettlement area.
- In the case of resettlement of the Scheduled Castes affected families, such families may, wherever possible, be resettled in the areas close to the villages.
- In case of a project involving land acquisition on behalf of a requiring body, the compensation award, full payment of compensation, and adequate progress of rehabilitation and resettlement shall precede the actual displacement of the affected families.

If land is acquired in case of urgency, under the Land Acquisition Act, 1894, as amended from time to time, or any other Act of the Union or State for the time being in force, each affected family shall be provided with transit and temporary accommodation, pending rehabilitation and resettlement scheme or plan, in addition to the payment of monthly subsistence allowance and other rehabilitation and resettlement benefits due to them under this Act.

In chapter VI, the document talks about the rehabilitation and resettlement benefits for the affected families.

It says that any affected family owning house and whose house has been acquired or lost, shall be allotted land for house, without requiring him to pay the price for such land, to the extent of two hundred and fifty square metre of land in rural areas or, as the case may be, one hundred and fifty square metre of land in urban areas to each family within the affected family, subject to the actual area acquired or lost:

Provided that, in urban areas, a house of up to one hundred square metre carpet area may be provided in lieu thereof.

Each below poverty line affected family which is without homestead land and which has been residing in the affected area continuously for a period of not less than five years preceding the date of declaration of the affected area and which has been involuntarily displaced from such area, shall be provided with a house having at least fifty square metre carpet area in rural areas or, as the case may be, twenty-five square metre carpet area in urban areas, in the resettlement area:

Provided that any such family opts not to take house offered, shall get a one-time financial assistance for house construction, and the amount shall not be less than what is given under any programme of house construction by the Government of India.

The document also says that:

- 1) Each affected family owning agricultural land in the affected area and whose entire land has been acquired or lost, or who has, as a land consequence of the acquisition or loss of land, been reduced to the status of a marginal farmer, shall be allotted, in the name of each person included in the records of rights with regard to the affected family, agricultural land or cultivable wasteland to the extent of actual land loss by the affected family subject to a ceiling of one hectare of irrigated land or two hectares of un-irrigated land or cultivable wasteland, if Government land is available in the resettlement area.
- 2) In case of irrigation or hydel projects, the affected families shall be given preference in allotment of land-for-land in the command area of

the project:

Provided that such lands may be consolidated and plots of suitable sizes allotted to the affected families, who could be settled there in groups:

Provided further that, in case an affected family cannot be given land in the command area of the projector the family opts not to take land there, such a family may be given monetary compensation on replacement cost basis for the lands lost, for purchase of suitable land elsewhere.

- 3) In case of allotment of agricultural land in lieu of the acquired land, each person whose name is included in the records of rights with regard to the affected family shall be given a one-time financial assistance of such amount as may be prescribed by the appropriate Government subject to a minimum of ten thousand rupees; and in case of allotment of wasteland in lieu of the acquired land, each affected and recorded person shall be given one-time financial assistance subject to minimum of fifteen thousand rupees per hectare of land allotted.

The document further points out that in case of a project involving land acquisition on behalf of a requiring body, the stamp duty and other fees payable for registration of the land or house allotted to the affected families shall be borne by the requiring body.

It also says that each displaced affected family having cattle shall get one-time financial assistance of such amount as the appropriate Government may prescribe subject to minimum of fifteen thousand rupees for construction of cattle shed.

Each affected family shall also get one-time financial assistance of minimum of ten thousand rupees as transportation cost for shifting of the family, building materials, belongings and cattle.

Each affected person who is a rural artisan, small trader or self-employed person and who has been displaced shall get one-time financial assistance of minimum of twenty-five thousand rupees for construction of working shed or shop.

The document says that in case of a project involving land acquisition on behalf of a requiring body, the requiring body shall:

- 1) give preference to the affected families in providing employment in the project, at least one person per family, subject to the availability of vacancies and suitability of the affected person for the employment;
- 2) arrange for training of the affected persons, so as to enable such persons to take on suitable jobs;
- 3) give preference to the affected persons or their groups or cooperatives in the allotment of outsourced contracts, shops or other economic opportunities coming up in or around the project site;
- 4) give preference to willing landless labourers and unemployed affected persons while engaging labour in the project during the construction phase.

In case of project involving land acquisition on behalf of a requiring body, the affected families which have not been provided agricultural land or employment shall be entitled to a rehabilitation grant equivalent to seven hundred and fifty days minimum agricultural wage:

Provided that if the requiring body is a company authorized to issue shares and debentures, then, it shall give an option to the affected families of taking up to fifty per cent, but in any case not less than twenty per cent, of their rehabilitation grant amount in the form of shares or debentures, in



such manner as may be prescribed.

The document further points out that in case of a project involving land acquisition on behalf of a requiring body, each affected family which is involuntarily displaced shall get a monthly subsistence allowance equivalent to twenty-five days minimum agricultural wages per month for a period of one year from the date of displacement.

The project authorities shall, at their cost, arrange for annuity policies that will pay a pension for life to the vulnerable affected persons specified in clause (v) of sub-section (2) of section 21, of such amount as may be prescribed by the appropriate Government subject to a minimum of five hundred rupees per month.

It also says that in case of a project involving land acquisition on behalf of a requiring body which involves involuntary displacement of two hundred or more Scheduled Tribes families, a Tribal Development Plan shall be prepared, in such form as may be prescribed, laying down the details of procedure for settling land rights due but not settled and restoring titles of tribals on alienated land by undertaking a special drive together with land acquisition.

The Tribal Development Plan shall also contain a programme for development of alternate fuel, fodder and non-timber forest produce resources on non-forest lands within a period of five years sufficient to meet the requirements of tribal communities who are denied access to forests.

Each affected family of Scheduled Tribe followed by Scheduled Caste categories shall be given preference in allotment of land-for-land, if Government land is available in the resettlement area.

In case of land being acquired from members of the Scheduled Tribes, at least one-third of the compensation amount due shall be paid to the affected families at the outset as first installment and the rest at the time of taking over the possession of the land.

Each Scheduled Tribes affected family shall get an additional one-time financial assistance equivalent to five hundred days minimum agricultural wages for loss of customary rights or usages of forest produce.

The document further says that the Scheduled Tribes affected families shall be resettled preferably in the same Schedule Area in a compact block, so that they can retain their ethnic, linguistic and cultural identity.

The Scheduled Tribes affected families who are resettled out of the district will get twenty-five per cent higher rehabilitation and resettlement benefits in monetary terms in respect of the benefits specified in sub-sections (3) and (4) of sections 38, 39, and 40.

The affected Scheduled Tribes, other traditional forest dwellers and the Scheduled Castes families having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects.

All benefits available to the affected families in the affected areas, shall continue in the resettled area.

In Chapter VII, the document gives a list of some miscellaneous points related to this Act. The points are:

- 1) The rehabilitation grant and other benefits expressed in monetary terms in this Act shall be indexed to the Consumer Price Index with reference to the date to be notified, and the same shall also be revised by the appropriate Government from time to time.

- 2) If a person, in connection with a requirement and direction under this Act, provides any information or produces any document that the person knows is false or misleading, he shall be liable to be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five lakh rupees, or with both.
- 3) No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Administrator for Rehabilitation and Resettlement, the Commissioner for Rehabilitation and Resettlement and the Ombudsman is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.
- 4) No suit, prosecution or other legal proceedings shall lie against the appropriate Government, local body or authority or any officer of the appropriate Government or local body or authority acting under this Act for anything which is in good faith done or purported to be done under this Act or the rules, scheme or plan made thereunder.

The document also points out that The appropriate Government may, after previous publication, by notification in Official Gazette, make rules for carrying out the purposes of this Act.

It says that every rule made by the Central Government under this Act shall be laid, as soon as may be after it made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary, for removing the difficulty.

In conclusion, in a topic titled **Statement of Objects and Reasons** the document says that provision of public facilities or infrastructure often requires the exercise of powers by the State for acquisition of private property leading to displacement of people, depriving them of their land, livelihood and shelter, restricting their access to traditional resource base and uprooting them from their socio-cultural environment. These have traumatic, psychological and socio-cultural consequences on the affected population which call for protecting their rights, in particular of the weaker sections of the society including members of the Scheduled Castes, the Scheduled Tribes, marginal farmers and their families.

It says that a **National Policy on resettlement and Rehabilitation for Project Affected Families** was formulated in 2004, which came into force with effect from February, 2004. Experience gained in implementation of this policy indicates that there are many issues addressed by the policy which need to be reviewed. The adverse economic, environmental, social and cultural impact on affected families must be assessed in participatory and transparent manner. A national rehabilitation and resettlement framework thus needs to apply to all projects where

involuntary displacement takes place.

The aim is to minimize large-scale displacement, as far as possible. However, where large number of families are affected, it must be mandatory to do social impact assessments and provide all required infrastructural facilities and amenities in the resettlement area.

The **National Rehabilitation and Resettlement Policy, 2007** has been formulated on these lines to replace National Policy on Rehabilitation and Resettlement for Project Affected Families, 2003. The new policy has been notified in the Official Gazette and has become operative with effect from the 31st October, 2007.

The **Rehabilitation and Resettlement Bill, 2007** provides for the basic minimum requirements that all projects leading to involuntary displacement must address. This Bill will be primarily applicable to the rehabilitation and resettlement of persons adversely affected by the acquisition of lands for projects. However, involuntary displacement of people may be caused by other factors also, and the provisions of the Bill may apply to the persons involuntarily displaced permanently due to any reasons.

## **The Land Acquisition (Amendment) Bill, 2007**

By:

Government of India

### **Bird's Eye View**

This 28-page document contains, besides amended provisions regarding the Bill, Statement of Objects and Reasons, Financial Memorandum, Notes on Clauses, Memorandum Regarding Delegated Legislation and Annexure.

The document says that it is a Bill further to amend the Land Acquisition Act, 1894, which will be enacted by Parliament in the Fifty-eighth Year of the Republic of India.

It says that:

1. (1) This Act may be called the Land Acquisition (Amendment) Act, 2007.  
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as reference to the coming into force of that provision.
2. In the long title to the Land Acquisition Act, 1894 (hereinafter referred to as the principal Act), the words "and for Companies" shall be omitted.
3. In the principal Act, in the preamble, the words "and for Companies" shall be omitted.
4. After section 1 of the principal Act, the following section shall be inserted, namely:-  
"1A. The provisions of the Rehabilitation and Resettlement Act, 2007 shall apply in respect of acquisition of land by the appropriate Government under this Act."
5. In section 3 of the principal Act,-
  - (i) for clause (b), the following clause shall be substituted, namely:-
  - (b) the expression "person interested" includes,-
    - (i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;
    - (ii) tribals and other traditional forest dwellers, who have lost any traditional rights recognized under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;

- (iii) a person interested in an easement affecting the land; and
- (iv) persons having tenancy rights under relevant State laws;
- (ii) after clause (cc), the following clause shall be inserted, namely :--
  - (ccc) the expression "cost of acquisition) includes-
    - (i) compensation awarded including the solatium and other amount and interest payable thereupon;
    - (ii) demurrage to be paid for damages caused to the land and standing crops in the process of acquisition;
    - (iii) cost of acquisition of out-project land for settlement of displaced or adversely affected families;
    - (iv) cost of development of infrastructure and amenities at resettlement sites;
    - (v) additional cost of resettlement as may be required after admissible adjustment of rehabilitation and resettlement cost against compensation awarded to affected persons or families;
    - (vi) administrative cost involved in planning and implementation of resettlement and rehabilitation packages for providing physical rehabilitation and resettlement to the entitled and interested families, displaced or adversely affected on account of in-project acquisition of land.

The document also says that for clause (f), the following clause shall be substituted, namely:--

- (f) the expression "public purpose" includes,--
  - (i) the provision of land for strategic purposes relating to naval, military and air-force works or any other work vital to the State;
  - (ii) the provision of land for infrastructure projects of the appropriate Government, where the benefits accrue to the general public; and
  - (iii) the provision of land for any other purpose useful to the general public, for which land has been purchased by a person under lawful contract to the extent of seventy per cent but the remaining thirty per cent of the total area of land required for the project as yet to be required.

The document further points out that after section 3 of the principal Act, the following section shall be inserted, namely:--

- 3A. Whenever the appropriate Government intends to acquire land for public purpose involving physical displacement of-
- (i) four hundred or more families en masse in plain area; or
  - (ii) tow hundred or more families en masse in tribal or hilly areas or Desert sixth Development Programme blocks or areas specified in V Schedule or Schedule VI to the Constitution, a social assessment study shall be carried out in the affected area for the purpose of social impact appraisal, incorporation of Tribal Development Plan, plan for giving emphasis for the Scheduled Caste, the Scheduled Tribes and other vulnerable sections of the society, provision for infrastructural amenities and facilities in the proposed resettlement area in terms of the provisions contained in Chapter II, IV, V and VI of the Rehabilitation Act, 2007, in such manner and within such time as may be prescribed by rules made by the Central Government.

It further says that in section 4 of the principal Act,--

- (b) after sub-section (1), the following sub-section shall be inserted, namely:-
 

"(1A). No person shall make any transaction or cause any transaction of

land specified in the notice of acquisition to create any encumbrances on such land from the date of publication of such notice under this section till the final declaration under section 6, or the award made and paid under section 16 of the Act, whichever is earlier:

Provided that the Collector may, on the application made by the land owner in respect of the land so notified, exempt in special circumstances to be recorded in writing, such owner from the operation of this sub-section:

Provided further that any loss or injury suffered by any person due to his willful violation of this provision shall not be made up by the Collector.

(1B). After issuance of notice under sub-section (1), the Collector shall, before issue of declaration under section 6, undertake and complete the exercise of updating of land records, classification of land and its tenure, survey and standardization of land and property values in respect of the land under acquisition".

After section 8 of the principal Act, the following section shall be inserted, namely:--

"8A. The damage caused while carrying out works on land such as survey, digging or boring sub-soil, marking boundaries or cutting trenches or clearing away any standing crop, fence or forest or doing such other acts or things which may cause damages while acting under section 4 particularly relating to land which is excluded from acquisition proceeding, shall be evaluated and compensation shall be paid to the persons having interest in that land, within six months from the completion of the said works.

After section 11A of the principal Act, the following sections shall be inserted, namely:--

"11B. (1) the Collector shall adopt the following criteria in assessing and determining the market value of the land,--

(i) the minimum land value, if any, specified in the Indian Stamp Act, 1899 for the registration of sale deeds in the area, where the land is situated: or  
(ii) the average of the sale price for similar type of land situated in the village or vicinity, ascertained from not less than fifty per cent of the sale deeds registered during the proceeding three years, where price has been paid: or,

(2) Where the provisions of sub-section (1) are not applicable for the reason that: the minimum land value has not been specified under the Indian Stamp Act, 1899 by the appropriate authority,

the concerned State Government shall specify the floor price per unit area of the said land based on the average higher prices paid for similar type of land situated in the adjoining areas or vicinity, ascertained from not less than fifty per cent of the sale deeds registered during the proceeding three years where higher price has been paid, and the Collector may calculate the value of the land accordingly.

The document points out that in section 12 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:--

"(3) the Collector shall keep open to the public and display a summary of the entire proceedings undertaken in a case of acquisition of land including the amount of compensation awarded to each individual along with details of the land acquired under this Act.

It shall be duty of the Collector to ensure that physical possession of the land is taken over and the amount of compensation is paid within a period of sixty days commencing from the date of the award.

The possession of the land acquired shall not be taken unless the compensation due under this Act is paid in full or is tendered to the entitled person.

In section 15 of the principal Act, for the words and figures "sections 23 and 24" the words, figures and letter, "sections 11B, 23 and 24" shall be substituted.

In section 17 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:-

"(5) Without prejudice to the provisions of sub-section (3) and sub-section (3A), an additional compensation of seventy-five percent of the market value as determined under section 11B, shall be paid by the Collector in respect of land and property for acquisition of which proceedings have been initiated under sub-section (1) of this section."

The document says that after Part II of the principal Act, Parts IIA and IIB shall be inserted.

In Part IIA, the document talks about the establishment of the State Authority and its functions.

Under 17A. The State Government shall, for the purpose of providing speedy disposal of disputes relating to land acquisition compensation, establish, by notification in the Official Gazette, an Authority for the State to be known as the (name of the State) Land Acquisition Compensation Disputes Settlement Authority to exercise the jurisdiction, powers and authority conferred on it by or under this Act with regard to acquisition of land by the State Government:

Provided that the State Government may constitute more than one Authority or the benches thereof, for the purposes of this Act, if considers necessary.

Under 17G. (1) The State Authority shall, for the purposes of the settlement of disputes relating to land acquisition compensation under this Act, have the same power as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:--

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) discovery and production of any document or other material object producible. as evidence;
- (3) receiving evidence on affidavits;
- (4) requisition of any public record;
- (5) issuing commission for the examination of witnesses.

The document says that the Authority shall have powers to pass such interim order in any proceeding, hearing or matter before it as it may consider appropriate.

All proceedings before the Authority shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Authority shall deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

The Applications relating to settlement of land acquisition compensation under this Act, shall be decided by the Authority as expeditiously as possible and endeavour shall be made by it to dispose of the disputes finally within a period of six months from the date of receipt of the reference under section 18.

The Members and officers of the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

No civil court shall have jurisdiction to entertain any dispute relating to land acquisition in respect of which the Collector or the Authority is empowered by or under this Act, and no injunction shall be granted by any court in respect of any such matter.

In Part IIB, the document talks about the establishment of Land Acquisition Compensation Disputes Settlement Authority for the Centre.

It says that the Central Government may, for the purpose of providing speedy disposal of disputes relating to land acquisition compensation, by notification, establish one or more Authority to be known as the Land Acquisition Compensation Disputes Settlement Authority for the Centre to exercise jurisdiction, powers and authority conferred on it by or under this Act with regard to the acquisition of land by the Central Government.

The authority for the Central shall consist of a Chairperson and less than two Members to be appointed by the Central Government.

17M. The provisions of sections 17B, 17C, 17D, 17E, 17F, 17G, 17H, 17I, 17J and 17K shall apply to the Authority for the Centre and shall have effect, subject to the following modifications, namely:--

(a) references to "Authority" shall be construed as references to "Authority for the Centre";

(b) references to the "State Government" shall be construed as references to "Central Government";

(c) for the reference "any Member" in sub-section (2) of section 17C, the reference "any Member except a sitting Judge of a High Court" shall be substituted.

The document says that in section 23 of the principal Act,--

(i) in sub-section (2), for the words "a sum of sixty per centum on such market value" shall be substituted.

After section 28A of the principal Act, the following section shall be inserted, namely:--

"28B. Where an award is pending or remains unsettled at any stage under the Act, prior to the coming into force of the Land Acquisition (Amendment) Act, 2007, then the amount of compensation payable to the entitled person may be determined on the basis of section 11B as inserted by the said Act."

The document further points out that Part VII of the principal Act relating to "Acquisition of Land for Companies" and sections 38 to 44B (both inclusive) shall be omitted.

After section 54 of the principal Act, the following sections shall be inserted, namely:--

"54A. (1) The land acquired under this Act shall not be transferred to any other purpose except for a public purpose, and after obtaining the prior approval of the appropriate Government.

(2) When any land or part thereof, acquired under this Act remains unutilized for a period of five years from the date of taking over the possession, the same shall return to the appropriate Government by reversion.

54B. Whenever any land acquired under this Act is transferred to any person for a consideration, eighty per cent of the difference in the acquisition cost and the consideration received, which in no case shall be less than the acquisition cost, shall be shared among the persons from whom the lands were acquired or their heirs, in proportion to the value at which the lands were acquired, and for the purpose, a separate fund may be maintained, which shall be administered by the Collector in such manner

as may be prescribed."

While concluding, the document gives 'Statement of objects and Reasons' wherein it says that-

- The Land Acquisition Act, 1894 (the Act) has been an effective instrument for the acquisition of land for public purposes and also for companies, yet its provisions have been found to be inadequate in addressing certain issues related to the exercise of the statutory powers of the state for involuntary acquisition of private land and property.
- It is necessary to extend the provisions of the extant policies or statutes for rehabilitation and resettlement of those affected by the acquisition of land under the Act.
- Also, the ambit of the expression "person interested" under the Act is proposed to be expanded so as to include tribals and other traditional forest dwellers, who have lost any traditional rights recognized under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognitions of Forest Rights) Act, 2006 (2 of 2007). Moreover, it is necessary to ensure that persons having tenancy rights under the relevant State laws are included under the scope of "person interested".
- The necessity of defining "public purpose", so as to restrict the scope of land acquisition under the Act to provision of land for strategic purposes vital to the state, and for infrastructure projects where the benefits accrue to the general public is essential.
- The provision of the Act are also used to acquire private lands for companies. This frequently raises a question mark on the desirability of such state intervention when land could be arranged by the company through private negotiations on a "willing seller-willing buyer" basis, which could be seen to be a more fair arrangement from the point of view of the land owner. In view of this it is desirable to omit the provisions for the acquisition of land for companies under the Act.
- Another area of concern in the application of the Act, so far, has been the requirement of providing a fair compensation at market value commensurate with the purpose for which the acquired land would be used. Certain provisions need to be introduced accordingly in the Act. In addition, in view of the involuntary nature of the acquisition, adequate solatium amount should be offered to the land owners, and the amount may in cases of acquisition under urgency.
- Issues around the utilization of the land acquired and their transfer are also areas of concern. Here, provisions are proposed to be made so that the land acquired is not transferred to any other purpose and that too, not without prior approval of the appropriate Government.



## Comparison

### Between

#### **The Land Acquisition Act, 1894 (1 of 1894) (As modified up to the 1st September, 1985)**

### And

#### **The Land Acquisition (Amendment) Bill, 2007**

By:

Government of India, Ministry of Law and Justice

## Bird's Eye View

Comparison between these two documents reveals that some very vital segments of the provisions of 'The Land Acquisition Act, 1894' have not been incorporated in the new Land Acquisition (Amendment) Bill, 2007. For example ----

The following lines given under clause (b) of section 3 against the provision namely: the expression "person interested" includes

All persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land; These have not been incorporated but the following parts of clause (b) have been retained:

- (i) all persons claiming an interest in compensation to be made on account of of the acquisition of the land under this Act;
- (ii) tribals and other traditional forest dwellers, who have lost any traditional rights recognized under the Scheduled Tribes and other traditional Forest Dwellers(Recognition of Forest rights) Act, 2006;
- (iii) a person interested in an easement affecting the land; and
- (iv) persons having tenancy rights under the relevant State laws;

The following parts of clause (c) have been retained:

(ccc) the expression "cost of acquisition" includes ---

- (i) compensation awarded including the solarium and other amount and interest payable thereupon;
- (ii) demurrage to be paid for damages caused to the land and standing crops in the process of acquisition;
- (iii) cost of acquisition of out-project land for settlement of displaced or adversely affected families;
- (iv) cost of development of infrastructure and amenities at resettlement sites;
- (v) additional cost of resettlement as may be required after admissible adjustment of rehabilitation and resettlement cost against compensation awarded to affected persons or families;
- (vi) administrative cost of acquisition of the land including both in-project and out-project areas' lands; and
- (vii) administrative cost involved in planning and implementation of re-settlement and rehabilitation packages for providing physical rehabilitation and resettlement to the entitled and interested families displaced or adversely affected on account of in-project acquisition of land;

Now the whole of clauses (d), (e) and major part of clause (ee) have not been included. The left out text is as follows ----

(d) the expression "Court" means a principal civil court of original jurisdiction unless, the [ appropriate Government ] has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform functions of the Court under this Act;

[(e) the expression "Company" means -

- (i) a company as defined in Section 3 of the companies act, 1956 (1 of 1956) , other than a Government company referred to in clause (cc);
- (ii) a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a State, other than a society referred to in clause(cc);

(iii) a cooperative society within the meaning of any law relating to cooperative societies for the time being in force in any State, other than a cooperative society referred to in clause (cc);]

[(ee) the expression "appropriate Government" means, in relating to acquisition of land for the purpose of the Union, the central government, and, in relation to acquisition of land for any other purposes, the State government;]

Here, only the following lines have been retained ---

(i) in relation to acquisition of land for the purpose of the Union, the Central Government; (ii) in relation to the acquisition of lands for the purposes of any infrastructure project in more than one State, the Central Government; and (iii) in relation to acquisition of land for any other purpose, the State Government; '

But the following entire text of the clause (f) has not been retained in the New Bill, 2007 ---

[(f) the expression "public purpose" includes-

- (i) the provision of village-sites, or the extension, planned development or the improvement of the existing village-sites;
- (ii) the provision of land for town or rural planning;
- (iii) the provision of land for planned development of land from public funds in pursuance of any scheme or policy of Government and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;
- (iv) the provision of land for town or rural planning;
- (v) the provision of land for the residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by the reason of the implementation of any scheme undertaken by Government, any local authority or a corporation owned or controlled by the State;
- (vi) the provision of land for carrying out any educational, housing, health or slum clearance scheme sponsored by Government or by any other authority established by Government for carrying out any such scheme, or with the prior approval of the appropriate Government , by a local authority , or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any corresponding law for the time being in force in a state, or a cooperative society within the meaning of any law relating to co-operative societies for the time being in force in any State;
- (vii) the provision of land for any other scheme of development sponsored by Government or with the prior approval of the appropriate Government, by a local authority;
- (viii) the provision of any premises or building for locating a public office, but does not include acquisition of land for companies;]

Similarly, in Section 6 of Part II of the Principal Act under the title 'Declaration of intended acquisition', from the Para stating that the 'Declaration that land is required for a public purpose, the following line has been deleted---

(1) Subject to the provision of Part VII of this Act, .....since the entire Part VII of the Principal Act has been deleted.

Further, [Explanation 1. has also been deleted which reads as follows---

In computing any of the periods referred to in the first proviso, the period

during which any action or proceeding to be taken in pursuance of the notification issued under section 4, sub-section (1), is stayed by an order of a Court shall be excluded.

Whereas, the following sub-section 8A of Section 8 naming 'Land to be marked out, measured and planned ' has been incorporated -----

8A. The damages caused while carrying out works on land such as survey, digging or boring sub-soil, marking boundaries or cutting trenches or clearing away any standing crop, fence or forest or doing such other acts or things which may cause damages while acting under section 4 particularly relating to Land which is excluded from acquisition proceedings, shall be evaluated and compensation shall be paid to the person having interest in that land, within six months from the completion of the said works.

Further, Section 11A of the same Part II has been completely deleted. This Section reads as follows---

[11 A. Period shall be which an award within made. - The collector shall make an award under section 11 within a period of two years from the date of publication of the declaration and if no award is made within that period, the entire proceeding for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984 (68 of 1984), the award shall be made within a period of two years from such commencement.

Explanation - In computing the period of two years referred to in this section. The period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded. ]

On the other hand, the following entire text of the 1894 Act has been incorporated in the new bill ----

11A. The collector shall make an award under section 11 within a period of one year from the date of publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse;

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment ) Act, 2007 the award shall be made within a period of one year from such commencement;

Provided further that collector may, after the expiry of the period of limitation, if he is satisfied that the delay has been caused due to unavoidable circumstances, and for the reasons to be recorded in writing, he may make the award within the extended period of six months;

Provided also that where an award is made within an extended period, the entitled person shall, in the interest of justice, be paid an additional compensation for the delay in making of award, every month for the period so extended, at the rate of not less than five percent, of the value of the award for each month of such delay;

11B. (1) The collector shall adopt the following criteria in assessing and determining the market value of the land,--

- (i) the minimum land value, if any, specified in the Indian Stamp Act, 1899 for the registration of the sale deeds in the area, where the land is situated; or
- (ii) the average of the sale price for the similar type of land situated in

- the village or the vicinity, ascertained from not less than fifty per cent, of the sale deeds registered during the preceding three years, where higher price has been paid;
- (iii) the average of the sale price, ascertained from the prices paid or agreed to be paid for not less than fifty percent of the land already purchased for the project where higher price has been paid, for the purpose of item (iii) of clause (f) of section 3, whichever is higher,
- (2) Where the provisions of sub-section ( 1 ) are not applicable for the reason that:
- (i) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or
- (ii) the registered sale deeds for similar land as mentioned in clause (i) of sub-section ( 1 ) are not available for the preceding three years; or
- (iii) the minimum land value has not been specified under the Indian Stamp Act, 1899 by the appropriate authority, the concerned State Government shall specify the floor price per unit area of the said land based on the average higher prices paid for similar type of land situated in the adjoining areas or vicinity, ascertained from not less than fifty percent, of the sale deeds registered during the preceding three years where higher price has been paid, and the Collector may calculate the value of the land accordingly;
- (3) The Collector shall, before assessing and determining the market value of the land being acquired under this Act, ---
- (a) ascertain the intended land use category of such land; and
- (b) take into account the value of the land of the intended category in the adjoining areas or vicinity, for the purpose of the market value of the land being acquired.
- (4) In determining the market value of the building and other immovable property or assets attached to the land or buildings which are to be acquired, the Collector may use the services of a competent engineer or any other specialist in the relevant field, as may be considered necessary by the Collector.
- (5) The Collector may, for the purpose of determining the value of trees and plants, use the services of experienced persons in the field of agriculture, forestry, horticulture, sericulture, or any other field, as may be considered necessary by him.
- (6) For the purpose of assessing the value of the standing crops damaged during the process of land acquisition proceedings, the Collector may utilize the services of experienced persons in the field of agriculture as he considers necessary.

11 C. (1) When land is acquired for the purpose of item (iii) of clause (f) of section 3 and the person for whom the land is acquired is a company authorized to issue shares and debentures, such company shall, with the previous approval of the appropriate Government, offer its shares or debentures to the extent of fifty percent, but in any case not less than twenty percent of the compensation amount to be paid to the person whose land has been acquired.

(2) On the acceptance of the offer, a part of the compensation amount shall be adjusted by transfer of shares and debentures to the person to whom such compensation is due and on such transfer the liability of the company in respect of such part of the compensation shall stand discharged.

(3) The allotment of shares and debentures mentioned in this section shall be made by the company in such manner as may be prescribed.

Explanation - In this section, the expression "shares and debentures" has the same meaning as assigned to it under the Companies Act, 1956.

Similarly, clauses 3,4,5,6 of section 12 have also been incorporated ----

(3) The collector shall keep open to the public and display a summary of the entire proceedings undertaken in a case of acquisition of land including the amount of compensation awarded to each individual along with the details of the land finally acquired under this Act.

(4) For the purposes of sub-section (3), the summary of the entire proceedings shall include summary of schedule for payment of compensation, dates of taking possession of the land and such other information as may be prescribed.

(5) It shall be the duty of the Collector to ensure that the physical possession of the land is taken over and the amount of compensation is paid within a period of sixty days commencing from the date of the award.

(6) The possession of the land acquired shall not be taken unless the compensation due under this Act is paid in full or is tendered to the entitled person.

In Section 15, under the title 'Matters to be considered and neglected', sections 23 and 24 have been deleted while sections 11B, 23 and 24 have been incorporated.

Again in this Part, under section 17 bearing the title 'Special powers in case of urgency' clause 5 has been incorporated. It reads as the following-

(5) Without prejudice to the provisions of sub-section (3) and sub-section (3A), an additional compensation of seventy five percent, of the market value as determined under section 11B, shall be paid by the collector in respect of land and property for acquisition of which proceedings have been initiated under sub-section (1) of this section.

Further, in the new Bill, Parts 1A about 'Establishment of the State Authority' and 11B about 'Establishment of the Authority for the Centre' have been fully incorporated, while in Part 111 only following portions have been incorporated-----

- Throughout the principal Act except in Explanation to sub-section (1A) section 23, , for the words "the Court",
- Along with their grammatical varieties the words "the Authority for the Centre, or as the case may be, the Authority" shall be substituted.

In Section 18, clause (1), under the heading- 'Reference to Court', the following Para---

Provided that the Collector shall, within a period of fifteen days from the date of receipt of application, make a reference to the Authority for the Centre, or as the case may be, the Authority requesting it to direct the Collector to make the reference to it within a period of thirty days.

In clause (2) (b), the following Para-

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.

In section 23, clause (1) under the heading 'Matters to be considered on determining compensation', the following words have been retained- in terms of section 11 B

In clause (2) while the line-'a sum of [thirty per centum] on such market value' has been dropped, the next line-'a sum of sixty per centum on such market value' has been incorporated.

Lastly, below mentioned clause 28 B has been incorporated in the Part III of the new bill-

Where an award is pending or remains unsettled at any stage under the Act, prior to the coming into force of the Land Acquisition (Amendment) Act, 2007, then the amount of compensation payable to the entitled person may be determined on the basis of section 11B as inserted by the said Act.

What is most surprising is that Part vii titled 'Acquisition of Land for Companies' has completely been deleted in the new Bill. This part is as follows----

38. [Company may be authorized to enter and survey]. Rep. by the Land Acquisition (Amendment) Act, 1984(68 of 1984), s.21.

**[38A. Industrial concern to be deemed Company for certain purposes-**An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a Company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this Part, and the references to Company in [sections 4,5A,6,7 and 50] shall be interpreted as references also to such concern]

**39. Previous consent of appropriate Government and execution of agreement necessary-** The provisions of [sections 6 to 16 (both inclusive) and sections 18 to 37(both inclusive)] shall not be put in force in order to acquire land for any company [under this Part], unless with the previous consent of the [appropriate government], not unless the Company shall have executed the agreement hereinafter mentioned.

40. Previous enquiry, - (1) such consent shall not be given unless the [appropriate Government] be satisfied. [Either on the report of the Collector under section 5A, sub-section (2), or] by an enquiry held as hereinafter provided,-

[(a) that the purpose of acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or

[(aa) that such acquisition is needed for the construction of some building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, or]

(c) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public].

(2) Such enquiry shall be held by such officer and at such time and place as the [appropriate Government] shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the [Code of Civil Procedures 1908(5 of 1908) in the case of a Civil Court.

41. Agreement with appropriate Government. - If the [appropriate Government] is satisfied [after considering the report, if any, of the Collector under section 5A, sub-section (2), or on the report of the officer making an inquiry under section 40] that [the proposed acquisition is any of the

purposes referred to in clause (a) or clause (aa) or clause (b) of sub-section (1) of section 40], it shall require the Company to enter into an agreement [with the [appropriate Government]], providing to the satisfaction of the [appropriate Government] for the following matters, namely :-

(1) the - [payment to the [appropriate Government]] of the cost of the acquisition;

(2) the transfer, on such payment, of the land to the Company.

(3) the terms on which the land shall be held by the Company,

[(4) where the acquisition is for the purpose of erecting dwelling houses or for the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided;

[(4A) where the acquisition is for the construction of any building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, the time within which and the conditions on which, the building or work shall be constructed or executed; and] conditions on which the work shall be executed and maintained and the terms on which the public shall be entitled to use the work.]

**42. Publication of Agreement** - Every such agreement shall, as soon as may be after its execution, be published in the official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

**43. Section 39 to 42 not to allow where Government bound by agreement to provide land for Companies** - The provisions of sections 39 to 42 , both inclusive, shall not apply and the corresponding sections of Land Acquisition Act, 1870(10 of 1870), shall be deemed never to have applied, to the acquisition of land for any railway or other Company, for the purposes of which , [under any agreement with such company, the secretary of State for India in Council, the secretary of State,[the Central Government or any state Government] is or was bound to provide land].

**44. How agreement with Railway Company may be proved** - In the case of the acquisition of land for the purpose of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

**[44A. Restriction on transfer, etc.-** No company for which any land is acquired under this Part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate government.

**44B. Land not be acquired under this Part except for certain purpose for private companies other than Government companies-** Notwithstanding anything contained in this Act, no land shall be acquired under this Part, except for the purpose mentioned in clause (a) of sub-section (1) of section 40, for a private company, which is not a Government company.

Following lines of Section 54A.remain incorporated in the new Bill----

(1) The land acquired under this Act shall not be transferred to any other purpose except for a public purpose, and after obtaining the prior approval of the appropriate Government.

(2) When any land or part thereof, acquired under this Act remains unutilized for a period of five years from the date of taking over the possession,

the same shall return to the appropriate government by reversion.  
54B. Whenever any land required under this act is transferred to any person for a consideration, eighty percent, of the difference in the acquisition cost and the consideration received, which in no case shall be less than the acquisition cost, shall be shared amongst the persons from whom the lands were acquired or their heirs, in proportion to the value at which the lands were acquired, and for the purpose, a separate fund may be maintained which shall be administered by the Collector in such manner as may be prescribed."

But the following Paras and lines have been deleted-----

In section 55, under the title 'Power to make rules'-(1) the [appropriate Government] shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made:

[Provided that the power to make rules for carrying out the purposes of Part vii of this Act shall be exercisable by the Central governments and such rules may be made for the guidance of the State Governments and the officers of the Central government and of the state Governments:

In the next Para, while the words 'Provided further' have been deleted, next word 'Provided' has been incorporated.

Similarly in the next Para, words 'Provided also' have been deleted while next words 'provided further' have been incorporated.

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