



LAND ACQUISITION FOR RAILWAY INFRASTRUCTURE PROJECTS

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Abstract-- Land acquisition has been an integral part of any infrastructure project and has also proved to be a major bottleneck in execution of projects. The delay in land acquisition resulted in timely completion of the projects thereby causing cost over runs and delay in deriving benefits of the projects. Various Acts like The National Highways Act, The Metro Railways Act, and The Railways Act was amended to included land acquisition provisions with liberal compensation package including rehabilitation and resettlement benefits to the persons whose land is to be acquired. The amendment to The Railway Act is called the Railway (Amendment) Act 2008. This paper calls for introspection and improvement to the strategies adopted for smooth, expeditious and hassle free land acquisition for Railway Project.

Keywords— land acquisition; time; project cost; delay; Indian constitution;

I. INTRODUCTION

Under our Constitution, land is a State subject but land acquisition is a Concurrent subject. So far, the basic law governing the land acquisition process has been the Land Acquisition Act, 1894. Earlier land acquisition for all Railway project was being done under **The Land Acquisition Act 1894** by the respective State Government. As railway project normally cover more than one state, sometimes there were delays in land acquisition as different state have different set of norms and rules for land acquisition. In order to expedite land acquisition for important Railway project declared as special Railway projects.

The Railway (Amendment) Act 2008 was enacted and it was deemed to have come into force from 31.01.2008. The amended act ensured better deal for those whose land was being acquired by incorporating benefits under

National Rehabilitation and Resettlement Policy 2007 and at the same time ensuring early acquisition. Under this act land is acquired by the Central Government.

II. APPLICABILITY OF THE RAILWAY (AMENDMENT) ACT2008:

The act is applicable only to the Railway Project declared as "Special Railway Projects" by the Central Government through Gazette notification under clause 37 (A) of Section 2 of Railway Act 1989.

III. BASIC DIFFERENCES BETWEEN RAA- 2008 AND LAND ACQUISITION ACT-1894

S. No.	Description	RAA - 2008	LAA - 1894
1.	Land Acquisition	Land is acquired by Central Government.	Land is generally acquired by State Government
2.	Competent Authority for land acquisition	Competent authority is nominated by Central Government through Gazette notification	Collector or nominated persons by State Government are competent authority.
3.	Solatium	60%	30%
4.	NRRP - 2007	Applicable	Not applicable
5.	Compensation Dispute redressal	Through Arbitrator appointed under the Act by Central Government.	By respective Principal Court under whose jurisdiction the land in dispute lies
6.	Challenge of declaration in court	Not permitted	Can be challenged in respective principal
7.	Criteria for determining Market rate for land	Defined. Does not take into account local regulation	Collector determines the rate taking into consideration the local regulations
8.	Compensation for period from initial notification to date of award	No compensation	Interest @ 12% p. a. from date of publication of notice under section 4 and declaration of award.
9.	Urgent acquisition	No provision	Section 17 provides for acquisition in
10.	Disposal of un-disbursed amount	Not specified	Specified. To be deposited in respective principal court

IV. IMPORTANT SECTIONS OF RAA-2008

Clause 7 (A) of section 2- Under this clause the Central Government notify the Competent Authority to acquire land.

20 A- Under this section, the central Government through Gazette notification declares its intention to acquire land for special Railway project.

20 D - Objection by Interested Person within 30 days from date of publication of Notification under Section 20A.

20 E- Under this section, the central Govt. declares through Gazette notification that land should be acquired for the purpose indicated in section 20A.

20 F- Under this section, the competent authority makes an award regarding amount to be paid to each land owner for land acquired under section 20E.

20 G- This section defines the criteria for determining market rate of land acquired.

20 H- Central Government to deposit the amount determined under section 20 F with competent authority before taking possession of land

Clause 37A of section 2- Under this clause a project is notified as special Railway project by the Central Government.

V. PRE- LAND ACQUISITION ACTIVITIES

- i. After alignment survey, identification of critical areas where land acquisition may be difficult like heavily built up areas, difficult terrain etc. is done. Technical solution, if possible, is suggested to ensure minimum land acquisition to minimize social impact and public protests.
- ii. Public Consultation Meetings (PCMs) were held to educate people likely to be affected by the project regarding benefits of the project, area of land likely to be acquired, compensation package, and provisions of the Act etc. to avoid problems during land acquisition process.
- iii. Identification of Tehsils/talukas and villages along the alignment.
- iv. Collection of Revenue maps of the villages.
- v. Super-imposition of alignment on the revenue maps after proper scaling and plotting land width to be acquired.
- vi. Calculation of area of land likely to be acquired in each khasra.
- vii. Collection of revenue records/ Jamaband is of the affected area.
- viii. Preparation of draft acquisition details and its verification by revenue officials.

VI. SEQUENCE OF ACTIVITIES FOR LAND ACQUISITION UNDER RAA-2008:

- i. Nomination of Competent Authority for land acquisition by Central Government through Gazette notification.
Clause 7A of Section 2 Of Railway Act 1989
In the state of Rajasthan concerned Sub Divisional Officers and in the state of Haryana concerned District Revenue Officers were nominated as competent authorities for land acquisition with the consent of the State Government.
- ii. Submission of details of land intended to be acquired to Competent Authority for approval.
- iii. Submission of details by the Competent Authority to Central Government for issuing Gazette notification under Section 20 (A) of RAA-2008.
- iv. Central Government, if satisfied that land is required for execution of a special railway project issues notification to declare its intention to acquire such land. **Section 20A(1)**
- v. After declaration of award, a notice is sent to each Khatedar giving details of compensation to be paid in regard of land being acquired and documents to be submitted while claiming compensation.
- vi. Disbursement of award: The Competent Authority notifies the dates for each village for disbursement of compensation. After verification of documents compensation amount is paid through cheques. Photography of proceeding is also done for record purpose.
- vii. Submission of details of acquired land to concerned SDM for its mutation in favor of Central Government and corrections in revenue records and revenue maps.
- viii. **List of documents to be submitted by land owner while claiming compensation:**
Following documents are to be submitted by the land owner while claiming compensation: -
 - a. Latest Jamabandi.
 - b. 4 Passport size photo.
 - c. Photocopy of Bank Passbook.
 - d. Identity proof (Voter Id, Ration Card, etc.)
 - e. Clearance from bank in case of loan or mortgage.
 - f. Handing over & taking over certificate.
 - g. Shapath Patra (On Rs. 10/- Stamp)
- ix. The Competent Authority causes Gazette notification so issued, to be published in 2 local newspapers one of which shall be in vernacular language inviting objection from interested persons within 30 days of publication.
Section 20A(4)
- x. Joint Measurement Survey:
 - a. Joint Measurement Survey is carried out to ascertain exact area of land to be acquired, details of trees, and other structures thereon. A notice is issued by Competent Authority giving schedule of Joint Measurement Survey in each village. This is done by revenue officials in the presence of land owners. Survey sheet is jointly signed by revenue official & owner of land. Joint Measurement Survey becomes basis for area of land to be acquired for declaration under Section 20 E and subsequent preparation of award.
- xi. Objection received after publication of notification in the newspapers are heard by the Competent Authority in person. After hearing and making enquiry objection are either allowed or disallowed. **Section 20D(2)**
- xii. After hearing and deciding / disallowing the objections, the Competent Authority submits a report to Central Government. The Central Government declares by notification that land should be acquired for the purpose mentioned in notification under section 20 A(1) giving details of villages, khasra numbers, type of land, area of land and owners of land as per revenue record. **Section 20E(1)**
- xiii. Gazette notification issued by Central Government under Section 20 E(1) is published by Competent Authority in two local newspapers one of which shall be in vernacular language inviting claims from all the persons interested in the land before determining amount to be paid to each landowner. **Section 20F(4)**
- xiv. Preparation of award – The Competent Authority determines the amount to be paid to each land owner considering the following:
 - A. **Market value of land** on the date of publication of notification under Section 20A. **Section 20G** stipulates the criteria for assessing and determining market value of land as under:-
 - i) Minimum land value specified in the Indian stamp Act 1899 for registration of sale deed.
 - ii) Average of sale price of similar land in the village or vicinity ascertained from not less than fifty percent of sale deeds registered in preceding three years, where higher price has been paid whichever is higher, if such details are not available for the concerned village, the section 20G(2) provides for ascertaining such details from adjoining villages. Intended land use category of land under acquisition is also considered while determining market rate of land.

- B. **Value of buildings and other immovable assets** attached to the land, under acquisition. Competent Authority may use services of competent Engineer or specialist in the relevant field.
 - C. **Value of trees & Plants:** The Competent Authority may use services of experts in the field of horticulture, forest etc.
 - D. **Value of standing crops** – The Competent Authority may use services of experts in the field of Agriculture.
 - E. **Benefits to each land owner under NRRP – 2007** - As per entitlement matrix issued by Railway Board. **Section 20-O**
- xv. Declaration of award: After ascertaining the amount of compensation, the Competent Authority declares award for each village under signature & seal. Copy of award is pasted at prominent location in the village and is announced by Munadi. **Section 20 F(1)**
- xvi. After declaration of award, the award is sanctioned by Chief Project Manager with finance concurrence. Thereafter, compensation amount is transferred to a joint account opened for the purpose.
- xvi. **Entitlement of land owner under NRRP – 2007 as per entitlement matrix.**

S.No.	Benefit	Amount	Entitlement
1.	Ex- Gratia	Rs.20,000/-	Each Khatedar whose land is being acquired.
2.	Compensation for land owner reducing to small/ marginal formers	Rs.75,000/-	Affected Family
3.	Subsistence allowance for those living below poverty line/ Vulnerable	Rs. 30,000/-	Affected Family
4.	Additional amount for acquired land area above 1500 sqm	Rs. 15/- sqm	Affected Khatedar
5.	Transition allowance	Rs. 4000/-	Affected Family
6.	Shifting allowance	Rs. 10,000/-	Affected Family
7.	Displaced and has cattle, shall get financial assistance	Rs. 15,000/-	Affected Family
8.	If the affected party getting displaced is a rural artisan, small trader or self-employed person assistance	Rs. 25,000/-	Affected Family

VII. STEPS TO BE UNDERTAKEN FOR LAND ACQUISITION

S. No.	Steps to Be Undertaken For Land Acquisition	Result
1	Revenue map should be taken from settlement department instead of taking from Local Patwari. Patwari's maps are normally folded, crumpled, torn etc	This will avoid wrong indication of demarcation of khasra boundaries while scanning.
2	Preparation of Land Plans: Revenue maps in different districts and states are sometimes in different scales. Survey details should be super imposed on revenue maps after bringing both to same scale and reference to all the available physical features should be given on map for easy identification and accurate area calculation.	This would ensure correct demarcation of land to be acquired and its identification at later date particularly in detours.
3	While joining revenue maps of adjoining villages permanent feature should be matched like bridges, LCs, well, road etc. Orientation of revenue map with respect to common direction while joining should besame.	This is to avoid mismatch of chain age and boundaries of khasra.
4	Before finalization of acquisition proposal, land plans should be verified with patwari record to know latest khasra number which may get changed due to division of land in a particular khasra.	This will ensure correct demarcation & Khasra Number of land to be acquired and correct identification of PAPs

5	Land acquisition plans should be prepared from one end to other, instead of in piece meal sections.	This would avoid mismatch in chain age at the boundaries of adjoining villages which may be due to scaling error while scanning.
6	Publications of names of Khatedars in 20A gazette notification so as to attract attention of PAPs.	This will ensure identification and timely attention of PAPs.
7	Publication of Land Acquisition notices in same unit as given in revenue records e.g. Bigha/Biswa, Kanal/Marla instead of metric unit.	PAPs are not well conversant with metric units. More over conversion in revenue records becomes cumbersome.
8	Frequent dissipation of information about compensation packages, procedure of determining compensation, mutation of death cases.	This would avoid protests and would ensure participation of PAPs to facilitate quick disbursal
9	Identification of owners of structure/ encroachers/ squatter, details of marginal/small/landless farmer, BPL person etc during JMS itself.	This would avoid duplication of work and will ensure timely collection of data for preparation of a comprehensive award.
10	Some incentive should be given to CA & Revenue officials for motivating them.	This will ensure better involvement of CAs and other revenue officials.
11	Process of Redemption of Govt. Land should be initiated immediately after publication of 20 A notification.	Timely redemption of Govt. land
12	Comprehensive award which include all the benefits should be declared instead of piece meal award.	This will ensure preparation of better compensation package at first stage itself to attract PAPs and would avoid duplication of work.
13	Hissa-Kasi (apportionment) of area of Khasra under acquisition should be verified & corrected with local patwaries before publication of 20E notification.	This would minimize objection from PAPs and ensure correct preparation of awards.

VIII. CONCLUSION:

Land acquisition is a sensitive issue so humane, systematic and transparent approach need to be adopted for early and peaceful acquisition. Land acquisition must take place in a manner that fully protects the interests of land-owners and also of those whose livelihoods depend on the land being acquired. So an adequate compensation package which shall include reasonable compensation for land and resettlement and rehabilitation measures to assuage the sufferings of the affected persons.

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