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Rehabilitation & Resettlement Issue in India”
7th -8th August, 2008

GROUP RECOMMENDATIONS

GROUP – I

Land Acquisition Areas Requiring Amendments

1. Lacunae in LA Bill: Sec 3(ccc) defines cost of acquisition to include ‘additional cost of resettlement as may be required after admissible adjustment of R & R Cost against compensation awarded to affected persons’. This provision is not correct and R & R entitlements should be over and above the LA compensation and no adjustment should be permitted.
2. Lacunae in LA Bill: Section 3 (f) defines requisitioning person very loosely and includes any company or association or body of individuals, whether incorporated or not. There is a need to restrict it to public limited companies, registered societies or registered Trusts, including appropriate Government.
3. Lacunae in LA Bill: Direct purchase of 70% of land as per 3 (f) would be hit by land ceiling provisions, provisions on restricting conversion of agricultural land to non-agricultural purpose, land alienation laws on transfer of SC/ST land. Therefore, there should be provisions overriding operation of other Acts, if this direct purchase has to be legally valid.
4. Lacunae in LA Bill: In order to avoid acquisition of land without proper need, it is suggested to incorporate a new section 3 (c) which will read as follows: “The requiring body should give in their requisition, detailed land use plan preliminary R&R Plan, commitment indemnifying the Government for the costs to be incurred. After the requisition is received, the Government must conduct a scrutiny of proposed land use, consult the stakeholders including local bodies and statutory authorities like pollution control board, land use board etc. They should also conduct a public hearing through gram sabha.”
5. Lacunae in LA Bill: It is noticed that several tenancies are not recorded and are not legally valid. However, it is necessary to recognize the rights of such tenants. It is therefore suggested that at the end of Section 29, the following may be added: “Provided the appropriate Government may frame Rules regarding the manner and the principles of apportionment among the interested persons.”
6. Lacunae in LA Bill: Section 3 (f) (iii) provides for 70% of land be purchased by direct purchase, on a ‘willing buyer, willing seller at a mutually accepted price’ concept. Even in such cases, the R & R benefits must accrue fully, as it is a single integrated appropriation of land.

7. Lacunae in LA Bill: Section 3(ff) (iv) gives omnibus powers of declaring 'public purpose' to the Central Government. Land being a State subject, this omnibus power needs to be given to the appropriate government. This can take care of relocation of victims of conflicts, disasters etc.
8. Lacunae in LA Bill: At present there are other central acts involved in land acquisition. In order to bring uniformity, the Acts like Railways Act, Coal Bearing Areas (A & D) Act, National Highways Act etc should be amended and brought in conformity with this LA Act and the R & R Bill.
9. Lacunae in LA Bill: It is seen that in some cases the organizations, after several years of acquisition of land, are not putting the land to the purpose for which it was originally intended. It is therefore suggested that Section 17 A may be amended, authorizing the LACDS Authority, to oversee and ensure a mechanism, with due notice to the organization concerned, for resumption of land by the State Government.
10. Lacunae in LA Bill: In Section 11 (b) after (3), the following may be added: "Where the Collector feels that the market value of the land determined on the basis of clauses 1, 2 and 3 above, is low on account of either the intended land use in future or on account of under-valuations of land transactions in the vicinity, the Collector shall pay an additional 50 % of the market value so determined." Therefore 3 (a) and (b) may be deleted.
11. Under New R&R Policy: In the Project which involves physical displacement of 400 or more families in the plains to 200 families in tribal and hilly areas and border areas requiring land for border fencing or border roads, social impact assement study along with the current norms of environmental impact assement to be made

