

## **Draft bill looks promising**

### **The new Draft Land Acquisition & Rehabilitation and Resettlement Bill, 2011, which seeks to replace the 117 years old Land Acquisition Act, is likely to be introduced in the current session of Parliament.**

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**ON** first reading, the draft Bill appears to be a politically sensitive piece of legislation that could potentially remove a big roadblock to industrial investment, addresses Relief & Rehabilitation (R & R), provides safeguards for both land-owners and livelihood losers while clearly defining the public purpose for which land can be acquired by the government.



**Farmers block Delhi-Jaipur highway to protest Haryana gov't's move to acquire fertile land. Photo: Sayeed Ahmed**

The draft Bill proposes to curtail the scope for which land can be acquired by the government. The Bill permits land acquisition by the government for its own use or with the ultimate intent to transfer land to private parties for stated public purpose, including public private partnership projects. Further, the government would be permitted to acquire land for immediate and declared use by private companies for public purposes. The Bill provides for a rider that the aforesaid acquisition would be allowed only where 80% of the affected parties give their consent to the proposed acquisition.

The Bill seeks to provide a definitive meaning to the term "public purpose" and rid it of the ambiguities surrounding it under the existing Act. The definition of "public purpose" under the Bill includes strategic purposes (e.g., armed forces, national security); infrastructure, industrialisation and Urbanisation (where benefits largely accrue to the general public); land acquired for R&R purposes; Village or urban sites (planned development - residential purposes for the poor and educational and health schemes); land for private companies for public purpose and for needs arising from natural calamities.

To safeguard against indiscriminate acquisition, the Bill requires the concerned states to set up a committee under the Chief Secretary to ascertain whether an acquisition is for "public purpose" and to conduct a social impact assessment for the land in question. Further, the Bill proposes that if the acquired land is not put to use for the intended use within five years of acquisition, the same would be returned to the original owner.

The Bill lays out separate compensation packages that take into account the following three factors: the market value of the land, the value of assets attached to the land and the solatium which is equivalent to 100% of total compensation (for rural and urban areas).

In order to make it a more inclusive process, for the first time the government has acknowledged the role of the Gram Sabhas in the process of land acquisition. The Bill will make it mandatory to consult Gram Sabhas and ensure that the R&R package is executed before the acquired land is transferred. This pre-notification discussions with local bodies is a procedural innovation which should help reduce litigation and speed up the process of fair and just acquisition.

The Bill has also tried to give modified applicability to the much controversial 'urgency clause' to circumvent a Noida-like situation. Under the Bill, 'urgency clause' can be invoked only in cases where the land is being acquired for national defence and security purposes, R&R needs in the event of emergencies or natural calamities and in the 'rarest of rare' cases.

The Bill outrightly prohibits from purchasing any multi-cropped irrigated land for public purposes in order to safeguard the fertile land. The Bill also proposes to set up authorities both at the national and state levels for ensuring better R&R and for the purpose of providing speedy disposal of disputes relating to land acquisition, compensation and R&R. The Bill also provides for R&R provisions to be applicable to private companies in the event they acquire land measuring more than 100 acres.

The Bill further makes provisions facilitating 'land for land' and 'home for home' for people displaced and providing necessary infrastructural amenities in the resettlement areas. Further, special provisions have also been incorporated for STs and SCs who are displaced as a result of land acquisition.

It is evident that efforts have been made by the Government to address the shortcomings of the existing Act by involving people who are being affected and by providing a requisite mechanism for facilitating implementation of R&R schemes, establishing redressal systems and also establishing a methodology for arriving at the rates of compensation.

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