

EIGHTH REPORT

STANDING COMMITTEE ON URBAN & RURAL DEVELOPMENT (1994-95)

(TENTH LOK SABHA)

MINISTRY OF RURAL DEVELOPMENT—
LAND ACQUISITION ACT, 1894



Presented to Lok Sabha on.....
Laid in Rajya Sabha on.....

LOK SABHA SECRETARIAT
NEW DELHI

August, 1994 / Bhadra, 1916 (Saka)

Price: Rs. 5.00

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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Seventh Edition) and printed by the Manager. P.L. Unit, Govt. of India Press, Minto Road, New Delhi-110002.

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PART II*

Minutes of the sittings of the Committee on Urban and Rural Development held on 25th August, 9th September, 11th October, 1993, 19th & 27th January, 23rd May and 29th July, 1994.

* Not printed, one cyclostyled copy laid on the Table of each of the Houses and 5 copies placed in Parliament library.

**STANDING COMMITTEE ON URBAN & RURAL DEVELOPMENT
(1994-95)**

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INTRODUCTION

1. the Chairman of the Standing Committee on Urban and Rural Development (1994) having been authorised by the Committee to submit the Report on their behalf, present this Eighth Report on Land Acquisition Act, 1894 of the Ministry of Rural Development.

2. The Committee took oral evidence of the representatives of the Ministry of Rural Development and the Revenue Secretaries and Commissioners on 9th July, 25th August, 9th September, 11th October, 1993, and 10th and 27th January, 1994. The Committee wish to express their thanks to the officers of the Ministry of Rural Development and Revenue Secretaries/Commissioners of various State Governments who appeared and placed their views before the Committee on the subject.

3. The Report was considered and adopted by the Committee at their sitting held on 23rd May and reconsidered and adopted by the Committee at their sitting held on 29th July, 1994.

NEW DELHI;
29 July, 1994

Sravana 7, 1916 (Saka)

PRATAPRAO B. BHOSALE,
Chairman,
Committee on Urban and
Rural Development (1994).

INTRODUCTORY

1.1 In view of the rapid growth in the development process initiated by the State for its people, the Government has to acquire lands from the private individuals. The sovereign power of every State has the authority to appropriate lands for purposes of public utility situated within the limits of its jurisdiction. But it is not deemed to exercise the authority so as to interfere with security in the enjoyment of private property for public purpose without paying the owner its fair value. Because this is subject to the maxim, "every subject has a right to be heard before he is deprived of his right to his property by the State." This is abundantly recognised as a legal right under article 300(A) of the Constitution.

1.2 For the acquisition of land needed for public purpose, developmental work and public institutions and for determining the amount of compensation to be made on account of acquisition the first Land Acquisition Act was promulgated on the First day of March, 1894. However, it has been amended from time to time to suit the needs of post-independence era. It extends to the whole of India except the State of Jammu and Kashmir.

1.3 With the enormous expansion of the State's role in promoting public welfare and economic development since independence, acquisition of land for public purposes, industrialization, building of institution, etc., has become far more numerous than ever before. While this is inevitable, promotion of public purpose has to be balanced with the right of the individual whose land is acquired, thereby often depriving him/her of his/her means of livelihood. Again, acquisition of land for private enterprises ought not to be placed on the same footing as acquisition for the State or for an enterprise under it. The individual and institutions, who are unavoidably to be deprived of their property rights in land, need to be adequately compensated for the loss keeping in view the sacrifice they have to make for the larger interests of the community. It is observed that the pendency of acquisition proceedings for long periods often causes hardship to the affected parties and renders unrealistic scale of compensation offered to them.

1.4 Keeping in mind the multifarious increase in the developmental and welfare activities, this Government require speedy and expeditious acquisition of land in order to meet various developmental tasks. Looking at the circumstances prevailing during the pre-Independence era, one feels that long gestation period

of three years for the completion of Land Acquisition proceedings was lack of adequate facilities of Post & Telegraph, means of Communications, sources of mass Media e.g Radio, Television, Newspapers and shortage of staff/officers to carry out the task.

1.5 Now-a-days with the development in scientific and technological field, Government are in a position to have easy access to people living in remote areas. Moreover, due to the marked increase in governmental responsibilities, there has been increasing decentralization of governmental power at various levels which has resulted in a vast network of administrative set up throughout the country. There are no dearth of Chief Engineers, technocrats and Bureaucrats required for carrying out the objectives of the Act. In view of this scenario, the Committee feel that the long gestation period must be slashed down to the minimum so as to reach the benefit of the Land Acquisition Act to the affected persons at the earliest as well as to relieve the Government from financial constraints.

1.6 It has also been observed that Land Revenue code is the basis for valuation of land, trees and the movable and immovable properties etc. attached to it. But these criterion/guidelines are very obsolete. There are certain inventories attached to land which are not being considered appropriately in the process of awarding compensation e.g. trees having timber value but are in pre-bearing stage, fruit bearing trees gardens which do not have any timber value etc. are not taken into account while deciding compensation. Moreover, farmers have been using modern methods and techniques for cultivation, plantation etc. but they do not get judicious compensation due to old traditional method of evaluation of acquired land.

1.7 Similarly, in case of determining market rate of land, trees etc. it has been found that various state Governments are following different criterion for assessment. In the absence of clearcut guidelines, the persons whose land is acquired by the Government are put to a great loss. The Committee strongly feel that certain new guidelines/provisions relating to these aspects are required to be incorporated in the Act so that the affected persons may get judicious compensation and do not feel being victimised.

PRELIMINARY NOTIFICATION FOR ACQUISITION OF LAND

1.8 In so far as the acquisition of land is concerned, at the outset, a preliminary notification under Section 4(1) of the Land Acquisition Act is issued. The Notification to that effect shall be published in the official Gazette and in two daily Newspapers circulated in that locality, of which at least one shall be in the regional language. The Collector shall publish that notice at the

convenient places in the said locality. During the oral evidence of the Revenue Secretaries/Commissioners of different states, some of the Revenue Commissioner stated that in addition to the publication of the notification in the official Gazette and newspapers, copies of the notice should also be displayed on the notice boards of Gram Panchayats, Zila Parishad's Office or any other prominent place of the village. Besides, a copy of that notice should also be sent by registered post to the concerned land owner. It will certainly facilitate the removal of those complications which may arise between the affected person and the acquiring authority for want of communication.

1.9 The Committee are of the opinion that the very purpose of issuing notices to the affected person is to communicate the decision of acquiring authority to acquire his/her land for public purposes. The need of the hour is to provide such kind of mechanism through which the affected person can have easy access to notification. The Committee fully agree with the opinion of the Revenue Secretaries/Commissioners in this regard and, therefore, recommend that a copy of the notification in English, Hindi and the concerned regional language should be affixed in the Tehsildar's office, Gram Panchayat's or Patwari's office in order to remove those complications which might arise due to inadequacy of means of communications, especially, in remote areas. The Committee further recommend that the affected person must also get a copy of the notification by a registered post.

PAYMENT OF DAMAGES, HEARING OF OBJECTIONS AND REPORT BY THE COLLECTOR

1.10 Section 4, 5 & 5A(1) in the Land Acquisition Act deal with publication of preliminary notification and power of officers thereupon, payment for damage & hearing of objections respectively. In so far as Section 4 & 5 of the Land Acquisition Act are concerned, it has been noted that no specific time period has been prescribed for completion of the procedure specified therein.

1.11 In case of Section 5A(1), the time period has been specified for hearing objections to the acquisition of the land and any land in the locality is one month from the date of the publication of the notification.

1.12 The Ministry of Rural Development informed the Committee during the evidence that the actual period required for the completion of procedure under Section 4, 5 & 5A(1) is 12 weeks or three months.

1.13 As regards submission of report by the Collector to the appropriate government under Sub-section (2) of Section 5A and after making such further inquiry, the Collector will make a report in respect of the land which has been

notified under Section 4(1) containing his recommendations on the objections together with the record of the proceedings held by him to the appropriate Government for the latter's decision.

1.14 It has been noticed by the Committee that the Act remained silent about the time period required under Section 4 and 5. Hence, the Committee would like to recommend that specific time period should be incorporated in Section 4 & 5 so as to avoid any kind of uncertainty and wastage of time. Keeping in mind the principle of natural justice i.e. right of reasonable opportunity of being heard, the Committee agree with the suggestions given by some of the Revenue Secretaries of State Governments that the affected persons must be provided with a clear one month time for filing objection in respect of acquisition of land by the Collector on behalf of Government. One month time must be counted from the date of the receipt of the copy of the notification by the affected person.

DECLARATION OF INTENDED ACQUISITION

1.15 In the present Land Acquisition Act, whenever the appropriate Government is satisfied after considering the report of the Collector made under Section 5A, Sub-section (2) that any particular land is needed for a public purpose a declaration shall be made to that effect under Section 6 and after declaration the Collector will take orders for acquisition of the land under Section 7 and in a subsequent stage under Section 8 the land is to be marked out, measured and planned.

1.16 When asked during the oral evidence of the Revenue Secretaries/Commissioners of various State Government whether the procedural sequence for acquisition of lands as prescribed in the Land Acquisition Act, 1894 do require any change, the Revenue Secretaries of Andhra Pradesh and Madhya Pradesh replied that the sequence for acquisition process in the Land Acquisition Act is up to the mark and do not require any changes. But the Revenue Secretaries of Karnataka and Uttar Pradesh replied in the affirmative stating that the sequence after Section 5A(3) requires change and joint measurement work should be completed after Section 4(1) and 6(1) respectively.

1.17 A provision has been made under Sub-section (2) of Section 4 of the Land Acquisition Act, 1894 that after publication of preliminary notification it shall be lawful for any officer either ordinarily or specifically authorised by the Government to conduct survey of the land, to set out the boundaries of the land proposed to be taken etc. Subsequently, the concerned departments should go to the locality for measuring and the marking out the land proposed to be acquired. It has been

observed that there is a possibility of change in the area of the land, property or land owners after the completion of the procedure under Section 4, 5 & 6.

1.18 At the time of joint measurement under Section 8, it may be possible in some cases that land may be found much less than what it was estimated at the time of preliminary notification. Similarly, if some physical or geological change takes place in that area or if it is found that the real owner of the land is somebody else, then in all these eventualities the entire land acquisition proceedings shall lapse and the acquiring authority will have to start the entire proceedings with a clean slate which will further result enormous delay which in turn leads to cost escalation of the project and the project itself might lose its significance. In view of these eventualities, the Committee would like to recommend that the sequence from Section 6 to 8 of the Land Acquisition Act should be rewritten. Firstly, the appropriate Government should declare its intention that the land is required for the public purpose. Thereafter, the joint measurement work should be undertaken in order to avoid eventualities which might arise at this stage before proceeding to Section 7 of the act which is reproduced as below:

"Whenever any land shall have been so declared to be needed for a public purpose, or for a Company, the appropriate Government, or some officer authorized by the appropriate Government in this behalf, shall direct the Collector to take order for the acquisition of the land."

SERVING OF NOTICE BY THE COLLECTOR TO PERSONS KNOWN OR BELIEVED TO BE INTERESTED

1.19 Sub-section (1) of Section 9 of the Act envisages that the Collector shall then cause public Notice to be given at convenient places on or near the lands to be taken stating that the Government intends to take possession of the land and that claims to compensation for all interests in such land may be made to him. Sub-section 3 of the Section 9 states that the Collector shall also serve notice to the same effect on the occupier, if any, of such land and on all such persons known or believed to be interested therein or to be intitled to act for persons so interested as reside or have agents authorised on their behalf within the revenue district in which land is situated. The word "persons known or believed to be interested" seems to be ambiguous and needs clarification. When asked about the propriety of the expression it was stated by the Madhya Pradesh Government that this provision is quite confusing and can be interpreted by the State Governments/other interested persons to suit that interests.

1.20 At present, the word 'persons interested' occurring in the various provisions of the Act is not very clear. This term requires to be made more specific and comprehensive. The Committee recommend that names/categories of the 'persons interested' should be clearly specified in the Definition clause of the Act itself by clearly mentioning the varied meaning of this term keeping in mind the requirements of the Act. This will help to eliminate bogus and uncalled claims.

SPECIAL POWERS IN CASE OF URGENCY

1.21 Section 17 of the Land Acquisition Act authorises the Appropriate Govt. to take possession of any land needed for a public purpose in cases of urgency on the expiration of 15 days from the publication of the notice mentioned in Section 9, Sub-section (1), though no award has been made. As far as the nature of urgency is concerned, there is provision in Sub-section (2) of Section 17 that:—

"Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon river-side or ghat station or of providing convenient connection with or access to any such station, or the appropriate Government considers it necessary to acquire the immediate possession of any land for the purpose of maintaining any structure or system pertaining to irrigation, water supply, drainage, road communication or electricity, the Collector may immediately after the publication of the notice mentioned in Sub-section (1) and with the previous sanction of the appropriate Government enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances."

1.22 It has been observed by the Committee that sometimes mega-projects get delayed for want of only a small portion of land which hampers the timely implementation of the project resulting in cost escalation. The Committee recommend that in order to save public money engaged in these projects, suitable provision should be inserted under Sub-section (2) of Section 17 so as to include such major projects alongwith other exigencies for acquisition of land in cases of urgency.

1.23 Secondly, the Committee feel that in cases of urgent situations like war, flood, earthquake or any defence purpose, a provision should be

inserted in Section 17 in order to empower the Government to take possession of land immediately without even completing the procedure upto Section 9(1) of the Act as is required under Sub-section (1) of Section (17).

APPROPRIATE GOVERNMENT

1.24 It has been observed by the Committee that the final authority as regards the approval of the matter pertaining to Land Acquisition Procedure, varies from state to state. In some of the states the matter goes up to the level of the Chief Minister, while in other states the matter is finally disposed of at the level of the Secretary of the concerned department. It has been found that due to this ambiguity sometimes cases are delayed for ten to fifteen years and the acquisition proceedings are not completed within the stipulated time from the date of publication of declaration by taking the plea that the case is lying with the appropriate Government while looking at the Section 11A. The Collector is required to make an award under Section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that stipulated time period the entire proceedings for the acquisition of the land shall stand lapse. In order to acquire same land a fresh notice to that effect has to be issued.

1.25 The Committee feel that the word 'appropriate Government' occurring in several sections of the Act has not been specifically defined. Neither the particular level of officers or the rank of the Minister has been defined in the Land Acquisition Act as a result of this ambiguity, the State Governments follow divergent rules for the completion of the process of Land Acquisition. The Committee would, therefore, like to recommend that the Ministry of Rural Development should immediately examine the adequacy of the term 'appropriate Government' in depth and issue certain clearcut guidelines to the State Governments with a view to bring about uniformity in the procedure which is being followed presently while acquiring land for public purpose.

REDUCTION OF TIME LIMIT FOR LAND ACQUISITION

1.26 It seems that even after the changes/modifications in Act 1984 there are some provisions in the act worded in such an archaic manner that they lack in clarity and make things quite confusing and, therefore, need amendments. In the amended Act of 1984 the minimum time limit for the completion of Land Acquisition Procedure is three years starting from the date of publication of

preliminary Notification under Section 4(1) to the passing of final award by the Collector under Section 11 of the Act.

1.27 When asked, the representatives of the Ministry of Rural Development agreed during evidence to the proposal of the Committee that the time limit for acquiring land should definitely be reduced from three years to two years.

1.28 In reply to the list of questions on Land Acquisition Act sent to the State Chief Secretaries of various state Governments, the Karnataka Government has given an affirmative reply for reducing the time limit for completion of land acquisition procedure. In this connection, the State Government has stated as follows:—

"The land acquisition proceedings may be completed after passing of final award by the Collector within two years from the date of issue of 4 (1) Notification to Section 6 and two years from Section 6(1) Notification to preparation of award under Section 11 without indicating the stages."

1.29 In response to the question whether the time period for acquisition of land can be reduced, the State Governments like Gujarat, Punjab, Arunachal Pradesh, Madhya Pradesh, Goa and Uttar Pradesh have stated:—

"No amendment is required to reduce the stipulated period of three years because this has had a good effect and land acquisition proceedings do not remain pending beyond the stipulated time period. However, in a number of cases, where the process does not complete within the stipulated time, the proceedings stand lapsed."

1.30 However, Orissa Government have suggested that the time period from Section 4 to Section 6 should be one and half years instead of one year and the time period of two years from Section 6 to Section 11 should be reduced from two years to six months. During the course of oral evidence of the Representatives of the Ministry of Rural Development it has been stated that "the Government of Andhra Pradesh has tried to fix this period like this. The first stage is called the draft notification stage. They have laid down that 30 days for gathering registration statistics and preparation of valuation statement. They have provided 45 days for preparation of sub-divisional records and conduct of enquiry under Section 5A. They have laid down 30 days for the sub-divisional record preparation and making the draft declaration stage, they have to declare it in the official gazette and two newspapers within 30 days. Next comes the award stage. Since the date of publication the award has to be decided in 30 days passing of the award and issue of notice should be done within 15 days. The

total is 210 days. This is what they have worked out up to the award stage. Since we had written to them they have also worked it out for post-award stage. For the award stage they have kept 165 days and they have kept 45 days for administrative time limits. Moreover, the Bihar Government have informed the Committee that the procedure of land acquisition can be completed within a period of 200."

1.31 The Committee are perturbed to note that there are many examples of undue delay due to unclear definition of 'appropriate Government'. Keeping in mind the enormous expansion of the State's role in promoting public welfare and economic development since independence, the need for acquisition of land for public purposes has become far numerous. In the opinion of the Committee the time limit between Section 6 and other subsequent provisions of the Act are so stretched for various reasons that it really affects the price of the land to be acquired by Government and hamper other developmental activities. By considering the actual procedure for the completion of land acquisition, the formula of three years average become absolutely obsolete. Therefore, the Committee would like to recommend that the time period for the completion of land acquisition procedure should be reduced from three years to two years by providing for only one year period from Section 6 to Section 11.

1.32 The Committee also find that the date of publication of Notification is not very clear and specific. The practice shows that in some of the States the day the Collector puts his signature on the notification is considered as the date of publication of notification and in some other states, the date of publication in the Newspaper or in the official Gazette is considered as the date of publication of notification. Therefore, the Committee would like to recommend that uniform guidelines should be issued in this regard by the Government so as to strictly follow the proposed two years time limit for the completion of Land Acquisition Procedure.

1.33 It has also been noticed by the Committee that certain cases remain pending in the courts for a pretty long time. Consequently, the Government as well as the affected persons are deprived of timely benefits which might accrue to them by the virtue of that land. The Committee, therefore, recommend that the Central Government should explore the possibilities of simplifying the judicial process for speedy decisions of the cases pending in different courts in the country under the Land Acquisition Act.

CONSIDERATION OF MATTERS FOR DETERMINING COMPENSATION

1.34 Law of acquisition is inseparably connected with the law of compensation. Under Land Acquisition Act, the Committee observe that the compensation should be paid to the affected persons according to the market value. Presently Section 15 provides that compensation should be determined as per the provisions under Sections 23 & 24 of the Land Acquisition Act, 1894. Section 23 of the Land Acquisition Act, 1894 envisages that in determining the amount of compensation to be awarded for land acquisition, the Court shall take into consideration, the following matters:-

first, the market-value of the land at the date of the publication of the notification under Section 4, Sub-section (1);

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops, trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of serving such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) bonafide resulting from diminution of the profits of the land between the time of the publication of the declaration under Section 6 and the time of the Collector's taking possession of the land.

1.35 The Land Acquisition Manual of all the State Governments have envisaged that the cost of land should include the cost of the properties attached to it and while evaluating the cost of land and other properties, State Governments have been following the guidelines contained in their manual and the executive instructions issued to them from time to time.

1.36 First of all the Committee would like to suggest that the word "court" being used in Sec. 23 of the Act should be substituted by the word "Appropriate authority" so as to avoid different connotations by different persons.

1.37 As regards the valuation of compensation of land under Land Acquisition Act, it has been observed by the Committee that in some of State Government's manuals, it has been stated that owners of trees may be given the option of cutting them down instead of receiving compensation for them. The Committee are of the view that there are certain trees which are in a pre/bearing stage but have timber value. They feel that this is quite unjustifiable that a farmer, who has planted trees which acquire timber value after 10 to 20 years and if in the meantime the Government acquires land under Land Acquisition Act by completing entire proceedings, will not get any compensation for the labour and other expenditure incurred by him/her for planting such trees. Similarly, there are trees for example fruit bearing trees *e.g.* coconut, sindhi, rubber, tea, coffee etc. which do not have any timber value, but involve lots of labour and expenditure for planting and rearing are not taken into account while deciding about compensation.

1.38 It has also been observed by the Committee that there are some non-agricultural land which do not have any agricultural value but may have mineral resources with immense economic value underneath. The Committee observe that this factor is not taken into account while evaluating non-agricultural land for the purpose of granting compensation.

In order to provide judicious compensation to the land owner, the Committee would like to recommend that while evaluating land for the purpose of deciding compensation, the Acquisition Officer shall take into account all these factors. While evaluating all the above mentioned factors the concerned authority must consult Departments of Agriculture, Horticulture, Forest and Irrigation etc. Some uniform modalities, guidelines should also be issued by the Ministry of Rural Development to the State Governments so that no area of compensation should be left unassessed. Any benefit which might accrue from those trees subsequent years should also be taken into consideration.

1.39 It has been noticed by the Committee that while deciding the amount of compensation the average value of the sale deeds of 3 to 5 years preceding the preliminary notification under Sub-section (1) Section (4) of the Land Acquisition Act is taken into consideration by appropriate authorities. In this connection, the Committee would like to recommend that the increasing value of land during these years should also be taken into account while granting compensation.

1.40 At present, the Act nowhere defines "Market rate". In the absence of such a definition the various State Governments are following their own criterion for assessment of the land/trees both fruit bearing and non-fruit bearing. The persons whose land is acquired by the Government are put to a great loss.

During the evidence some of State Governments viz., Kerala, Karnataka and Orissa agreed with the opinion of the Committee that the Act is silent about the term market value. For the purposes of the Land Acquisition the term market rate does not simply mean the commercial activity carried on in a particular area but it is more than that. While assessing the value of land, trees and building etc. It is very essential that the rates prevailing in the adjoining areas should always be taken into consideration. For fruit bearing trees, their values/rates should be calculated on the basis of the prevailing rate obtaining at the main business trading centre. Similarly, the Committee are of the view that the best method of determining the market price of the plots of land under acquisition is to rely on instances of sale price of the same type of land in its vicinity as on the date of Section 4(1) Notification. The next best method is to take into consideration the instances of sales of adjacent land sold shortly before and after the Notification. The potential value of the land should also be taken into consideration. In the absence of any such transaction of the property under acquisition, instances of sale of similar properties have to be collected, analysed and taken into consideration.

1.41 It has been provided under Section 23 clause (2) that "In addition to the market-value of the land as above provided, the Court shall in every case award a sum of thirty per centum of solatium on such market-value, in consideration of the compulsory nature of the acquisition."

In this connection, the Committee fail to understand that the provision for giving solatium is not applicable in those cases where a person voluntarily offers his land to the govt. for acquisition. Since more and more land is required by the government in order to meet the tasks of socio-economic development, the Committee would like to recommend that the provision under Section 23(2) should also be applicable in case of consent award as an incentive to the concerned person.

DECLARATION OF AWARD AND PHYSICAL POSSESSION

1.42 As large number of cases for the acquisition of land are pending before various authorities for a very long time, payment of the market value of the land obtaining on the date of the preliminary Notification under Section 4 of the Act in respect of such land is likely to be unrealistic and iniquitous.

1.43 As a result, an amendment was made and Section 11A was inserted in 1984, which provides as follows:—

The Collector shall make an award under Section 11 within a period of two years from the date of the 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, 1984, the award shall be made with a period of two years from such commencement.

1.44 But the real experience reveals a different picture in this regard. There are some cases where the Land Acquisition proceedings have been completed within the prescribed period of 3 years but the physical possession of land has not yet been taken by the appropriate Government even after the expiry of around 5 to 10 years after the declaration of award. In this situation, no penalty has been provided in the Act and the affected persons will have to suffer on the following accounts:—

- (a) No interest is payable on the compensation awarded by the Land Acquisition Collectors if the same is not paid for any period after making the award.
- (b) Delay in payment of compensation defeats the very purpose of the amendment of 1984 in this Act.
- (c) The interested persons will suffer loss of interest on the market value.
- (d) The interested persons will suffer loss on account of devaluation in the value of rupee, and
- (e) The interested persons will not get the value/compensation beyond a period of 3 years and would defeat the very purpose of limiting the period of completion of the acquisition proceedings.

1.45 The Committee are of the opinion that this anomaly has arisen only because in Section 11A the words 'making of the award within a period of 2 years from publication of declaration of the date of intended acquisition' under Section 6, have been used.

1.46 In this connection, first of all the Committee would like to recommend that the word 'Physical Possession' should be distinctly defined in Section 3 i.e. the definition clause of the Act, so as to avoid any ambiguity regarding the meaning of the term physical possession.

1.47 The Committee also recommend that the following explanation should be added to Section 11A of the Land Acquisition Act:

Explanation:— Making of an award within that period by the Collector would mean and include the compliance of mandatory provision of Section 31 of this Act.

1.48 It is further recommended that Section 28 also be amended by adding "he took possession of the land or the award is made, whichever is earlier" in place of the words "he took possession of the land." Similarly, in proviso to the Section 28 it is proposed that the words "on which possession is taken or award is made, whichever is earlier" should be substituted for the words "on which possession is taken".

1.49 The Committee further feel that sometimes the situation arises where the giving of award and completion of physical possession of land get delayed because of the paucity of funds or lack of budgetary provisions. As a result, the Land Acquisition process lapses by the virtue of Section 11A. Hence, the Committee would like to recommend that special contingencies fund should be created for giving timely compensation to the affected persons.

1.50 Furthermore, the Committee would like to recommend that the sanctioning power of the Collector, the Commissioner and State Government in case of compensation should also be revised taking into account the increasing value of land and other properties attached to it. As regards the pecuniary limits to be decided by each of the authorities, the Committee would like to recommend that the limit of the sanctioning power of the Collector should be raised upto Rs. 30 lakhs, that of the Commissioner from Rs. 30 lakhs to 50 lakhs and in the case of the State Government it should be above fifty lakhs.

NEW DELHI;
29 July, 1994

7 Sravana, 1916 (Saka)

PRATAPRAO B. BHOSALE,
Chairman,
Standing Committee on
Urban and Rural Development.