

The Conference of State Revenue Ministers

The Conference of State Revenue Ministers was held on 27th June, 2014 at Vigyan Bhavan under the Chairpersonship of Hon'ble Minister of Rural Development Shri Nitin Gadkari. Altogether 32 States and Union Territories participated. 12 States/UT namely, Assam, Chhattisgarh, Delhi, Goa, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Tamil Nadu and Telangana were represented by their Lt. Governor / State Deputy Chief Minister in-charge Revenue / Revenue Ministers / Rural Development Minister; the rest were represented by their Principal Secretaries/Secretaries. The States of Arunachal Pradesh, Mizoram, Nagaland and Sikkim did not attend the Conference.

A summary of the suggestions on the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013 made during the Conference of State Revenue Ministers is as follows:

- The Consent Clause [Section 2(2)] should be re-examined, as ownership of land vests with the Government in PPP projects. The Consent clause should be removed from PPP projects. Alternatively, consent requirement may be brought down to 50%.
- Definition of 'affected family' [Section 3(c)] needs to be re-examined as it is very elaborate and includes 'livelihood losers' working in the affected area for three years prior to acquisition of land and whose primary source of livelihood is affected. The Act provides for R&R benefits to the affected families. Hence, the provision is likely to be misused in the absence of clear criteria for determination of affected families.
- Powers of 'Appropriate Government' [Section 3(e)] which are with the Central Government should be delegated to the Union Territories.
- Mandatory Social Impact Assessment study (Sections 4 to 9) should be done away with, SIA should be confined to large projects/PPP Projects as it may delay the acquisition process.
- The provision to safeguard food security (Section 10) by development of 'culturable wastelands' in lieu of acquisition of 'multi-cropped irrigated land' needs to be amended as States like Delhi, Goa, Himachal Pradesh and Uttarakhand do not have any wasteland for the purpose.
- The Retrospective clause (Section 24) which stipulates that land acquisition proceedings would lapse in case compensation is not paid or physical possession is not taken should be modified. Payment of compensation as per New Act to the persons specified in Section 4 notification under old Act leads to increased burden on the State exchequer. The provisions of Section 24 need to be amended as it is leading to litigations.
- The litigation period or period of stay/ injunction should be excluded while calculating the prescribed time limits for completing various proceedings under the Act eg, Section 24(2), Section 25.
- Section 26 should be re-examined as determination of market price of land based on 'agreements to sell' will lead to speculation in land prices. As such, at present the

compensation paid is higher than market value in Himachal Pradesh, Lakshadweep, Kerala etc.

- In Section 30(3), the date from which an amount of 12% of market value is to be given, should be calculated from date of preliminary notification under Section 11 and not from Section 4 notification which deals with SIA study as stipulated in the Act presently. It also contravenes the Section 69(2) of the New Act which deals with determination of Award by authority and stipulates calculation of 12% of market value from date of preliminary notification under Section 11.
- Under the Urgency Clause (Section 40), the powers to determine ‘any other emergency’ should also be exercised by the State Government. At present, urgency clause is restricted to ‘the Defence of India or National Security or for any other emergency arising out of natural calamity or any other emergency with the approval of Parliament’.
- Section 46 stipulating R&R obligation in case of private purchase beyond limits specified by the State Government should be deleted.
- The jurisdiction of Authority (Section 51) should be restricted to dispute resolution only and not be on determination of award.
- Penalty Provisions (Sections 84-90) including imprisonment of 6 months extendable to 3 years or with fine or with both for the Government Servants are too stringent and may lead to harassment of civil servants.
- Section 101 dealing with return of unutilised land to the original land owners or heirs should be deleted.
- The clause specifying sharing of 40% enhanced cost with original land owners (Section 102) when the land is transferred on higher consideration should be deleted as it leads to disputes.
- Under Section 104 of the Act, a formula for calculating ‘lease amount’ may be given, as a formula has been prescribed for calculating compensation value.
- There should be threshold for R&R entitlements in Second Schedule and infrastructural amenities in Third Schedule.
- Under Second Schedule, the provision of ‘land for land’ should be re-examined.
- State Specific Acts dealing with land acquisition should be included in the Fourth Schedule exempting the enlisted Acts from provisions of the New Act.
