

No.NH-11011/30(1)/2016-LA
Government of India
Ministry of Road Transport & Highways

141.24

Transport Bhawan,
Parliament Street,
New Delhi dated 02nd August, 2016

To,

1. The Chairman,
National Highways Authority of India
G-5&6, Sector- 10, Dwarka, New Delhi-75
2. Principal Secretary/Secretary,
Public Works Department/Revenue,
State Government of Kerala

Subject: Bulk acquisition/purchase of land through consent of land owners - reg.

Sir,

I am directed to refer to this Ministry's letter of No.NH-11011/30/2016-LA dated 27.05.2016 and Government of Kerala's letter no.E.248876/B1/2016/RD dated 29.06.2016 on the subject cited above.

2. The competent authority in this Ministry has decided that while land for NH projects can continue to be acquired under the relevant provisions/sections of the National Highways Act, 1956, in consonance with the applicable provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013, wherever feasible, land for NH projects can also be procured in the State of Kerala in accordance with the Government of Kerala's policy G.O.(Ms).No. 485/2015/RD-dated 23.09.2015 (copy enclosed).

3. This may be brought into the notice of all concerned authorities dealing with the acquisition of land in the state of Kerala and it may be ensured that all determination of compensation for acquisition of land/bulk purchase of the land on consent basis is in consonance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013 and respective State Government's land laws/policies.

Encl. As Above

Yours faithfully,



(Rajesh Gupta)

Deputy Secretary to the Government of India

Tel No. 011-23718527

Copy for similar action to:-

1. Director General (Roads Development) & Special Secretary, M/o RT&H
2. ADG-I/ Coordinator -I/ Coordinator- II/ Coordinator- III
3. CE (P-7)/ CE (SARDP- NE)/CE (NHDP- IVA)/ CE (Mon)/ CE (Planning)
4. RO (Thiruvananthapuram), M/o RI&H

Copy for information to:

1. PS to Minister (RT&H)/ PS to MoS (RT&H)
2. Sr. PPS to Secretary (RI&H)/ PPS to AS&FA
3. PPS to JS (I.A)/ JS (H)/ JS (T)/ JS (Coord)
4. Additional Chief Secretary, Government of Kerala

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BE (NHDP)

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FD-SE (NHDP)
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Policy of the State of Kerala for compensation in land acquisition

Introduction

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has been enacted with the objective of ensuring adequate compensation and Rehabilitation & Resettlement to Land owners whose land are compulsorily acquired by the State for bonafide public purposes. Section 108 of the Act empowers the Government to frame law or policy which provides a higher compensation than calculated under this Act for the acquisition of land and thereby enabling the land owner to exercise option either to avail such higher compensation for Rehabilitation and Resettlement under such policy of the State or to go by the provisions of the Act. Kerala is a State with high population density and whenever Government resorts to acquisition of land for public purpose, families get displaced from their ancestral properties and lose lands which are often their sole livelihood. In order to ensure that immediate relief by providing enhanced compensation and Rehabilitation & Resettlement package to such affected families, Government of Kerala felt the need for framing an adequate policy on the subject.

Objectives

Government aims to ensure the following relief to the land losers through this policy

1. The land losers are provided with just and reasonable compensation for land acquired, relieving them from the burden of approaching judicial forums for enhancement of compensation
2. Rehabilitation & Resettlement policy as provided in the Act along with additional packages including employment/stake holdings in eligible cases according to the nature of the project.
3. Disbursement of compensation before taking possession of land and ensuring Rehabilitation and Resettlement packages including infrastructural amenities as provided in the third schedule of the Act within 18 months of the date of publication of DD
4. Transparency in procedures and less negative impact ensuring the land losers that their socio-economic status does not fall below what it was before the acquisition

Frame work of the policy

The general provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 shall apply to all land acquisitions. Social Impact Assessment (SIA) study shall be conducted in projects where it is mandatory and preliminary notification under Section 11 of the Act shall be published after approval of the project by the Expert Committee.

- (1) The Government shall constitute a District Level Fair Compensation, Resettlement and Rehabilitation Committee in every District.
- (2) The District Level Fair Compensation, Resettlement and Rehabilitation Committee shall have the following Members

- ii) District Collector
- iii) Administrator for Resettlement and Rehabilitation
- iv) Land Acquisition Officer
- v) Finance Officer
- vi) Representative of the Planning Body empowered to take financial decisions on its behalf
- vii) Representative of the Local Self Government Institution of the area where the land is situated

Provided that where the affected area covers more than one district, the District Level Fair Compensation, Resettlement and Rehabilitation Committee of the district where major portion of the land to be acquired belongs to, shall function as District Level Fair Compensation, Resettlement and Rehabilitation Committee to take action in the matter

- (3) The District Collector will verify the title deeds, non-encumbrance certificate, basic tax receipt, building tax receipt, possession certificate and other relevant records of each parcel of land to be acquired
- (4) The District Government Pleader or any other advocate specially authorized by the District Collector in this behalf will scrutinize the title deeds, and other documents relating to ownership and possession and give necessary recommendation to the District Collector
- (5) The District Collector shall, within 7 days of the preliminary notification under Section 11, send the SIA Report and other relevant documents to the District Level Fair Compensation, Resettlement and Rehabilitation Committee
- (6) The District Level Fair Compensation, Resettlement and Rehabilitation Committee shall fix the parameters and shall define criteria for categorization of land as per the local needs to fix land value and the same may be approved by the Committee. The Committee should take utmost care in determining the criteria for categorization. There should not be any ambiguity regarding classification. The authority to change the categorization once approved by the District Level Fair Compensation, Resettlement and Rehabilitation Committee shall rest only with the SLEC
- (7) After categorization of lands, land value shall be arrived at as per the provisions of the Right to Fair Compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and keeping this as the basis land value and taking into consideration the existing market value of the land make negotiation with the land owners and reach consensus with them on the final land value
- (8) The Committee will finalise the estimate of a fair and reasonable price of land and compensation along with the Rehabilitation and Resettlement package to be given to the affected person/family. The Committee shall ensure that eligible affected family is given Rehabilitation & Resettlement as envisaged in the second and third schedule of the Act
- (9) The District Level Fair Compensation, Resettlement and Rehabilitation Committee shall send the estimate arrived as above, in Annexures I & II to the State Level Empowered Committee for approval

(10) The Government shall constitute a State Level Empowered Committee who shall have the following members

- (i) Chief Secretary
- (ii) Revenue Secretary
- (iii) Secretary of the Administrative Department
- (iv) Law Secretary
- (v) Finance Secretary

(11) The State Level Empowered Committee shall approve the estimate or return if for reconsideration by the District Level Purchase Committee with suggestions/observations that it thinks fit

(12) The District Level Fair Compensation, Resettlement and Rehabilitation Committee shall, within 15 days of the receipt of such approval with or without changes, send individual notices to the affected families and affected persons apprising them of the provisions of the law or policy and giving them a date to appear before it on a specified date for the purpose of considering settlement of compensation and resettlement and rehabilitation claims on the basis of the policy

(13) On the date fixed as above, the District Level Fair Compensation, Resettlement and Rehabilitation Committee shall explain the policy to the affected family or affected person and give them an estimate of the compensation and resettlement and rehabilitation package worked out under the policy

Provided that the date so fixed may be adjourned for another date for reasons to be recorded. Provided further that the proceedings shall not be adjourned for more than a period of 30 days in all from the first date

(14) At the proceedings, the District Level Fair Compensation, Resettlement and Rehabilitation Committee shall present the estimated compensation and resettlement and rehabilitation package to the affected family or affected person and explain the terms and conditions of the same.

Provided that the District Level Fair Compensation, Resettlement and Rehabilitation Committee may change the compensation and relief and resettlement package for the benefit of the affected family or affected persons to the extent of 10% in order to arrive at a mutually acceptable settlement. If District Level Fair Compensation, Resettlement and Rehabilitation Committee feels that a higher payment exceeding 10% is absolutely necessary then the proceedings may be recorded and sent to SLEEC for approval

(15) The affected family or affected persons shall thereupon submit their consent to having their claims settled according to such law or policy of the State instead of settling the same under the Act

Provided that the affected families or affected persons who either rejected the negotiated settlement may, by a written application to the Collector shall choose the option of the State policy at any time before passing the final award under Sections 30 and / or 31

(16) Upon receiving the consent of the affected person or affected family, the District Level Fair Compensation, Resettlement and Rehabilitation Committee shall submit the consent along with minutes of its proceedings to the Collector for finalizing the conveyance of land in terms of the consent

- (17) The Collector, upon receiving the consent, shall cause a Sale Deed in terms of the settlement arrived at in the proceedings before the District Level Fair Compensation Resettlement and Rehabilitation Committee to be executed and registered between himself and the affected family or affected person.
- (18) The Collector shall ensure that the draft declaration under Section 19 of the Act has been published before proceeding with the execution of the sale deed.
- (19) The designated officer of the concerned project authority will take steps to effect necessary changes in the classification of land through the Taluk Tahsildar on the basis of the copy of the registered deed obtained from the Office of the Sub Registrar.
- (20) The Compensation or package received by the affected family or affected person shall not be subject to income tax or any other levy.
- (21) The compensation and package agreed upon shall be paid into the bank account the details of which shall be submitted by the affected family or affected person along with the consent.
- (22) On completion of the conveyance the Collector shall take possession of the land immediately, provided that the Collector may, on a written application by the affected family or affected person, accord sanction for extension of taking possession of the land by a period not exceeding 30 days.
- (23) No conveyance made under these rules shall be called in question in any court of law on any ground except that the same was executed by a person other than the one who was competent to do so.

Appendix-I

Check List for District Level Purchase Committee

- 1 Whether the title of the land is clear
- 2 Whether any Government land is involved
- 3 Criteria for categorization
- 4 Criteria for fixing land value
- 5 Decision of the DLPC

FORMAT FOR SUBMITTING PROPOSALS FOR SLEC

I.

Category	Total Extent of land in Acres	No. of title holders	No. of title holders who have given consent	Land value as per BVR in Acres	Land Value 100% solatium + 12% additional land value	Land value decided by the DIPIC (per Acre)	% of increase	Existing fair value
A								
B								
C								
D								
Total								

II Budget provision under H/A 5054-80-800-65 LA for Government purposes

III Amount already released

IV Balance available

V Approx. amount proposed to be released for compensation in the present case

VI Amount recommended for release

VII Whether percentage of increase is justified