

പതിമൂന്നാം കേരള നിയമസഭ
ഒൻപതാം സമ്മേളനം

നക്ഷത്രചിഹ്നമിട്ട ചോദ്യം നം. *107

13.06.2013-ൽ മറുപടിയ്ക്ക്

റോഡ് വികസനത്തിന് സ്ഥലമേറ്റെടുക്കുമ്പോൾ നൽകുന്ന
നഷ്ടപരിഹാരം

ചോദ്യം

മറുപടി

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ശ്രീ.വി.കെ. ഇബ്രാഹിം കുഞ്ഞ്
(പൊതുമരാമത്ത് വകുപ്പുമന്ത്രി)

(എ) റോഡ് വികസനവുമായി ബന്ധപ്പെട്ട് സ്ഥലമേറ്റെടുക്കുമ്പോൾ നൽകുന്ന നഷ്ട പരിഹാര - പുനരധിവാസ നിയമം കൂടുതൽ ഉദാര വൽകരിച്ചിട്ടുണ്ടോ ; വിശദമാക്കുമോ ;

(എ) പൊതു ആവശ്യത്തിന് ഭൂമി ഏറ്റെടുക്കുന്നതുമായി ബന്ധപ്പെട്ട് 15.11.2011-ലെ സർക്കാർ ഉത്തരവ് (എം.എസ്) 419/2011/റവ ആയി സമഗ്രമായ ഒരു പുനരധിവാസ പാക്കേജ് സർക്കാർ അംഗീകരിച്ചിട്ടുണ്ട്. (പകർപ്പ് ഉള്ളടക്കം ചെയ്യുന്നു)

(ബി) ഉദാര വ്യവസ്ഥകൾ നിലവിൽ വരും മുൻ റോഡ് വികസനത്തിന് സ്ഥലം വിട്ടു നൽകിയ ചെറുകിടക്കാർ നേരിടുന്ന ബുദ്ധിമുട്ടുകൾ ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ടോ ;

(ബി) ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ട്.

(സി) തുടരമായ നഷ്ടപരിഹാരം കോടതികൾ വർദ്ധിപ്പിച്ചു നൽകിയതിനെതിരെ, പൊതുമരാമത്ത് വകുപ്പ് സൂപ്രീം കോടതിയിൽ അപ്പീൽ നൽകിയതിന്റെ ഫലമായി കിടപ്പാടം പോലും നഷ്ടപ്പെട്ടവർ നഷ്ടപരിഹാരത്തുക വക്കീൽ ഫീസായി ചെലവഴിക്കേണ്ടി വരുന്നതായി ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ടോ ;

(സി) ശ്രദ്ധയിൽപ്പെട്ടിട്ടില്ല.

(ഡി) ഇക്കാര്യത്തിൽ അടിയന്തിരമായി ഇടപെടുമോ ?

(ഡി) ബാധകമല്ല.


വൈഷൻ ഓഫീസർ



GOVERNMENT OF KERALA

Abstract

REVENUE DEPARTMENT—REHABILITATION AND RESETTLEMENT PACKAGE FOR
ACQUISITION OF LAND—APPROVED—ORDERS ISSUED

REVENUE (B) DEPARTMENT

G. O. (Ms.) No. 419/2011/RD. Dated, Thiruvananthapuram, 15th November, 2011.

ORDER

Land acquisition for 'public purpose' in the State is done under the provisions of Land Acquisition Act, 1894. Due to lack of provisions for resettlement and rehabilitation and a clear and transparent policy, there is strong resistance to acquisition of land.

2. Government have examined the matter in detail and are pleased to approve a comprehensive Rehabilitation and Resettlement Policy and Package for land acquisition in the State as appended to this order. This package will be applicable to all land acquisition cases with effect from the date of this order where the land acquisition award has not been passed. The process of approval for land acquisition by the High Level Committee would be required only for new cases of land acquisition in which the Administrative Sanction has not been issued.

3. Government is also actively considering a novel idea of assigning Kerala Infrastructure Bonds in lieu of compensation in full or part which may aid the Project Affected Persons to benefit from the hike in land price that occur in future. Since further clarity is required regarding assessment of land value, transfer of bonds, implementing agency etc., Government hereby order to form an expert committee to study the matter in detail and to furnish report.

By order of the Governor,

DR. NIVEDITA P. HARAN,
Additional Chief Secretary.

To

The Commissioner, Land Revenue, Thiruvananthapuram.
All District Collectors.
The Public Works/Water Resources/Industries/Power/Transport/Local
Self Government/IT Departments.
The Principal Accountant General (Audit), Kerala, Thiruvananthapuram.
The Accountant General (A&E), Kerala, Thiruvananthapuram.
The Finance Department (Vide 65224/Exp/A1/2011/Fin. dated 26-8-2011).
General Administration (SC) Department.
Information and Public Relations Department.
Stock File/Office Copy.

APPENDIX

REHABILITATION AND RESETTLEMENT POLICY OF
GOVERNMENT OF KERALA**Introduction and Objectives**

Land acquisition in Kerala is carried out under the provisions of the Land Acquisition Act, 1894. This being a Central Act, State Government has powers only to implement rehabilitation package to supplement the compensation awarded under the provisions of this Act. The State Government has made some arrangements in this direction by introducing a fast track mechanism for land acquisition; which has ensured a better compensation to the evictees.

When adequate or suitable public land is not available for any specific public purpose including infrastructure and development projects, Government has to resort to land acquisition. Often families get displaced from their ancestral personal properties and also lose their land or premises that provide them their income. Kerala is a State with high population density. The State's growth structure makes some areas extended habitation continuum with no clear boundary between the rural and the urban. It is in this context that a Comprehensive Relief, Resettlement and Rehabilitation Policy has become essential.

2. Aims and Objectives of the Relief, Resettlement and Rehabilitation Policy

Government aims to ensure the following through the Relief, Resettlement and Rehabilitation Policy:

- (a) The project affected persons (PAP's) are provided with a just and reasonable compensation.
- (b) Where the negative impact are unavoidable, the project affected persons are to be assisted in ensuring that their socio-economic status does not fall below what it was before the acquisition.
- (c) People's participation shall be ensured in the acquisition of land and in the implementation of the project so that there is transparency and openness and the PAPs are made stakeholders to the extent possible.
- (d) The project is implemented without causing any major disruption or disturbance to the daily lives of the PAPs and the negative effect of having to be displaced from their land can be minimised.

- (e) Before taking possession of the acquired land and property, disbursement of all compensation is ensured.

3. Basic Framework of the Policy

The Relief, Resettlement and Rehabilitation Policy of the Government of Kerala includes the following:

1. Any Land Acquisition should be for a declared and established public purpose and the 'Public Purpose' should be clearly defined right at the commencement.

2. Land acquisition should commence based on a project proposal that should indicate the total area required to be acquired and why the acquisition has become necessary. A High Level Committee headed by the Chief Secretary, Secretary (Revenue) and the Secretary of the Administrative Department shall assess the project, its viability and extent of land required. The Administrative Department will have to submit before this Committee a detailed project elucidating the kind and extent of land to be acquired. Land Acquisition will commence only after the approval of the project by the Committee.

3. The Administrative Department shall carry out Social Impact Assessment in the prescribed proforma before Land Acquisition commences and the report shall be submitted before the High Level Committee. A Social Impact Assessment Study shall be conducted in the case of acquisition for projects as recommended by the High Level Committee. Clear guidelines on the functioning of the High Level Committee will be laid down including where Social Impact Assessment Study is necessary.

4. The Project Affected Persons (PAPs) shall be informed about the details and purpose of the project in a form and manner that is comprehensible to the common-man.

5. Section 4 (1) Notification shall be issued only after issue of Administrative Sanction by the Administrative Department for the project that has got the approval of the High Level Committee.

6. A District Level Purchase Committee (DLPC) is constituted in every district. The DLPC would decide the classification and value of lands based on market value of land after negotiations with land owners. The DLPC members would be as follows:—

- (i) District Collector - Chairman
- (ii) Concerned RDO/Sub Collector
- (iii) Finance Officer, Collectorate
- (iv) A representative of Requisitioning Agency, not below the rank of a District Level Officer.
- (v) Deputy Collector in charge of Land Acquisition.

7. The value of land would be approved by the Government after approval by a State Level Empowered Committee (SLEC), based on the recommendation of the DLPC. The SLEC would include:

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

8. Urgency clause shall be invoked only in the rarest of rare cases, with the recommendation of the High Level Committee and only with adequate justification.

9. Land acquired should be utilized within three years, failing which the land will be taken over by the Government in Revenue Department and assigned for any other public purpose. The High Level Committee shall have the authority to condone the delay where justified.

10. No 'de novo' process shall be initiated unless the High Level Committee condones the delay and responsibility fixed for the process becoming 'de novo'.

11. Section 4 (1) notification shall be issued only after at least 25% of the L.A. cost is deposited in the Land Acquisition Officer's Account.

12. The compensation payable includes: the land value based on a negotiated price and the value of the structures without depreciation.

13. A family rendered landless and homeless with no salaried income whose annual income is below ₹ 75,000 shall be provided upto 3 cents of land.

14. In employment generating projects, providing jobs with permanent income to one member of the oustee family may be considered by the Requisitioning Authority.

15. House rent grant should be paid for a minimum period of 6 months to the PAP who loses his home which he and his family were occupying and who have no other house.

16. Tenants in occupation for a minimum of 3 years who lose their source of income will be paid a one-time allowance. Roadside vendors and other small-scale industries shall be covered in this category.

17. In cases where the title is not clear or in cases where the land value decided by the DLPC is not acceptable to the land owner, further land acquisition as permissible shall be carried out under the provision of Land Acquisition Act, 1894 or NHA Act, as the case may be.

4. Alternate Methodologies

The Government also propose to try out the following alternate methodology for land acquisition in specific cases depending upon their applicability as per the recommendation of the Cabinet Sub Committee.

- For developmental and infrastructure projects, the PAP shall also be given a chance to become shareholders in the upcoming project and offered with stocks up to the value of the land acquired in lieu of the compensation.
- The LSG institutions shall give priority to the PAP tenants who were running shops and other business establishments, in assignment of commercial space in PRI run commercial complex.
- Where the land owner whose land is acquired, is left with less than 50% of his land and is willing to have the balance land also acquired, Government will acquire such land and utilise it for public purpose.
- In the case of every acquisition, the owner who loses his entire land will be given the option to claim either the compensation or to take 25% of the quantum of land acquired from him as compensation, in the vicinity of the project site or along the new or widened road. This will enable the PAP to get advantage of the land value appreciation that will take place with the advent of the project.

5. Resettlement and Rehabilitation

Government will ensure that land owners who lose their land and other assets through land acquisition get compensation and resettlement in the manner specified under each category of project. The rate of compensation for all land acquisition cases is as given in the Annexure.

5.1 Land Acquisition for Special Projects other than Roads

(i) Land value shall be based upon the Basic Land Value arrived at by the DLPC and SLEC.

(ii) Value of construction will be assessed without depreciation.

(iii) Where the project affected person (PAP) is rendered homeless and income of the family is below ₹ 75,000 per annum, alternate land of 3 cents per family shall be assigned for rehabilitation. Such land will be acquired as part of the project and it will be adjacent or close to the project site. This is to ensure that the project affected persons also benefit from the increase in land value and from the developmental activities that take place in the vicinity. The basic amenities viz. power, water and road to rehabilitation site shall be provided, the cost of which shall be borne by the Requisitioning Agency/Department. Such developed site shall be handed over to the project affected persons simultaneously with the take over of the acquired land.

(iv) Where the Requisitioning Authority is a Public Sector Undertaking, action shall be taken to provide employment to one member of the family to the extent feasible.

(v) The Requisitioning Agency or the Local Self Government Institution should construct shopping complex on land acquired for this purpose at the cost of the Requisitioning Authority and commercial space should be provided to those displaced from their shops/business centres at a nominal rent for a period of five years. This benefit is meant for the small commercial establishments and shall not be available for companies, banks, financial agencies, PSUs, showrooms, shopping malls etc.

(vi) Up to 10% of the land acquired may be earmarked for rehabilitation of project affected persons.

(vii) Option could be provided to project affected persons to claim compensation or to get 25% of the land acquired from him (with a maximum extent fixed by the High Level Committee) assigned to him in the vicinity of the project area.

5.2 Land Acquisition for Road Projects

Kerala, with its linear type development along the existing roads, widening of roads requires linear acquisition which is bound to displace a large number of residential and commercial properties, structures, institutions and other establishments. Since commercial tenants and employees in such places and encroachers are not generally entitled to any legal compensation, the

Government is of the view that persons/families falling in these categories also deserve special attention and cannot be ignored, primarily in those cases where these persons/families fall in the category of Economically Weaker Section. Such persons also shall therefore be assisted under the following package:

(i) Land value shall be determined based on the Basic Land value arrived at by DLPC and SLEC.

(ii) Value of constructions and improvements shall be assessed without depreciation.

(iii) Where the project affected person is rendered homeless and income of the family is below ₹ 75,000 per annum, alternate land of 3 cents per family shall be assigned for rehabilitation. The basic amenities viz. power, water and road to rehabilitation site will be provided.

(iv) Local Self Government Institutions should endeavour to construct shopping complex to rehabilitate displaced small shop keepers for this purpose. Commercial space should be provided to small-scale commercial vendors displaced from their shops/business centres on a priority basis. This benefit will not be available to companies, banks, large shops, financial agencies, PSU's. Shopping Malls etc.

(v) Option could be provided to project affected persons (PAPs) to claim compensation or to get 25% of the land acquired from him/her (with a maximum extent fixed by the High Level Committee) assigned to him/her in the vicinity of the newly-formed road.

5.3 Land Acquisition for National Highways

Land Acquisition procedures for the National Highway will be carried out in accordance with the NHAI Act. However, the Rehabilitation Package formulated by the State Government will be applicable for the land acquisition for NH also. Rehabilitation Committee or DLPC constituted under the chairmanship of the District Collector will hear the complaints regarding rehabilitation and take remedial measures. A State Level Committee comprising of the Secretaries of PWD and Revenue and the representatives of NHAI, PWD Chief Engineer will scrutinize the complaints and take decisions thereon.

5.4 Irrigation Projects

Land acquisition policy as explained above will be applicable in the case of Irrigation Projects also. The project affected persons (PAPs) with land rights will be given the option of getting up to 50% of the land (with a maximum extent fixed by the High Level Committee) acquired from them in the command area, in lieu of compensation.

6. Categorisation of Project Affected Persons

- (1) Those who lose only land and residential structures but are not residing there.
- (2) Those who lose land and residential structures and are residing there.
- (3) Land holders who have given their commercial structure for rent.
- (4) Those who lose commercial structures and are themselves running the commercial establishments.
- (5) Residential tenants.
- (6) Commercial tenants running establishments *for at least 3 years*.
- (7) Employees working in commercial establishments for at least 3 years.
- (8) Encroachers who live or run their small business on puramboke land for a minimum period of 3 years.
- (9) Places of worship/Socio-cultural and Education centres.

7. Institutional Mechanism for Implementation

Each project will have a resettlement and rehabilitation cell with a Rehabilitation Officer, who will co-ordinate the R&R activities. In the districts, the District Collector or his representative will act as the R&R officer. The High Level Committee headed by the Chief Secretary will co-ordinate the R&R activities in the State.

8. Kerala Infrastructure Bonds

Besides the land acquisition policy adverted above, Government is actively considering a novel idea of assigning Kerala Infrastructure Bonds in lieu of compensation in full or part which may aid the PAPs to avail themselves of the hike in land price in future. This shall be assigned for study and report within six months by an expert committee since the Model calls for better clarity regarding assessment of land value, transfer of bonds identifying implementing agency and the structures that need to be in place for implementing such a model.

ANNEXURE

Proposed Compensation Package

- (i) Those who lose only land and residential structures but are not residing there:
 - (a) Land value determined by the DLPC.
 - (b) Structure value without depreciation.
- (ii) Those who lose land and residential structures and are residing there:
 - (a) Land value determined by the DLPC.
 - (b) Structure value without depreciation.
 - (c) Rent @ ₹ 5,000 per month for 6 months from the date of take over of the land or till the compensation is paid whichever is later.
 - (d) Shifting allowance of ₹ 25,000.
- (iii) Those whose land and commercial structures are acquired but who are not running these themselves:
 - (a) Land value determined by the DLPC.
 - (b) Structure value without depreciation.
- (iv) Those who lose commercial structures and are themselves running the commercial establishments:
 - (a) Land value determined by the DLPC.
 - (b) Structure value without depreciation.
 - (c) Rent @ ₹ 5,000 per month for 6 months.
 - (d) Shifting allowance of ₹ 25,000.
- (v) Residential tenants:
 - (a) Rent @ ₹ 5,000 per month for 6 months.
 - (b) Shifting allowance of ₹ 25,000.
- (vi) Commercial tenants:

One time assistance of ₹ 2,00,000 to meet all shifting charges and social costs. However, such assistance would not be provided to companies, banks, financial institutions and large shops, shopping malls, etc.

(vii) A maximum of two employees working in commercial establishments who have been working for a minimum period of three years:

₹ 6,000 per month for 6 months for loss of livelihood.
(This will apply only for small establishments excluding banks, financial institutions, companies, shopping malls etc.).

(viii) Encroachers who live or run their small business on puramboke land for a minimum period of 3 years.

(a) ₹ 6,000 per month for 6 months for loss of livelihood.

(b) Cost of structure subject to a minimum of ₹ 25,000.

(ix) Socio-Cultural and Educational Centres or place of worship:

(a) Land value determined by the DLPC.

(b) Structure value.

S. S.