



2007-08

Field Training Report



Report submitted to-
Land Acquisition Officer,
Collector Office,
Nagpur
(25/02/2008-01/03/2008)

विशेष भुसंपादन अधिकारी,
जिल्हाधिकारी कार्यालय, नागपुर
**Special Land Acquisition Officer,
Collector Office, Nagpur**

सरळ सेवा भरतीने सहाय्यक कार्यकारी अभियंता या पदावर नियुक्ती दिलेल्या अधिकाऱ्यांसाठी क्षेत्रीय
प्रशिक्षण कार्यक्रम, जलसंपदा विभाग
Field Training for Direct Recruits as Assistant Executive Engineer of Water
Resource Department.

कालावधी: २५ फेब्रुवारी-०१ मार्च २००८
Duration: 25 February -01 March 2008 (1 week)

“क्षेत्रीय प्रशिक्षण अहवाल”
“FIELD TRAINING REPORT”

सादरकर्ता-
Submitted by-

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Executive Summary

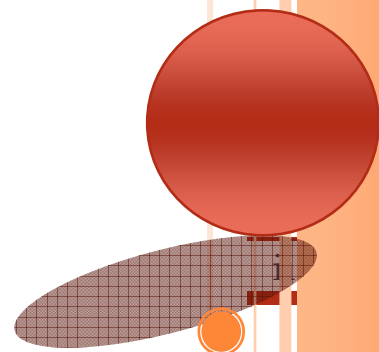
Maharashtra Engineering Training Academy (META), Nashik organized training program for direct recruits - Assistant Executive Engineer of Water Resource Department (WRD), in accordance with Maharashtra Engineering Service Examination-2004.

As per schedule of training program, we were directed to undergo training at Special Land Acquisition Officer (LAO), Collector Office, Nagpur from 25th February 2008 to 01st March 2008.

We joined Special Land Acquisition Office on 25th February 2008 and contacted to **Shri Sanjay Daine saheb**, and he shared valuable information with us. It was nice experience to interact with the dynamic officer and grasp maximum knowledge from his experience. He briefly explained the Land Acquisition procedure as per Land Acquisition Act-1894. Then he showed us the proposal for land acquisition for irrigation project. Apart from scheduled program, the most interesting part was the interaction about the behavior in the government service. We received in-depth knowledge in this training session.

The collector of Nagpur- hon'ble **Shri. Sanjay Mukharjee saheb** also guided us on the critical issue of land acquisition and Rehabilitation.

This report includes the brief of all these studies performed and understood by me. It was very nice experience to get in depth knowledge through this training session. It will serve as a foundation for my life. I am thankful to the officer and staff of the collector office, for providing us the necessary informations.



Acknowledgement

I take this opportunity to express my gratitude to those whose active help and support make field training and this report possible in the present form.

First of all, I express my sincere gratitude to hon'ble **Shri. Sanjay Mukharjee saheb, (IAS)**, Collector of Nagpur for insisting in me the drive to work hard and for inculcating in me the discipline to think clearly.

It is the endless guidance and constant encouragement of **Shri. Sanjay Daine saheb**, Special Land Acquisition Officer, Nagpur. He shared his valuable experiences with us and it was the most enjoyable part of training. I express my heartfelt gratitude for his active help.

I would like to express my gratitude to the staff of collector office, Nagpur for providing us necessary assistance during the training. Definitely the knowledge, I received during this training session was a lifetime experience and it will serve as a foundation for my career.

Last, but not least, I wish to express my gratitude towards my parents- Shivaji and Rohini, my grandparents- Rangnath and Sitabai, my uncle Raosaheb and aunty Radhika who sacrificed a lot to give me a good education.

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Chapter 1 Introduction



1.1 Land Acquisition Procedure

The government takes the private land required for public purposes like road construction, Irrigation Projects. Proposals for private land acquisition are sent to Special Land Acquisition Officer¹. The proposals are scrutinized and Budget Provision Certificate, Administrative Approval Certificate, Technical Sanction Orders are also scrutinized. The proposal includes certificates for "Small Land Holders", issued by Talathi as well as related information submitted by the concerned agencies.

According to our Indian constitution every person is able to take and possess and give his own property. He has its own rights given by the Indian Constitution. But according to the Land Acquisition Act 1894 Rule 31 (2) Government can requisite this property for the public purpose. In this law there is scope to the Govt. to take the land of any owner. Government and Semi Government and Non Government faculties applies for such type of land acquisition to Hon. Collector. Later the applied documents sent for scrutiny to the Land Acquisition Officer (Co-Ordination).

¹ SLAO: Special Land Acquisition Officer

Proposal needs following documents.

- 1) Map of Land to be required.
- 2) Aim of Acquisition.
- 3) List of Survey Number, Gatt Number holders.
- 4) Boundary Area Certificate.
- 5) Budget Provision.
- 6) Certificate.
- 7) Agreement deed of any company or committee.

After this the proposal is opted for joint measurement. Commissioner's permission is taken for land acquisition if the land owner does not agree for it. The objections of land owners are invited, and resolved. Under section 9 (1), if any objections are received during the enquiry, they are resolved by the divisional office of the agency.

Town Planning and Valuation Department evaluates the compensation for the land to be acquired. The department gives compensation after declaration of the award.

In case of disputes after the payment of compensation between cultivators and title is not correct then such type compensation is deposited under section 30 of the Land Acquisition Act 1894 in the name of the District Civil Judge and matter is disposed by the District Judge.

1.2 Provisions of Land Acquisition Act

1. Among the fundamental rights given by our constitution is the right to hold, enjoy and dispose of property. Individual property and land however can be acquired by Government for public purpose, provided compensation is paid therefore.
2. The Land Acquisition Act is the principal Act under which the lands can be acquired. The other Acts under which lands are acquired are the Maharashtra Regional and Town Planning Act, 1966, the Maharashtra Housing Area Development Act, the Bombay Metropolitan Regional Development Authority Act, the Maharashtra Industrial Development Act, etc.
3. The Land Acquisition is one of the oldest Act (1894). The Act provides for compulsory acquisition of lands without any encumbrances and hence the Land Acquisition Officers are required to follow the procedure prescribed therein very carefully. Moreover, the determination of a reasonable compensation for the property is a very intricate job, which requires knowledge and experience. Any error in following the correct procedure in judging the reasonable

compensation is likely to vitiate the whole proceedings and could result in setting aside the Award of Land Acquisition Officer by courts of Law.

4. The Land Acquisition Act comprises 55 Sections in 8 parts. The Part I and I-A comprises preliminary items such as title, definitions and preliminary survey, etc. Part –II provides for (Section 4 to 17) preliminary investigation such as publication of preliminary notifications; hearing of objections under Section 5-A; declaration of intended acquisition under Section-6; making and measuring of land under Section 8, serving of notice to interested persons under Section 9 for submitting their claims, etc. Enquiry into measurement, the value of claims and Award of the Collector under Section 11 and 12 and taking possession of lands peacefully or forcibly under Section 16 or 17; (Part-III) (Section 18 to 28) defines the provisions pertaining to reference to court and procedure thereon; Part IV (Section 29 and 30) provides for apportionment of compensation; Part-V (Section 31 to 34) provides for payment of compensation or depositing the same in court and payment of interest; Part-IV (Section 35 to 37) provides for procedure in regard to temporary occupation of land, Part-VII (Section 38 to 44) lays down the procedure when lands are to be acquired for companies; and the last Part VIII (Section 45 to 55) provides for miscellaneous provisions including those of withdrawing notified lands from acquisition under Section 48, etc.
5. The detailed procedure of Land Acquisition is laid down in the Land Acquisition Manual and instructions issued by Government from time to time. However, the various actions required to be performed are briefed hereunder:
 - a. The Government Department and non-Govt. Bodies apply to the Collector of the District requesting to acquire certain lands for them. The Collector entrusts the case to one of the Land Acquisition Officers for preliminary enquiry which comprises scrutiny of whether proper plans and details of lands are enclosed along with the proposals; whether the purpose for which the lands are proposed to be acquired is an public purpose; whether the lands are demarcated; whether proper budget provisions are made by the Acquiring Bodies; in case it is a non-Government Body whether it is ready to execute necessary agreement; in case the lands are required to be acquired for company whether that Acquiring Body has tried its best to negotiate with landowners, etc. The Land Acquisition Officer has also to consult the other Land Acquisitions Officers in the District to see that the lands are not under acquisition already for some other purpose, and further consult other bodies such as Zilla Parishads, Municipal Councils, etc., so as to find out

that the acquisition is not inconsistent with the objects of the Development Plan of these Bodies. He has also to see whether the acquisition is likely to invite heavy claims for severance or injurious affection.

- b. After being satisfied by the preliminary enquiry, the Land Acquisition Officer has to issue and to publish the notification under Section 4 of the Act in Govt. Gazette, newspaper and in the concerned chawdi, as laid down in the Act. The notification has to be drafted very carefully giving correct description of the lands, the purpose for which plans, etc. are kept open for inspection, etc. This notification indicates the intention of the Government to acquire the lands.
- c. Thereafter, the Land Acquisition Officer has to give hearing to every objector who has given his objection in writing. Such objections can be on the ground of genuineness of acquisition/public purpose/requirement of area and suitability of lands. The Land Acquisition Officer has to send his report under Sec. 5-A in prescribed form to the Divisional Commissioner along with draft notification under Section-6. Simultaneously, the Land Acquisition Officer has to get the land measurement work completed in presence of the representatives of the Acquiring Body and the landowner.
- d. Section 6 of notification is published to indicate the final intention of Government to acquire the lands. The same is published in the manner prescribed in the Act, within one year from the date of publication of Section 6 notification.
- e. After publication of Section 6 notification, individual notices are issued to all persons having interest in the land under section 9, calling for their claims in regard to the area of land and compensation amount expected by them. The claims so received by the Land Acquisition Officer, are referred to the Acquiring Body for their remarks. At the same time, the Acquiring Body is asked to submit valuation report indicating as to what would be the market value of the land, along with the evidence, if any, the Land Acquisition office should give a personal hearing, he should try to ascertain
 1. whether there is any dispute in the area measured;
 2. the nature of interest of the claimant
 3. the corrections of the evidence given by the claimant etc.
- f. The Land Acquisition has to draft the Award. For doing this, he has to value the lands as given in Section 23 and 24 of the Act, for which he has to collect additional data in the form of sales,

leases, rentals or the agricultural data required for valuing the agricultural lands by Income Capitalization Method, etc; apart from information that is produced before by the claimants and acquiring body. Land Acquisition Officer's enquiry and valuation are departmental in their character for the purpose of enabling Government to tender payment of compensation through him to the interested persons. It is therefore incumbent on him to consider all available information, and should not therefore solely rely on the evidence produced by the individual claimants or the Acquiring Body. He has also to study the zoning and other proposals of the Development Plan/Regional Plan/Town Planning Schemes, if any, prepared by the Local Authority, as the value of lands depend on the user permissible thereon. The Award should be systematically drafted and should be specific in terms and not vague. It should suitably be divided into paras dealing with each item, as is explained in the Govt. of Maharashtra's publication 'Model Award' (instructions regarding drafting of award and its form). He should specifically see that the compensation amount is based on the market value of the land as on the last date of publication of Notice under Section 4 of the Act, and give his conclusion in draft award about the-

1. the true area of the land,
2. the amount of compensation,
3. appropriate compensation and award statement.

g. After the draft award is prepared, the same is required to be got approved as per powers delegated by Government under Section II of the Act by the Collector of the District in case the compensation amount is between Rs.2.5 to 15 lakhs; by the Divisional Commissioner if the compensation amount is between Rs.15 to 30 lakhs, and by government if the compensation amount exceeds Rs.30 lakhs. For this, the Draft Award is approved, the Land Acquisition Officer has to amend the draft award if required by the approving authority work out the compensation among; make the amount of compensation available from the Acquiring Body and declare the Award under Sec.11 of the Act.

h. The declaration of Award follows-

1. taking the possession of the land and handing it over to the Acquiring Body;
2. making payment of compensation amount to the landowners/interested persons; and
3. send the Kamijasti Patrak to the D.I.L.R. so that the

ownership of such land is recorded in the name of Govt.

- i. After the Award is declared, the interested persons can within the prescribed time, request the Land Acquisition Officer throughout written application and requisite stamps to refer to the Award to the court under section 18 of the Act, and on receipt of such application, the Land Acquisition Officer has to refer to the same, along with necessary information and documents to the court to decide the latter.
6. There are the general provisions of the Act. However, the Central Government, in 1984, have made major amendments in the Act by enacting the Land Acquisition (Amendment) Act 1984. The major variations in the provisions of the Amended Act from those in the Principal Act in brief are as under:
 - a. Specific time limits are newly prescribed, according to which the notification under Section 6 is required to be published within 1 year from the date of publication of notification under Section 4 of the Act, and the Award is required to be declared within 2 years from the date of publication of notification under Section 6 of the Act.
 - b. The procedure for publishing the notification is modified. Now it is necessary to publish the notification in Govt. Gazette, in 2 regional newspapers and on chawdi concerned, and the last date of amongst such publications is taken as the statutory date of publication of notification.
 - c. The items in the amount of compensation are modified. In Principal Act, the compensation amount comprised only the Market value and 15 per cent solarium. In the amended Act, the same comprises of-

 1. the Market value;
 2. solarium at 30 per cent of the market value; and
 3. an additional amount worked out at the rate of 12% of Market value per annum for the period from the date of section 4 notification till the date of Award, or the date of section taking possession of lands before declaring the Award (by applying urgency clause) whichever is earlier.

 - d. The rate of interest for delayed payment has been increased from 4% to 9% for the first year and 15% for the remaining period.
 - e. In case the possession of lands is to be taken under Sec.17 by applying urgency clause, then 80 per cent of the probable compensation amount has to be paid to the land owners at the time of taking such possession.

- f. In the principal Act, the benefits of the decision of Court, on reference made under Section 18 of the Act used to be given only the landowners who have gone to the Court. However in the amended provisions provides under Section 28-A provides that such benefits would be payable also to the other landowners covered under the same notification, if they make an application to the Collector within the prescribed time.

Chapter 2. Other Land Acquisition Acts

2.1 The Maharashtra Regional & Town Planning Act, 1966.

This Act provides for planning the development and use of land

1. in Regions by way of preparing the Regional Plans for the Regions and
2. in Municipal/Corporation Areas by way of preparing the Development Plans. The Act also provides for compulsory acquisition of land required for public purposes. Provisions about acquisition of lands are made in Chapter VII of the Act in Section 125 to Section 129.

Under Section 125, it is laid down that any land required, reserved or designated in the Regional Plan, Development Plan or Town Planning Scheme for public purpose within the meaning of the Land Acquisition Act, 1984. Under Section 126, the Planning Authority can make an application to State Govt. for acquiring lands under the L.A. Act, which lands are required or reserved for public purpose in any Plan or Scheme under the M.R. and T.P. Act, once the Draft of Such plan or scheme is published.

If the State Govt. is satisfied about the geniuses of the purpose, Government makes a declaration in official gazette in the manner provided in Section 6 of the L.A. Act 1894, in the respect of said land.

However, if such declaration is made within three years from the date of publication of the Regional Plan/Development Plan, etc. the market value for determining compensation is taken to be as prevailing of the date of publication of the Draft Dey. Plan, Regional Plan etc. but if the declaration is made after 3 years from publication of Dev. Plan, Regional Plan, etc. Government has to make a declaration under Section 126(4) are in that case, the market value of such land shall be the value at the date of declaration in the official gazette made for acquiring the land. Further if the lands are required for New Town for a Special Planning Authority, the Market Value prevailing on the date of Publication of Notification in that regard is taken for computing the compensation amount.

Once the declaration under the provision of Section 126 read with the L.A. Act is published, the Collector has to take order for acquisition of the land under the L.A. Act, and the provisions of the L.A. Act shall apply to the acquisition of the Land.

Under Section 128, if Govt. is satisfied that the lands designated/allotted or reserved in any Plan are required for any other public

purposes, State Govt. may, notwithstanding anything contained in the Act acquire such land under the provisions of the Land Acquisition Act.

Under Section 129 provides for taking possession of land which are urgently required before making the Award. In such cases, on receipt of application from the Planning Authority, Development Authority or Appropriate Authority and if Govt. is satisfied about the genuineness of necessity to take possession, the Govt. may by an order in writing authorise the Collector to take possession of such lands after giving a notice of 15 days and after offering necessary damages to the owners of standing crops etc. and then the land will vest without any further assurance and free from encumbrance to State Government.

2.2 Maharashtra Industrial Development Act, 1961.

This Act basically provides for making special provisions for securing the orderly establishments of industrial areas and industrial estates in the States, and to assist generally in the organization thereof and for that purpose to establish an Industrial Corporation and for necessary related matters.

Provisions about acquisition of lands are made in Chapter VI of the Act under Section 31 to 38. When certain lands are required for purpose of development by the MIDC, notices are served on the landowners or other interested persons, under Section 32(2) of the Act to show cause why the lands should not be acquired, and considering the reasons given by the landowners and also after giving them proper hearings, the State Govt. may pass suitable orders about acquisition of lands, where after a notice under Section 32(I) is published in Official Gazette specifying the purpose of acquisition and stating therein that the State Govt. has decided to acquire the land in pursuance of this Section.

On the date of such notice under section 32(I) is published the land vests absolutely in the State Govt. free from all encumbrances under Section 32(4), where after the physical possession of the land is taken by serving a notice under Section 32(5) to surrender the land within 30 days from the date of such notice. If the landowner fails to comply, Government can take possession by using force.

After taking possession of the land and after giving compensation to the landowners, Government shall transfer the land to the MIDC for utilizing the land for the purpose for which it is acquired.

Section 33 deals with determining the compensation amount. In this regard, Govt. firstly negotiates with the landowner, and if an agreement is reached in this regard, the amount of compensation is determined as per such agreement under Section 33(2). However, if negotiations in this regard

fail, then the State Govt. refer the case to the Collector under Section 33(3) to determine the amount of compensation and to whom it is payable. For determining the compensation, the market value of land as on the date on which the notice under Section 32(2) is served upon the owner is taken as a base (parallel to Section 4 Notification under L.A. Act) and guidance as laid down under the provisions of Section 23 and 24 of the L.A. Act is taken into consideration

If any persons is aggrieved by the decision of the Collector about the amount of compensation, he may request in writing to the Collector to refer the matter to the Court under Section 34 (Parallel to Section 18 of the L.A. Act) of Act within a period of sixty days from the decision.

Further if the amount of compensation is not paid or deposited in Court, an interest @ 4% is payable as per provisions of Section 30.

2.3 Maharashtra Housing and Area Development Act, 1976.

Basically this Act consolidated and amends the various laws relating to Housing, repairing, and reconstructing dangerous buildings and carrying out improvements work in Slum areas, so as to co-ordinate the Housing programme with an orderly development of urban areas in the State.

Provisions in regard to acquisition of Lands are made in Chapter V of the Act viz., in Section 41 to 50 therein.

When the Maharashtra Housing & Area Development Authority or any Board makes a representation to Govt. about the land requirement for their purpose the State Govt. firstly publishes a notice in Official Gazette and serves on the landowner to show cause why their land should not be acquired. After considering the causes shown by the owner, and if the State Govt. think it fit, the State Govt. publishes a notification in the official Gazette to the effect that the State Govt. has decided to acquire the land in pursuance of Section 41(I), on the date of such publication of notification, the notified lands vest absolutely in the State Govt. free from encumbrances under Section 41(3).

The physical possession of the land under Section 42 is after serving a notice in writing to the owners to surrender or deliver possession to the State Govt. within 30 days from the date of service to the Notice. If the landowner fails to deliver possession, then the same is taken by force under Section 42(2).

The possession of the lands thereafter is handed over to the Authority by Government.

The basis of determining the amount of compensation of lands situated in Municipal areas is provided in Section 44, while the same in rural areas is provided in Section 50.

Under Sub-Section 2 of Section 44 in respect of land in Municipal areas, there is a provision that Govt. may negotiate with the land owner about the amount to be paid, and where such agreement has reached with the concurrence of the Authority, such amount is paid to the land owner. However, if the agreement is not reached, the amount equal to one hundred times the net average monthly income during past 5 years is to be determined by the Land Acquisition Officer under Section 44(3). The Land Acquisition Officer under Section 5 i.e. after enquiry about the net monthly income determines such amount and publishes a Notice in conspicuous place on the land and serve it on the land owners/interested persons calling them to intimate to him (before a specific date) their remarks and claims if any about such average monthly income. In case there is a dispute, the owners/interested persons can prefer an appeal to the Tribunal within 30 days from the date specified in the Notice referred in Section 44(5). The tribunal, after hearing the appellants, determines the net average income, and the amount paid on the basis is final and cannot be questioned in any Court.

Further, in case there is a dispute in regard to apportionment of the amount as decided by the Land Acquisition Officer may (under Section 45) refer the dispute to the Tribunal for decision.

The Land Acquisition Officer after the amount payable is determined pays the same on behalf of Govt. to the land owners/interested persons. If any of them decline to receive the same on the point of title or apportionment, the Land Acquisition Officer has to deposit the same in the Court as laid down in Section 32 and 33 of the L.A. Act.

Interest at 4% per annum for first six months and 9% per annum thereafter is payable on the amount if there is delay in payment of amount from the date of taking possession of the land/property.

In case the land required are outside the Municipal areas, i.e. in the rural areas, the amount payable has firstly to be determined by negotiations between Govt. and the land owners with the concurrence of the Authority. In case the negotiations fail, the State Government refers the case to the Collector who decides the amount after following the procedure laid down in the Land Acquisition Act, 1894 after taking the date of notice under Section 41(1) and the date of publication of notification under Section 41(3) as the notice and declaration under Section 4(1) and (6) of the L.A. Act.

The method of determining the net average income (under Section 44[4]) is given in the first Schedule wherein it is stated that in case of rented buildings, the Land Acquisition Officer should determine the Gross rent actually derived by the owner after holding inquiry and thereafter 60%

of the Gross monthly income should be taken as average monthly income. In case of unoccupied or owner, occupied premises, the gross rent shall be taken to be the income which the owner would have derived if the land has been leased on rent.

2.4 The Maharashtra Slum Areas (Improvement Clearance and Redevelopment) Act, 1971.

This Act aims to make better provisions of improvement and clearance of slum areas and their re-development.

Provisions in regard to acquisition of land are made in Chapter V of the Act, viz. Section 14 to 21. Whenever the Competent Authority under the Act represents to Govt. its necessity of certain lands within/adjoining surrounding the slum area for development etc. the Govt. has to follow the procedure as in the M.H.A.D.A. Act in regard to serving of notice in official gazette to the effect that the State Government has decided to acquire the land and under Section 14(2) the lands premises vest absolutely in the State Government free from all encumbrances on and from the date of publication of notice under Section 14(1). The possession of the land is taken under Section 15 after serving a notice on the owner/occupier to surrender/deliver possession to the Collector within 30 days of the service of notice. If the same is not given peacefully, it is taken by force. The Collector, after taking such possession of the lands makes it available to the Competent Authority under the Act.

Under Section () every person having interest in the land acquired under Act is entitled to get compensation from the Government. The amount of compensation is determined by agreement under Section 17(2) or if the negotiations fails, then by paying an amount equal to 60 times the net average monthly income actually derived from such land during past 5 years.

For deciding this, the Competent Authority hold an enquiry in the prescribed manner and determines the net average monthly income actually derived from the land and publishes a notice and serves it on owner/interested persons calling them to intimate within a specific time whether the same is agreeable or not. If the owner/interested persons do not agree, then they can prefer an appeal to the Tribunal within 30 days from the date specified in the Notice. On such appeals, the Tribunal after hearing the appellant determine the net average monthly income which is final and not questionable in any court of law.

Where the owner of the land is different from the owner of the building thereon, the Competent Authority has to apportion the amount of

compensation in the same proportion as the market price of the land bear to the Market price of the building on the date of acquisition.

In case of disputes arising in respect of apportionment, the Competent Authority under Section 18(2) may refer matter to the Tribunal which shall finally decide as per Part III of the L.A. Act.

If the owner/interested person has a grievance regarding title and apportionment, the Competent Authority has to deposit the amount of compensation in Court for dealing with the same as laid down under Section 32 and 33 of the L.A. Act 1894.

In case there is delay in payment of compensation amount or depositing the same in Court, interest is payable from the date of taking possession of the land till the date of payment of deposit at the (not being less than 4%) per annum rates as the State Govt. may be ordered.

The First Schedule of the Act (as per 17) lays down how the net average monthly income is determined. The Competent Authority holds local enquiry and obtains certified copies of the extracts from the property tax assessment books of the Local Authority showing rent actually received by the owner of the land including any building thereon during five consecutive years. From this, the net average monthly income referred to in Section 17(4) shall be 60% of the Gross rent during the past 5 years.

However, where the land or any portion thereof has been unoccupied or the owner has not been in receipt of any rent for the occupation of lands during the whole or any part of the said period of five years, the gross rent shall be taken to the income which the owner would have in fact derived if the land has been leased out for rent during the said period and for this purpose the rent actually derived from the land during a period prior or subsequent to the period during which it remained vacant or from similar land in the vicinity shall be taken into account.

Thus, the provisions in the Act as regard to acquisition of lands are generally similar to those in the Maharashtra Housing and Area Development Act, 1976.

2.5 The Bombay Metropolitan Region Development Authority Act, 1974.

This Act generally aims at planning and guiding the development in the area of the Bombay Metropolitan Region and undertaking projects for implementing the proposals of such plans.

Provisions in regard to acquisition of lands are laid down in Chapter VIII of the Act, viz. Section 32 to 41.

Wherever lands are required for the purpose of Bombay Metropolitan Region. Development Authority, the State Government publishes a notice in

official Gazette and serves in prescribed manner calling upon the land owner/interested persons to show cause why the land should not be acquired, and after considering the cause, the State Government assess suitable orders and publishes a notification under Section 41(i) in Official Gazette to the effect that the State Government has decided to acquire the land. On and from the date of publication of such notice in official Gazette the lands vest absolutely in the State Government free from all encumbrances.

The possession of the land is taken under Section 33 after serving a notice on the owner/occupier to surrender/deliver possession to Collector within 30 days of the service of notice. If the same is not given peacefully, the possession is taken by force. After taking the possession, the land is made available to the Authority under the act.

Every person interested in the land is entitled to receive the amount under Section 34 of the Act.

The provision pertaining to-

1. Section 35 pertaining to basis for determination of amount for acquisition of lands in municipal areas;
2. Section 36 i.e apportionment of amount,
3. Section 37 regarding payment of amount for acquisition, or deposit the same in the Court,
4. Section 38 i.e. regarding powers of competent authority in relation to determination of amount for acquisition, etc.
5. Section 39 pertaining to payment of interest,
6. Section 40 pertaining to appointment of Competent Authority,
7. Section 42, i.e. pertaining to the basis for determination of the amount for acquisition of lands in rural areas and other procedure, are generally similar to the provisions in Section 44, 45, 46, 47, 48, 49 (except for 'Competent Authority' instead of 'Land Acquisition Officer') and 50 of the Maharashtra Housing /Area Development Act, 1976.

The constitution of 'Tribunal' under Section 41 of the Act is also similar to that in the Section 2(L) of the Maharashtra Slum Areas (Improvement Clearance and Redevelopment) Act, 1971; comprising the President (being a person who has worked at latest 5 years as District Judge or on similar post); a person who is holding or has held an office not below the rank of Deputy Director of Town Planning and a person who is holding or had held office not below the rank of Superintending Engineer to Government.

2.6 The Urban Land (Ceiling & Regulation) Act, 1976.

This Act enacted by Central Government and which came into force w.e.f. 17/2/1976, basically provides for the imposition of a ceiling on vacant land in excess of the ceiling limit, to regulate construction of buildings on such land and for matters connected therewith, with a view to preventing concentration of urban land in the hands of few persons and speculation and profiteering therein and with a view to bringing about an equitable distribution of land in urban agglomerations to subserve the common good.

This Act is made applicable in the Maharashtra State to the lands in the urban agglomeration of the towns of Greater Bombay (in category 'A' i.e. upto 8 kms. Periphery area of Municipal Corporation); Pune, Sholapur, Nagpur and Ulhasnagar (peripheral area upto 5 kms.); and Thane, Nasik, Kolhapur and Sangli (peripheral area upto 1 km.). In those areas, as per Section 3 except as otherwise provided in this Act, no person is entitled to hold any vacant land in excess of the ceiling limits, which as provided in Section 4, is 500 sq.m. in Bombay Urban Agglomeration, 1000, sq.m. in Pune, U.A., 1580 sq.m. in Thane, Nasik Sangli and Kolhapur U.A. The 'vacant land' is defined in Section 2(q) as land being mainly used for the purpose of agriculture in an urban agglomeration, but does not include:

1. land on which construction is not permissible under building regulation in force;
2. the land under buildings already constructed or under construction and the land appurtenant regulation thereto, where there are buildings and
3. in an area where there are no buildings; regulations, the land occupied by any building which has been constructed before, or is being constructed on.

The persons holding such excess vacant lands had to file a statement under Section 6 of the Act, on the basis of which and after necessary inquiry the 'Competent Authority' (as specified in Section 2[d]) prepares a draft statement under Section 8 giving among other things, the particulars of the vacant lands which the incumbent desires to retain and the right title or interest therein. The draft statement is served on the person concerned together with a notice stating that objection of any thereon shall be preferred within 30 days (Section 8[3]). The objections so received are considered and the final statement under Section 9 of the Act.

As soon as may be after service of the final statement, the Competent Authority causes under Section 10(1) to be published in Official Gazette giving particulars of vacant land and stating that-

1. such vacant land is to be acquired by the concerned State Govt. and
2. the claims of all persons interested in such vacant land may be made by giving particulars of the nature of their interest in such land. After considering the claims, the Competent Authority has to determine the

nature and extent of claims and pass suitable orders.

Further, after publishing notification under Section 10(1), the Competent Authority under Section 10(3) by notification published in the Official Gazette declare that the excess vacant land referred to in the notification under Section 10(1) shall, with effect from such date as may be specified in the declaration be deemed to have been acquired by the State Govt. and upon such publication, such land shall be deemed to have vested absolutely in the State Govt. free from all encumbrances w.e.f. the date so specified.

The possession of such land thereafter issue a notice under section 10(4) to the concerned, to surrender or deliver possession of the vacant land to the person authorized by Govt. within 30 days of the service of the notice. If peaceful possession is not given, then the same is to be taken by force.

Section 11 provides for payment of amount for vacant land acquired at the following rates:

- a. In case where any income is derived from vacant land, an amount equal to $8\frac{1}{3}$ times the net average annual income actually derived from such land during the past 5 years from Section 10(I) notification.
 - b. In case where no income is derived from such vacant land, an amount calculated at a rate not exceeding.
 1. Rs.10 p.s.m. in case of vacant land situated in Bombay and Pune agglomeration;
 2. Rs.5 p.s.m. in case of vacant land situated in other agglomeration in the State.
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Different rates may be fixed by State Govt. for vacant lands situated in different zones within each agglomeration. The total amount payable shall in no case exceed two lakhs of rupees.

Appeal in regard to order of the Competent Authority under Section 11 should be preferred to the Tribunal appointed by the State Government under Section 12 of this Act.

The mode of payment of the amount is laid down Section 14 of this Act. Then there are the general provisions of the U.L.C. Act.

2.7 Remarks

1. It would thus be seen that there are different procedures and different methods of determining the compensation amounts of acquisition in different Acts. It is, in all fairness to the public and landowners, necessary that there is uniformity in these matters. Government of India, after enacting the Land Acquisition (Amendment) Act, 1984 have instructed all the State Government to modify the related Sate

Acts so as to bring such uniformity. It is understood that the matter is receiving attention.

2. The Land Acquisition (Amendment) Act, 1894 provides both for speedily completing the Land Acquisition Proceeding as also giving a very reasonable amount in lieu of the lands acquired. The success of the Act depends now entirely on the efficiently, zeal and earnestness of the officers who work as the Land Acquisition Officers, it is hoped that these officers would make the acquisition in a smooth manner.

Conclusion

One week training session at Special Land Acquisition Officer (LAO), Collector Office, Nagpur was started on 25th February 2008 and ended on 01st March 2008.

On 25th February 2008, We joined Special Land Acquisition Office and contacted to **Shri Sanjay Daine saheb**, and he shared valuable information with us. On 26th February 2007, hon'ble **Shri. Sanjay Mukharjee Saheb (IAS)** expressed his thoughts on the issues related to the land acquisition and rehabilitation policy.

In this training session, we learned valuable experience about the Land Acquisition Act-1894 and its salient feature. Since Irrigation project requires vast amount of land, land acquisition is an important aspect of the project.

This training will help us to excel in the land acquisition procedure. The report includes the brief of the studies performed and understood by me

I am thankful to all the staff of the Land Acquisition Office, Nagpur for giving me an opportunity to learn about several administrative and technical things.

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