

Dated: 16.07.2001

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L.A. Department

ORDERS

National Highways Authority of India (Ministry of Surface Transport) has adopted schemes to acquire land in the Dists. of Burdwan, Howrah and Midnapore for implementation of fourlaning projects of National Highways No.2 & 6 respectively under the provisions of the National Highway Act, 1956. The Govt. of West Bengal has nominated the concerned ADMs (LA) in respect of the Dists. of Burdwan, Howrah and Midnapore for appointment as the Competent Authority for the respective districts u/s.3(a) of NHAA, 1956 for the purpose of land Acquisition. The ADM (LA) Burdwan has already been declared as the 'Competent Authority' for the purpose and proceedings have already been initiated to acquire land in the dist. of Burdwan under the said Act. But the NH Act, 1956 has some areas of disparity with the Land Acquisition Act, 1894 and in absence of any Rules and orders framed under the provisions of NH Act, 1956, the following decisions have been taken for smooth disposal of L.A. proceedings initiated under the said Act, 1956 :-

1. The NH Act, 1956 has no explicit provision to pay compensation to a Bargaader, Under Section 3(G)(2) of the said Act, a Bargaader may be compensated on the strength of the expression "any other person whose right of enjoyment in that land has been affected by any manner whatsoever by reason of such acquisition". But the proposal itself is fraught with a risk that even a tenant in a rented house who has no claim to compensation under the Land Acquisition Act, 1894 may take a cue of this provision and stake a claim to compensation.

In view of the fact that a Bargaader has permanent and heritable right to cultivate land on which he is recognised as Bargaader and a tenant does not have permanent and heritable right over the land, the Appropriate Authority of the Dist. concerned will include the name of Bargaader in the award and not the name of tenant.

2. If the Competent Authority delays the payment of compensation, he is liable to pay the no interest. So, appropriate authority will ensure payment of compensation immediately after the possession of the land under acquisition is taken.

3. All the DMs concerned will entrust the Land Acquisition staff with the work of Land Acquisition under the NH Act, 1956 to assist the respective ADMs (LA). Each ADM (LA) must be aided by an Additional Land Acquisition Officers for this purpose. If and when the work-load will become heavy, an extra exclusive additional LAO may be appointed.

4. The Additional LAO is to use order sheets and record statement after hearing under Section 3G.

5. ADMs (LA) are to prepare estimate on the basis of market value of the property u/s. (G) at the time of acquisition, pay L.A. compensation by declaring Award to the interested persons including bargaders if any, after proper inquiry and notices publicity. The market price of the land shall be determined by the Appropriate Authority in the manner and in accordance with the principles set out in sub-section (1) of Section 23 of Land Acquisition Act, 1894 [so far as they may be applicable]. In computing compensation to the Bargader, the Competent Authority will follow the principle as laid down in Section 23(4) of L.A. Act I of 1894.

6. For maintaining the fund for acquisition of land under the N. Act, 1956, the Appropriate Authority shall open a separate cash-book for the purpose. The Appropriate Authority shall keep a special ledger for proper accounting and must submit adjustment according to the prescribed Proforma of the Requiring Body. An instruction on opening a Bank account will follow shortly.

7. The Appropriate Authority shall include Establishment and Contingent charge, and Law charges in the Estimate as provided in Appendix VII and VIII of the West Bengal LA Manual of 1991.

8. For defending the Reference cases arising out of the L.A. Case under the NH Act, 1956, the Appropriate Authority shall be represented by a State Advocate as appointed by the Ld. Legal Remembrancer as in the cases under Land Acquisition Act, 1894.

S. Sanyal

Joint Secy. to the Govt. of West Bengal.

No. 1911/1(7)-LA Dated: 16.07.2001.

Copy forwarded for information and necessary action to the :-

1. D.M., Burdwan.
2. D.M., Howrah.
3. D.M., Midnapore.
4. A.D.M. (LA), Burdwan.
5. A.D.M. (LA), Howrah.
6. A.D.M. (LA), Midnapore. P.O. R dist. Midnapore
7. Shri S.P.S. Bakshi, General Manager (Tech), (Project Director), Office of the Project Director, Project implementation Unit, ADE (III) Project (Bihar & West Bengal) NHAI Complex, Sector 2(A) Bidhan Nagar, Durgapur-713 212.

O.S.D. & E.C. Deputy Secretary to the Govt. of West Bengal.