

LAND ACQUISITION ■ A NEW APPROACH

Land Acquisition

A NEW APPROACH

[Revised procedures for acquisition of land
under Land Acquisition Act, 1894]



सत्यमेव जयते

CONSTITUTION OF INDIA

Article – 31A

"..... it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him (raiyat) under any law for the time being in force or any building or structure standing thereon or appurtenant thereto unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof."

GOVERNMENT OF WEST BENGAL

Land & Land Reforms Department

Dated – 06-06-06

1705-LA
-3M-07/06

Para - 39, Para - 42

CHAPTER II: Revised Procedures & Administrative Re-arrangements

Government of West Bengal
Land & Land Reforms Department
Land Acquisition Branch

ORDER

G.O. No. 1701-LA-3M-07/06

Kolkata, the 6th June, 2006

Whereas it is expedient to amend the existing procedures in the interest of expeditious disposal of land acquisition cases for public purposes and whereas the proposed amendments of various provisions of the West Bengal Land Acquisition Manual, 1991 was approved by the Cabinet in its meeting held on 14th February, 2006, the Governor is hereby pleased to order that the following **revised procedures and administrative re-arrangements** for effective and efficient disposal of land acquisition cases under the provisions of the Land Acquisition Act, 1894 in the State of West Bengal shall come into effect from 6th day of June, 2006 in respect of land acquisition cases started on and after the said date.

This Order supersedes anything contained anywhere in the West Bengal Land Acquisition Manual, 1991 or in any existing executive orders including the **G.O. No. 701, 702, 703 and 704** all dated 6th March, 2006 issued by this Department, to the extent the said Manual or said orders differ from any provision or procedure introduced by this order. The Land Acquisition Collectors (hereinafter referred as LAC) **shall follow the revised procedures and administrative controls as specified below** for expeditious disposal of land acquisition cases within the framework of the Land Acquisition Act, 1894 in the State of West Bengal with effect from 6th June, 2006:

(1) The Requiring Bodies to submit a LA Proposal complete in all regards:

The LAC shall not receive and entertain any land acquisition proposal which is not **"complete in all regards"**. A land acquisition proposal shall **"deemed to be complete in all regards"** if such proposal contains

such information, documents, certificates, undertakings etc. as specified in **Order No. 1702-3M-07/06** dated the 6th June, 2006, issued by this department. The LAC may, however, help the Requiring Body (henceforth referred as RB) by supplying them a copy of prescribed application form as well as a copy of the aforesaid G.O. which prescribes the duties and responsibilities of the RB during the entire process of acquisition of land. A copy of **prescribed Application Form, i.e. Form No. LA-01** is enclosed herewith for ready reference and guidance. The prescribed application form duly filled in along with Land Schedule, ownership data, land use data, shall be submitted by the RB both **in hard copy and in soft copy**, as the same is ordered to be supplied by the office of the concerned BL & LROs on payment of prescribed fees.

(2) LAC may assist the RB in the transitional phase:

In case any RB is not in a position to prepare an appropriate LA proposal "complete in all regards", such RB may submit application to the Collector to help them to prepare an appropriate LA proposal in the prescribed manner with prescribed supporting documents and the Collector may provide such additional service by engaging his own officers and staffs or **such consultancy firm** at such cost which are to be borne directly by the RB. Such application to the Collector shall not be treated as a Land Acquisition Proposal, but shall be treated as an "application for assistance to prepare appropriate land acquisition proposal". Hence, time taken for preparation of LA proposal by **the Collector or by his engaged consultancy firm**, shall not be counted for time prescribed for sending proposal for administrative approval before publishing notification u/s 4 of the said Act. For this purpose, any consultancy firms duly registered under the Companies Act, 1956 specially for such purpose and objective, may be engaged by the Collectors. The RB may also directly engage any such competent consultancy firms to get LA proposals prepared duly in accordance with the guidelines of the Government.

(3) Time-limit for LAC to seek administrative approval:

The LAC, on receipt of a LA proposal "complete in all regards", and after being satisfied that the LA proposal is complete in all regard, shall send, **within 10 working days** from receipt of the complete LA proposal,

a **brief summary of the Land Acquisition proposal** containing the name of the Requiring Body, area to be acquired, land schedule, concurrence of the concerned administrative department etc. and in the forwarding note he shall clearly and specifically certify on the following points:

- (a) that the LA proposal received and entertained is **"complete in all regards"** [and, if necessary, he may certify that whatever incompleteness is or will be found, could be made up timely with committed assistance and co-operation of the R.B. and LAC's official machineries];
 - (b) that he is satisfied to the effect that the **land requirement** has been **rationally assessed, and** the land-use plan shown on the site map or mouza map tallies with the DPR/PPR;
 - (c) that the **estimated value of LA compensation and RR costs**, amounting to Rs..... appears to be grossly correct, and the final estimate is under preparation;
 - (d) that he is satisfied that the purpose of acquisition comes under the specific **meaning of "public purpose"** as is legally required for authorising compulsory acquisition of land by application of the "eminent domain" power of the State and specify the type of public purposes to be served;
 - (e) that the **major or entire flow of fund** for compulsory acquisition of land is from the **public exchequer**, in case of project taken for a company under part VII of the Act, LAC may specify the financial involvement of the Government in monetary terms; and
 - (f) The **percentage of LA cost**[including RR and CA cost] as been deposited by the RB, along with the proposal (not being less than 50% in any case);
- (4) **Manner to seek and obtain administrative approval:**

The LAC shall seek and obtain **administrative approval** of the LA proposal along with the draft of the **notification under section 4 of the LA Act, 1894** from the Land & Land Reforms Department by sending a departmental officer, staff or a messenger peon for

causing hand delivery taking written receipt thereof from the LA Wing of the L&LR Department.

(5) Time-limit for LAC to accord administrative approval by the Government:

The appropriate Government being the State Government in the L & LR Department shall accord **administrative approval** for all such LA proposals within **5 working days** from the date of receipt of the Collector's report, provided that many proposal for acquisition of more than 100 acres are sent with prior approval of the Cabinet.

(6) LA proposals not to be unnecessarily and artificially divided into large number of LA cases:

A land acquisition proposal of a specific LA Project shall not be unnecessarily and artificially divided into large number of LA cases, either by the RB or by the LAC. It shall be ensured that, under all normal circumstances, only one LA case is sent for each separate mouza, comprising of all the plots covered by a specific LA Project in connection with the concerned mouza, so that it be comes easy to ensure equity and justice in value assessment of each type-class of land within a mouza, for the purpose of both vetting of the estimate and sanction of awards. In case of any special administrative reason, proposal containing plots of a single mouza cannot be put under one LA case number, the reason thereof shall be mentioned, but, never-the-less, all the splitted LA cases of the same mouza should be sent in one bunch, so that eventual errors for differential value assessment of each type-class of land within a single mouza, without cogent reason, can be duly checked, verified and corrected specially at the time of vetting of the estimate.

(7) Where approval of Local Screening Committee not required:

Any LA Project or LA proposal vetted by the Concerned administrative Department of the State Government or by the Cabinet need not be placed before the Local Screening Committee for further consideration and approval.

(8) Introduction of weekly physical delivery system:

A weekly physical delivery system may be adopted by such Collectors whose on-going LA cases are substantially high to ensure weekly re-collection of the submitted proposals and files concerning the LA cases of the district.

(9) LAC to ensure RB's obligations:

The LAC should, however, check up and make sure that the requiring body has submitted a copy of the full Land Acquisition proposal to the LR Department before issuing notification u/s 4 of the Act.

(10) Dissociation of the office of the Divisional Commissioners in LA matters:

The office of the Divisional Commissioner will no more be associated in any manner in the processing and disposal of the land acquisition cases and hence all paper transactions or correspondence by the LAC to the State Government in the Land & Land Reforms Department **shall be direct** and not through the office of Divisional Commissioner concerned.

Introduction of basic minimum RR package

(11) Introduction of basic minimum mandatory RR package:

If for compulsory acquisition of land, any family is required to be evicted from its homestead, such family shall be provided with such re-settlement and rehabilitation support as are prescribed by the appropriate Government from time to time and the cost of such RR package shall be borne by the concerned RB. Untill further orders, the RR package shall be strictly implemented in accordance with the **G.O. No. 1706-LA-3M-07/06** dated the 6th June, 2006.

(12) Introduction of facility for Consent Award:

All persons owning the land or having interest in the land proposed to be acquired shall henceforth enjoy full rights to submit **Compensation Claim to the LAC**. Procedures to be followed have been duly prescribed in the **G.O. No. 1703-LA-3m-07/06** dated the 6th June, 2006.

(13) Responsibilities of all stake-holders in a LA cases in proper implementation of this pro-people approach:

In this regard, the duties and responsibilities of the LAC, RB and Land-losers shall be as follows:

- [a] To facilitate people to avail of this opportunity, in the revised format of section 4 notification, the LACs will **invite all persons** owning the land or having interest in the land proposed to be acquired, to submit their applications in the **Prescribed Form** and supporting documents for claiming their self-assessed amounts of compensation separately for each plot of land and anything attached to land as **LA cost and also claim RR package as may be due to them**, which may be duly considered for payment as a **“consent Award” to be processed** as per the procedures prescribed for that by the Government from time to time. For this purpose, thoroughly revised format for notification u/s 4 shall be used henceforth as prescribed.
- [b] All necessary steps, as required, may be taken to publicise this new opportunity in addition to publication of notification u/s 4 of the Act in the official gazette and daily newspapers as prescribed by law. The application form prescribed for seeking a consent award and the bunch of supporting papers prescribed to be annexed with such application shall be made available to all persons having interest in land, **free of cost** or at such cost as the Government may prescribe.
- [c] The office of the concerned BL&LRO and shall, on application, issue and supply all the text data and map data relating to any plot of land, on payment of such fees as prescribed by the Government. The office of the concerned Sub-Registrar shall, on application, supply all necessary sale data, as mentioned by the vendor and vendee in their deeds as maintained in the sale-deed registers, on payment of such fees, if any, prescribed by the Government.
- [d] A Public Assistance Cell may be established in each LAC Office to help and advise the land-losers in the matter of applying and seeking consent awards.
- [e] The office of the BL&LROs shall give special attention, priority and,

and if so required, organise special camps for expeditious disposal of **pending and fresh mutation** petitions relating to such mouza which are covered by LA Notification u/s 4 of the Act and also give Khatian/ mutation certificate on realisation of arrear land revenue and send defaulters' list along with land revenue arrears due till date to LAC for **compulsory recovery of arrear land revenue** from assessed compensation due to the raiyat.

- [f] The LAC shall, from the date of notification u/s 4 till hearing u/s 9, accept all mutation certificates directly from any persons having interest in land to be acquired and secure the detailed list of all vested but not settled land for which the Collector shall get award of compensation for such State-owned land and such compensation shall be without solatium and interest.
- [g] Any compensation awarded and paid to a bargadar, shall not be by apportionment of compensation due to a raiyat and hence, all bargadar shall be entitled to apply for consent award directly.
- [h] For the purpose of **truth, accuracy and justice** the LAC shall continuously update information relating to land and ownership thereof taking latest facts from official sources at any stage before consent award is made or award is declared u/s 11 of the Act. The LAC may collect latest copies of RORs, and mouza map, not only at the time of preparation of proper LA proposal for RB, but also for preparation of notifications and notices under various sections, on payment of prescribed cost thereof and such cost shall be paid out of the administrative cost relating to the concerned LA case.
- [i] On receiving such applications for consent award, entering the same chronologically in a separate Register, in the computers as and when available, will be a mandatory need for efficient and transparent disposal of any case under the provision of the "**Consent Award**" as prescribed in sub-section(2) of Section 11 of the said Act. The LAC may procure sale data from the local registration offices as well as latest mouza map from the concerned BL&LRO office, or DL&LRO office or from office of the DLRS on payment and such maps may be scanned and digitized, which will be extremely helpful for fixing up land price by awarding

proportionately additional amount on account of locational advantage and connectivity advantage of each plot of land and such cost of scanning and digitization of cadastral maps shall also be borne out of administrative cost relating to the concerned LA case.

- [j] The duties and responsibilities of the persons having titles, rights and interests in land as regard to submit appropriate claim for consent award have been duly prescribed in **G.O. No.1703-3M-07/06** dated the 6th June, 2006 of this Department and the Collector shall give such award following the procedures prescribed in the aforesaid G.O. All necessary help and assistance may be provided through the Public Assistant Cell of the district LA office to persons willing to submit application for consent award.
- [k] The Requiring Body, in connection with each individual land acquisition proposal shall declare by name and designation a person who shall act as designated officer/liaison officer/official representative to keep constant and necessary liaison with the land acquisition office from the date of submission of the proposal till the date of taking possession of the acquired land and getting mutation and conversion accomplished. The designated officer/liaison officer/official representative of the Requiring Body shall ensure effective **participation as added party** in the judicial proceedings, to defend their own case, arising at any stage before or after LA application or even years after possession being handed over and pay such decretal amounts as and when such payment become legally due. Such designated officer shall also attend the hearing of cases to be disposed of by the LAC through open hearing of the consent award cases and the signature of the **designated officer as a consenting party** should be obtained.

(14) The power of "eminent domain" of the State:

Compulsory acquisition of land shall be understood to be an exercise of the sovereign power of the State, exercised by the Appropriate Government (Department of Land & Land Reforms in the State of West Bengal) and hence, **taking approval of initiation of any LA proceedings by issuance of notification u/s 4, signing a declaration of public purpose u/s 6, taking an order of the State Government u/s 7 or**

allowing a land acquisition u/s 17 are obligatory exercise of the said powers and receiving approval of the proposed awards is also obligatory under the said L.A. Act, 1894. All earlier delegation of power to the Collectors on any of the aforesaid statutory matters made under any order shall not apply in connection any acquisition of land taken up on or after 6th June, 2006.

(15) Utilisation of Flowing Time:

After issuing notification u/s 4 and before taking up the formal step for hearing of objections received if any, the **mandatory period of 30 days** as prescribed u/s 5A should be utilized by the LAC for the purpose of:

- (a) Land schedule verification;
- (b) Preparation of plot index and owners list if not provided by RB and verification of the same if any provided by the RB.
- (c) Verification of vested land if any covered within the LA proposal or land already acquired but not mutated or for verification of land held u/s 6(3) of WBEA Act, 1953 or Khasmahal land and prepare estimate the LA cost and RR cost, taking information from BLLRO office, Sub-Registrars office as well as through field visits as may be required.
- (d) **There is no legal bar to start hearing of objections u/s 5A as soon as they are received** without waiting for lapse for 30 days, issuing appropriate notices so that within a fortnight after expiry of statutory period of 30 days, the LAC becomes capable to dispose of all objections and sent the comprehensive report of hearing within 45 days from the date of notification u/s 4 of the Act.

(16) Additional time to complete left-out cases of objections:

Hearing of objections u/s 5A should be **completed within 15 days**, after expiry of statutory period of 30 days after notification u/s 4 of the Act, if necessary, arranging such public hearing in the public places, in the concerned village or any public place near to such village covered under the proposed acquisition of land. Submission of report u/s 5A shall be made along with sending draft declaration u/s 6, with site plan if revised,

and agreement as required u/s 41 of the Act, wherever necessary along with estimated cost of LA, RR and administrative cost together.

(17) Combined action u/s 6 and 7 of the Act:

On receipt of such aforesaid documents the State Government in the Land & Land Reforms Department will issue a single G.O. containing the declaration as well as **direction as is required by the statute u/s 6 as well as u/s 7 combined**. The State Government in the Land & Land Reforms Department will issue such G.O. **within 10 working days** from receipt of the aforesaid papers and documents from the LAC by special messenger or courier services as the case may be.

(18) Action-Points after receipt of Declaration-cum-Order:

On receipt of such **Declaration-cum-Order**, the LAC shall take all the following actions without further reference to the State Government:

- (i) Publication of the declaration u/s 6 of the Act in the official gazette and in two daily newspapers;
- (ii) Public notice of the substance of the declaration u/s 6 of the Act in the locality on receipt of the published copies either in the official gazette or the daily newspapers;
- (iii) The Collector shall arrange wider publicity by any other methods as statutorily prescribed above viz. by uploading the notifications and declarations in the official websites in addition to distribution of booklets containing detail land schedule, ownership detail, bargaholding (if any), area of land, land-use etc.
- (iv) Start demarcation of land u/s 8 and measurement of land and structures etc. unless already done u/s 4. Issue notice u/s 9 of the Act and dispose of cases suitable to be settled under "consent award" system, for which the procedures have been prescribed in the **G.O. No. 1703-3M-07/06** dated the 6th June, 2006.
- (v) Making enquiry u/s 11 of the Act for such cases which could not be covered under "consent award" system;
- (vi) The award of compensation shall be prepared combining both

consent awards as well as administratively decided awards for all persons owning land or having interest in land acquired and the same shall be sent to the State Government by special messenger or registered post or courier service **seeking approval of the award**, only if the award exceeds the vetted estimate of the State Government. And in case the award money exceeds the estimated cost vetted by the Government award shall be, with prior approval of the State Government declared, only after obtaining the excess amount from the RB. The award may, however, be declared if the RB gives written undertaking to place the additionally required fund within 30 days from the date of declaration of award.

(19) Approve the award is a legal obligation:

The State Government in the Land & Land Reforms Department will **approve the award** proposed by the Collector with or without modification and return the same through special messenger, registered post or courier service as the case may be, **within 10 working days** from the receipt of the award along with award notes from the Collector.

(20) Payment Obligations of the RB:

The LAC shall, however, ensure deposit by RB **100% of the estimated value of the LA, RR and AC cost**, before publication of declaration u/s 6 and if the finally assessed award money exceeds the estimated value, the balance amount shall be deposited to LAC before publication of the award u/s 11A.

(21) Publication of Awards:

The LAC shall ensure that immediate notice of his award is served upon all persons interested as are not present personally or by the representative when the award was made. If the number of awardees are large in number, to reduce the work burden, he may **print the entire award in a booklet form and communicate the same through a common letter with common language and common memo number and get it serviced** to all the awardees so that disbursement of money and handing over possession of land can be completed quickly.

(22) Payment of award-money:

The LAC shall take all efforts to complete payment of the award money to the awardees as the case may be, within a period **not exceeding 30 days in case of 100 acres and 45 days in case of above 100 acres**. For the awardees, not taking payment of the award-money within a period of two and half months, a last reminder notice may also be served u/s 12 again giving 15 days time, and thereafter, he may deposit the unclaimed award-money as Revenue Deposit.

(23) Possession only after payments:

Along with and as soon as award money is paid in connection with any land acquired, the possession of such land shall be immediately handed over to the requiring body and the process of releasing award and taking possession of the acquired land and handing over the possession of the acquired land to the requiring body shall be a continuous process and completed **within 15 days after the payment of award money/RR money is made and deposit of the balance amount is made in the Court of law.**

(24) Post-Acquisition duties of the RBs and other officers:

On completion of the aforesaid proceedings and handing over of the possession of the acquired land to the RB, the LAC will convey to the office of the concerned BLLRO the land schedule as well as list of landowners and name of the requiring body **with instruction to make mutation** in favour of the requiring body, adopting such procedure and taking such payment as is required by law to complete the mutation proceedings. The concerned **BLLRO will make a communication to the office of LA Collector regarding completion of mutation preferably within a period of 30 days**. On getting such confirmation from the BLLRO, the LA Collector shall make consignment of the records in the record room in connection with the concerned LA proceeding.

(25) Prescribed total Timeframe:

The entire LA proceedings will thus be completed within **a period of 6 to 7 months**. Such period will be calculated eliminating the period for which the LA proceedings were held up by the order of any Court of law.

(26) Improvement and modernisation of administrative set up in LAC office:

The office of the LA Collector shall be computerised for processing all the LA cases using the standard software developed in this regard. Immediate effort should be taken to install 3 PC and 3 printers in all major districts where the number of land acquisition cases are substantially high and two PCs and two printers in all other districts. The entry of basic data on the date of receiving each land acquisition proposal till award is made and possession is handed over, entire process has to be thoroughly computerised.

(27) Deployment of hired technical manpower:

The LACs have been empowered by G.O. No.1704-LA-3M-07/06 dated 6th June, 2006, to appoint on contractual basis 3/2 data entry operator having necessary certificate from recognised institute in prescribed computer language. The monthly compensation remuneration of such operators will be such amount as prescribed by the Government from time to time. For each district office one MCA/BCA shall be appointed on contractual basis to assess and supervise the work of the data entry operator and efficient operation of computer softwares developed by NIC for handling land acquisition cases.

(28) Collection of Land-Sale-Data:

The requiring body shall be requested to procure mouza-wise type-class-wise separate sheet in the prescribed format the sale deed particulars and submit the same in soft copy also and the LAC may check up whether all such sale data are chronologically obtained and verify the land-value assessment sheet of the RB and take his final view on the assessment of land price for each type-class of land in each mouza by engaging his own manpower. Valuation for buildings and structures, plants & machineries may be done by competent organisations, departments or authorities, on payment of such cost as may be necessary.

(29) The LA Collector shall procure computerised data of market value of different classes of land in different Mouza of the State from the concerned Sub-Registrar or the district Registrar where

compurisation of Registration Offices have been copleted. Sharing the date of sale proceeds and Registered Deeds from the Registration Offices will be a regular process of departmental co-operation for which Finance Department will issue necessary Government orders in this regard.

(30) Formation of Special and Additional Squads:

All LA Collectors has been duly empowered by the **Government order No. 1704-LA-3M/07-06** dated the 6th June, 2006, to **select and deploy, on contractual basis, such number of retired officers and staff or qualified unemployed persons** as specified in the aforesaid G.O. The LAC may, however, deploy lessor number of persons but not exceeding the number prescribed in the said prescribed in the G.O. The terms & conditions of deployment, the salary, remunerative, compensation of the retired or contractual employment will be as prescribed in above mentioned G.O.

(31) Opening of P.L. Account to deposit and use LA cost collected from RB:

The LAC **shall be empowered to open a P.L. Account** where he shall deposit the administrative cost for each land acquisition case and draw fund for utilisation only in connection with concerned land acquisition case. The LAC shall draw only 10% of the land acquisition and RR cost administrative cost and use such fund after depositing the same in the concerned PL Account.

(32) Public Assistance Cell:

In the Land Acquisition Wing of all LAC, there shall be a "Public Assistance Cell" whose duties and responsibilities will include the following:

- [a] To supply prescribed application forms and associated papers, Government orders and explain, if required, the procedure to be followed to submit appropriate application claiming compensation and RR, inform procedures for procurement of RORs and sale data from concerned offices. Such services are to be rendered free of cost and the prescribed forms etc. are also to be supplied free of cost.

- [b] To supply the copy of prescribed application form to be used by the requiring bodies for fresh LA proposals on and from 6th June, 2006, free of cost.
- [c] To supply draft copy of "application for assistance to prepare appropriate land acquisition proposal", if the same is required by the RB. Necessary suggestion and guidance shall be provided to the RBs in the matter of preparing an appropriate LA proposal "complete in all regards".
- [d] **To provide the list of such consultancy firms**, if any, known to the LAC in this regard to provide necessary assistance to the RB to prepare an appropriate LA proposal in the prescribed manner with prescribed supporting documents.
- [e] **The cell shall act as 'public relation office'** as well as 'public grievance cell' of LAC and provide all necessary information, suggestion and guidance to the RBs as well as to all citizens whose lands are involved in any LA proceedings.

(33) Guidelines towards fixation of LA cost:

Constitution of India being the mother of all laws of the Country, and, the **right to get a compensation at the market rate or above being the fundamental rights** of a citizen as enshrined in the Constitution, no public servant associated with compulsory acquisition of land belonging to a raiyats, shall, under any circumstance, violate the provisions of Article 31A which has directed the State in the words quoted below:

"....it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof."

- (34)** To bring uniformity in fixation of fair and reasonable market value of land, henceforth, the comprehensive guidelines as prescribed in **G.O. 1705-LA-3M-07/06** dated the 6th June, 2006 shall be strictly followed. In the concerned Government order a special provision has

been made to ensure value-addition on the ground of accessibility of a plot with different type-class of roads, which shall be duly attended to while ascertaining the fair and reasonable market value of land. In the matter of principle of value, the Hon'ble Supreme Court of India has directed in various cases to make necessary value addition to all categories of land having locational advantages specifically having connectivity or accessibility with roads. In its judgement in the case of Union of India Vs. Mangatu Ram (1997), 6 SEC 59 (para IV), the court directed that **"principle of value addition on account of acquisition of land abutting the National Highway would necessary be granted higher market value than the lands situated in the interior"**.

- (35) With effect from the date of implementation of this order, **the land value assessment shall be based upon the value of land (including anything attached to land) on the basis of value of the property mentioned by the seller in the concerned deed of sale /transfer, and not as assessed and noted by the Sub-Registrar for the purpose of fixing up stamp duty and registration fee.**
- (36) For this purpose, **the following detailed procedures are to followed for fixation of appropriate market value of each type-class of land:**
- [a] For each of the specified type-class of land, as separately mentioned for rural and urban land, at least 10 and upto 20 current sale data to be collected and placed chronologically in the prescribed format, without dropping any sale data of the relevant type-class that took place in the concerned mouza, putting the sale figures from nearest time upto 12 months back data, and the period of 12 months can be extended upto such number of months not exceeding 36 months as may be required to get at least 10 sale data for the relevant type-class of land. Sale price shall be increased by 5% per annum, if the sale data are collected from a period beyond 12 months and upto 36 months. In case, even by such approach 10 sale data for any type-class of land of a particular mouza are not available from the office of concerned Sub-Registrar, then sale data for the relevant type-class of land from adjacent Mouza shall be obtained. In case within a period of 12 months, in any particular mouza for any particular type-class of land, more than 10 and upto 20 sales have taken place, no sale shall be omitted in the Sale-data-

collection sheet but rational exercise for discarding fancy sales and distress sales are to be done in the manner prescribed.

- [b] Using the sale data collected for each type-class of land from each mouza in the prescribed format, the fixation of fair and reasonable average market value of any type-class of land shall be done giving necessary reasoned analysis for such fixation of market value, which shall be known as "value assessment sheet" to be prepared, signed and countersigned by such officers as may be prescribed by the LA Wing or LR Wing of the concerned district, as are required for the purpose of both land acquisition and granting long-term lease respectively.
- [c] For the purpose of fixation of fair and reasonable average market value of any type-class of land, abnormally high value or abnormally low value sales should be carefully discarded. Normally more than 200% higher or lower value on and over the average value reflected in the majority of sale deeds shall be considered to be abnormally high or low value and such sales may be discarded and thereafter taking the average value of the remaining sale deeds for the concerned type-class, the fair and reasonable average market value shall be fixed.
- [d] For awarding, compensation for each plot of land or for fixing up selami for giving long-term settlement of any plot of land, additionality of valuation will depend on the locational advantage as well as connectivity advantage of each plot of land for which certain basic formula are prescribed hereinafter.
- [e] The belting method shall not be applied until the land is located in well developed urban centres, municipalities and corporations.
- [f] The sale data has to be obtained and recorded from the deed registers maintained in the Registration Offices and all columns shall be filled up in the "Sale-Data-Record Sheet", a copy of which is enclosed herewith, as prescribed format. This revised formula for fixing of land/property value shall only apply on such LA proposal which are received by the Collector on any date after this Government order comes into effect. For the aforesaid purpose, as stated above, the land sale data shall be obtained from the local Registration Offices in the prescribed

format for each class of land in each mouza and each ward using the prescribed **Form No. 2C** of the LA Manual, 1991.

(37) Fixation of Fair & reasonable market value of land:

In the interest of infusing greater rationality as well as uniformity in the matter of calculation of compensation payable for land and anything attached to land, the instruction contained in the **G.O. No. 1705-LA-3M-07/06** dated 6th June, 2006 should be strictly followed, of which some special features are specified bellow:

- [a] **Fixation of value of land located within rural areas:** A rate for any class of land shall be separately determined for each separate mouza in accordance with the prescribed manner and procedures.
- [b] Within each mouza, in a rural area, the rate of land value shall be separately fixed for the following seven type-class of land:
 - (i) Non-irrigated agricultural land,
 - (ii) Irrigated agricultural land,
 - (iii) Homestead (Bastu, vita etc.) land,
 - (iv) Danga, Patit, fallow and other unused vacant lands,
 - (v) Land under commercial and industrial use,
 - (vi) Tanks, ponds and other water bodies,
 - (vii) Government Land including Vested Land, Departmental Land & Public-utility-cum-common-property Land.
- [c] Each of the aforesaid seven type-classes of land, if located in the rural areas shall get such value-addition, over and above the average value fixed for each of such type-class of land, in addition to what has been provided in section 23 of the Act, by such percentage as specified in the **Schedule-I** of the **G.O. No. 1705-LA-3M-07/06** dated the 6th June, 2006, on the ground of such land having locational advantage **due to direct connectivity and accessibility** with National/State Highways or other Major Roads, or Metal/Gravel Roads etc.

(38) Fixation of value of land located within municipalities and corporations:

For the purpose of land value calculation in municipalities and corporation

the following principles and procedures should be taken into accounts, in addition to what has been provided in sections 23 and 24 of the Act:

[a] The classes of land within the municipal/corporation areas shall be categorised into the following five categories:

- (i) Land under residential use;
- (ii) Land under commercial and industrial use;
- (iii) Waterbodies;
- (iv) Public utility land (public roads, parks, Smashan Ghat, Burial Ground, land under departmental use etc.);
- (v) Land not covered by any of the aforesaid four type-class.

[b] Each of the aforesaid five type-classes of land, if falling within a municipality, shall also be valued in such a way that over and above the average price fixed for such urban land, additionality in value shall be allowed as per **Schedule-II** of the **G.O.No.1705-LA-3M-07/06** dated the 6th June, 2006 on the ground of such land having direct access to different type-class of roads, avenues, lane etc. as specified in the aforesaid schedule.

✓ (39) **Compulsory acquisition of land vested under any other law, whether settled or not settled:**

The acquisition of land under Land Acquisition Act, 1894, shall henceforth apply on any type of and class of holding including the land vested under any other Act and irrespective of the same being retained by the Collector at his disposal or allotted by issuance of patta or by grant of long-term lease. The procedure to be followed in connection with payment of compensation is narrated hereinafter.

(40) **Patta-allottees are to get full compensation like a free-hold raiyat:**

In case, land vested to the State by operation of any other law and such land is settled by issuance patta, notices for acquisition of land under the Land Acquisition Act, 1894 should be given to **concerned patta-holders**. If patta was issued over the land in question, award shall be declared in favour of the patta holder or his successors-in-interest. Such award shall include all the elements as provided u/s 23 of the LA Act including solatium.

(41) Lease-holders of Government land shall get back proportionate selami amount of the un-enjoyed period of total lease-tenure:

In case, land vested to the State by operation of any other law and such land is **settled under long-term lease-contract**, notices for acquisition of land under the Land Acquisition Act, 1894 should be given to concerned lease-holder or his successors-in-interest, and the lessee shall get back proportional selami for the remaining years' back along with interest @ 6.25% for the number of years the refundable selami lied with the Government and cost of his non-movable assets developed by the lessee. A lessee shall neither get solatium @ 30% nor additional compensation @ 12% per annum. However, the market value of lease out Government land shall be paid to Collector as award without solatium and additional compensation.

(42) Notices should be given to the Collectors as regard to the Government land:

Notices should be given to the Collector, for this purpose the DL&LRO, **for vested land not yet to be settled** and all procedures relating acquisition of land shall be observed in finalizing the LA proceedings, however, the award of compensation be made for the aforesaid categories of holdings in the manner that the award should be declared in favour of the Collector, the award shall include market value of land and but neither solatium @ 30% nor additional compensation @ 12% per annum shall be entitled to the Collector. The Collector shall deposit the awarded amount in the appropriate Receipt Head of L & LR Department.

(43) Regarding vested land retained by the tenant u/s 6(3) of the WBEA Act, 1953:

In case of termination of retention permission by proceedings u/s 6 of the WBEA Act, 1953, the land gets resumed to State, and such land is acquired the market value of the land shall be payable to the Collector but excluding solatium @ 30% and additional compensation @ 12%. In case, such vested land retained by a mill, factory and workshop u/s 6(3) of the abovestated Act, has not been so far resumed, or resumption proceedings are incomplete or help up in a judicial proceedings or not fit for resumption, compensation of such land, if acquired, to be apportioned

in such manner as the court may decide and hence awarded amount of compensation be deposited in the court on receipt of petition in this regard from the retained or DL&LRO u/s 18 of the Act.

(44) Estimation of cost of acquisition of Government land:

All such costs or additional costs payable to Bargadars, Lessee, retainer or to the Collector on behalf of the State of West Bengal shall be borne by the Requiring Body as a part of LA cost and Land Acquisition Collector should include these elements while preparing the estimate.

(45) Post-acquisition duties of LAC and RB:

It may be also noted that, though, the land shall legally stand vested to the State free from all encumbrances but the LAC shall take over physical possession of such land only on payment of compensation awarded for such land including anything attached to such land. The LAC shall immediately make over physical possession of the acquired land to the RB issuing **"writ of possession"** in the prescribed format.

(46) Acquired Land to be settled with the RB with free-hold rights:

As and when the land has been so acquired for and on behalf of any Government Department, its subordinate offices, Government Undertakings, Development Authorities, Government Companies and Corporations, irrespective of the fact whether the same has been acquired from private ownership or from public ownership i.e land was a vested land, departmental land, khash-mahal land or RR land, it shall be transferred after compulsory acquisition through a **"writ of possession"** which shall clearly mentioned that, the land are **transferred to the RB as free-hold land**, so that the requiring body, being a Government body may with or without development or after development directly by itself or through joint venture or any engaged developer, can transfer and settle the acquired land or the real estate developed thereupon, to any individual citizen within the ceiling limit on **free-hold basis** to enable them freely transferring the property without taking prior written permission of the Government which is necessary if the land is settled under the long-term lease basis. **Such free-hold transfer shall not, however, apply to the companies.** In this connection, the attention of the requiring bodies is

drawn to the provisions of Part VII of the Land Acquisition Act, 1894 specially the restrictive provision u/s 44B, the limited permissive provision u/s 40, provision for signing mandatory "agreement" prior to acquiring any land for any company vide section 41, and publication of such agreement in the Official Gazette u/s 42 and they shall settle the land with any company under such terms and conditions so that the acquired land so settled with them cannot be transferred by the companies **"by sale, mortgage, gift, lease or otherwise"** vide section 44A of the Land Acquisition Act, 1894.

(47) Advance Planning for Resttlement & Rehabilitation of possible evictees:

Though the evicted families shall be provided with rehabilitation supports as prescribed by the Government from time to time and the **RB should bear such cost of rehabilitation and re-settlement**, however, it is ordered that the LAC shall not take over physical possession of homestead land owned and occupied by any family for its residential purpose, by physical eviction of any BPL family until such family is provided with basic mandatory RR package as well as transportation costs of Rs. 2000/- per family. For synchronising the eviction plan with plan for allotment of homestead or constructed houses in relevant type of projects, it should be bounden duty and responsibility of the RB to start construction of houses or acquire land for the re-settlement families to be evicted, immediately after the notice of acquisition u/s 4 of the Act, and cause allotment to them so as to synchronise the allotment of house/flat or plots on or before the possible date of publication of award.

(48) Cultivators be allowed to raise crops on acquired land until the RB takes action for utilisation of the same:

In case, after taking over possession of agricultural land, the RB does not require to bring the land for immediate use, such plot/plots of land shall continue to be cultivated by the ex-land owner till the RB gives notices for discontinue such cultivation. It shall be the duty of the RB to inform the cultivator not to cultivate any crop after any specified date and the ex-land owner shall forthwith discontinue such cultivation. In case the RB requires sudden or immediate use of the land without such

advance notice and also cannot wait till the harvesting of the existing crop, the RB shall pay for damaging the standing crop by such amount as the Collector may decide. But, though in the interest not keeping productive crop-land fallow for years and seasons, considering the economic benefit of the society as well as of the individual cultivator, even if such informal access to land is allowed informally, such authorisation shall not accrue any legal or usufructuary rights and interest of the ex-cultivator on such acquired land.

(49) Time-bound Mutation & Conversion of Land:

After completion of the LA proceeding the duty of the RB should be to move immediately for **mutation and conversion** of Land by submission of appropriate applications with appropriate processing fee with the appropriate offices and no work should be taken up without such mutation and conversion.

(50) Saving Clauses against prescribed timeframe:

The timeframe prescribed above is only to guide all concerned officials to accomplish the task of LA within expectedly possible time-schedule provided however, that the current manpower shortage in LA offices can be overcome and computerisation process with supporting technical hands are available. Failure to accomplish any items of works within the specified time shall not vitiate the LA proceeding unless such delay exceeds the maximum timeframe prescribed by section 6 and section 11A of the Act of 1894.

This Order is issued after taking necessary approval of the Cabinet in regards to the policy issues having financial implications and public interest involvement and this shall come into effect on and from 6th day of June, 2006.

By order of the Governor

Sd/- SUKUMAR DAS, IAS
*Principal Secretary to the
Government of West Bengal*