

LAND ACQUISITION (COMPANIES) RULES, 1963

In exercise of the powers conferred by section 55 of the Land Acquisition Act 1894 (1 of 1894), the Central Government hereby makes the following rules for the guidance of the State Government and the Officer of the Central Government and of the State Governments, namely :—

Short title and application.

1. (1) These rules may be called the Land Acquisition (Companies) Rules, 1963.
- (2) These rules shall apply to acquisition of land for all companies under Part VII of the Act.

Definitions.

2. In these rules,—
 - (i) “Act” means the Land Acquisition Act, 1894 (1 of 1894); and
 - (ii) “Committee” means the Land Acquisition Committee constituted under rule 3.

Land Acquisition Committee.

3. (1) For the purpose of advising the appropriate Government in relation to acquisition of land under Part VII of the Act the appropriate Government shall, by notification in the Official Gazette, constitute a Committee to be called the Land Acquisition Committee.

1[(2) The Committee shall consist of :—

(i) the Secretaries to the Government of the Departments of Revenue, Agriculture and Industries or such other officers of each of the said Departments as the appropriate Government may appoint;

(ii) such other members as the appropriate Government may appoint for such term as that Government may, by order, specify; and

(iii) the Secretary to the Department or any officer nominated by him dealing with the purposes for which the company proposes to acquire the land.]

(3) The appropriate Government shall appoint one of the members of the Committee to be its Chairman.

(4) The Committee shall regulate its own procedure.

(5) It shall be duty of the Committee to advise the appropriate Government on all matters relating to or arising out of acquisition of land under Part VII of the Act, on which it is consulted and to tender its advice within one month from the date on which it is consulted :

Provided that the appropriate Government may on a request being made in this behalf of the Committee and for sufficient reasons extend the said period to a further period not exceeding two months.

Appropriate Government to be satisfied with regard to certain matters before initiating acquisition proceedings.

4. (1) Whenever a company makes an application to the appropriate Government for acquisition of any land, that Government shall direct the Collector to submit a report to it on the following matters, namely :—

(i) that the company has made its best endeavour to find out lands in the locality suitable for the purpose of the acquisition;

(ii) that the company has made all reasonable efforts to get such lands by negotiation with the person interested therein on payment of reasonable price and such efforts have failed;

(iii) that the land proposed to be acquired is suitable for the purpose;

(iv) that the area of land proposed to be acquired is not excessive;

(v) that the company is in a position to utilise the land expeditiously; and

(vi) where the land proposed to be acquired is good agricultural land, that no alternative suitable site can be found so as to avoid acquisition of that land.

(2) The Collector shall, after giving the company a reasonable opportunity, to make any representation in this behalf, hold an enquiry into the matters referred to in sub-rule (1) and while holding such enquiry he shall :—

(i) in any case where the land proposed to be acquired is agricultural land, consult the Senior Agricultural Officer of the district whether or not such land is good agricultural land;

(ii) determine, having regard to the provisions of sections 23 and 24 of the Act, the approximate amount of compensation likely to be payable in respect of the land, which, in the opinion of the Collector, should be acquired for the company; and

(iii) ascertain whether the company offered a reasonable price (not being less than the compensation so determined), to the persons interested in the land proposed to be acquired.

Explanation.— For the purpose of this rule “good agricultural land” means any land which, considering the level of agricultural production and the crop pattern of the area in which it is situated, is of average or above average productivity and includes a garden or grove land.

(3) As soon as may be after holding the enquiry under sub-rule (2), the Collector shall submit a report to the appropriate Government and a copy of the same be forwarded by that Government to the Committee.

(4) No declaration shall be made by the appropriate Government under section 6 of the Act unless—

(i) the appropriate Government has consulted the Committee and has considered the report submitted under this rule and the report, if any, submitted under section 5A of the Act; and

(ii) the agreement under section 41 of the Act has been executed by the company.

Notes

A notification under section 6 issued without complying with rule 4(4) of the Land Acquisition (Companies) Rules, 1963, is void. Any change in rules relating to procedure, applies to all pending matters. The requirement of a report

under rule 4(1) is a requirement in addition to the requirement of a report under section 5A of the Act. The notification under section 6 in contravention of the aforesaid rule is void.

Unless the directions enjoyed by rule 4 are complied with, the notification under section 6 of the Act will be invalid.

Enquiry under rule 4 and rules of natural justice - Rules of natural justice are not rules embodied always expressly in a statute or the rules framed thereunder. Although rule 4 of Land Acquisition (Companies) Rules, 1963 is silent regarding mode and method of enquiry by the Collector, he has to observe in the interest of fair play by allowing the person interested, reasonable opportunity of being heard and of adducing materials. Rule 4 prohibits the Government from issuing notification under section 6 unless it has consulted the Committee and considered the said report including that under section 5A and unless an agreement with the company under section 41 has been executed.

Matters to be provided in the agreement under section 41.

5. (1) The terms of the agreement referred to in section 41 of the Act shall include the following matters, namely :—

(i) that the company shall not except with the previous sanction of the appropriate Government, use the land for any purpose other than that for which it is acquired;

(ii) that the time within which the dwelling houses or amenities directly connected therewith shall be erected or provided or the building or work shall be constructed or executed shall not exceed three years from the date of transfer of the land to the company;

(iii) that where the appropriate Government is satisfied after such enquiry as it may deem necessary that the company was prevented by reasons beyond its control from erecting, providing, constructing or executing dwelling houses or amenities or any building or work within the time specified in the agreement, the appropriate Government may extend the time for that purpose by a period not exceeding one year at a time so however that the total period of extension shall not exceed three years;

(iv) that if the company commits a breach of any of the conditions provided for in the agreement, the appropriate Government may make an order declaring the transfer of the land to the company as null and void whereupon the land shall revert back to the appropriate Government and directing that an amount not exceeding one-fourth of the amount paid by the company to the appropriate Government as the cost of acquisition under clause (1) of section 41 of the Act shall be forfeited to the appropriate Government as damages and the balance shall be refunded to the company, and the order so made shall be final and binding;

(v) that if the company utilises only a portion of the land for the purpose for which it was required and the appropriate Government is satisfied that the company can continue to utilise the portion of the land used by it even if the unutilised part thereof is resumed, the appropriate Government may make an order declaring the transfer of the land with respect to the unutilised portion thereof as null and void whereupon such unutilised portion shall revert back to the appropriate Government and directing that an amount not exceeding one-fourth of such portion of the amount paid by the company as cost of acquisition under clause (1) of section 41 of the Act as it relatable to the unutilised portion shall be forfeited to the appropriate Government as damages and that balance of that portion shall be refunded to the company and the order so made shall, subject to the provisions of clause (vi), be final and binding;

(vi) that where there is any dispute with regard to the amount relatable to the unutilised portion of the land, such dispute shall be referred to the court within whose jurisdiction the land or any part thereof is situated and the decision of that Court thereon shall be final.

(2) Where the company commits a breach of any of the terms of the agreement, the appropriate Government shall not make an order under clause (iv) or clause (v) of sub-rule (1), unless the company has been given an opportunity of being heard in the matter.

(3) The appropriate Government shall consult the committee before according any sanction under clause (i) of sub-rule (1) or extending the time under clause (iii) or making any order under clause (iv) or clause (v) of that sub-rule.

Additional matters which may be provided in the agreement under section 41.

6. (1) Without prejudice to the provisions of rule 5, the terms of agreement referred to in section 41 of the Act may also include the following matters, namely :—

that, 2[***] before an award has been made under section 11 of the Act, the company shall deposit with the Collector, free of interest, such amount [being not more than two-thirds of the approximate amount of compensation payable in respect of the land as determined under clause (ii) of sub-rule (2) of rule 4], and within such time as the Collector thinks fit, to specify in this behalf.

(2) Where any amount has been deposited with the Collector under sub-rule (1), the Collector shall tender payment of the amount so deposited to the persons interested who in the opinion of the Collector, are entitled to receive payment of compensation under sub-section (1) of section 31 of the Act and shall pay it to them, unless prevented by some one or more of the contingencies mentioned in sub-section (2) of section 31 of the Act, subject to the following conditions, namely :—

(i) the execution of an agreement by each recipient that the amount received by him exceeds the amount of the compensation finally awarded, the excess amount shall be recoverable from him as an arrears of land revenue and that he shall not claim any interest under the provisions of the Act in respect of the amount received by him under this sub-rule; and

(ii) the execution of a bond by each recipient with or without security as the Collector may decide undertaking to indemnify the appropriate Government against any claim for compensation or part thereof by any other person.

(3) If the amount deposited by the company under sub-rule (1) or any part thereof is not paid under sub-rule (2) the Collector shall, as soon as practicable, refund the same to the company.

Submission of periodical report.

7. For the purpose of ensuring that the conditions provided for in the agreement executed by the company are complied with the appropriate Government may direct the Collector or such other officer as that Government may appoint for the purpose, to submit to it and to the Committee, a periodical report, at such intervals of time as it may specify, indicating the conditions which have been or have not been complied with as well as the steps taken by the company towards their compliance.

Conditions under which sanction may be given for transfer of land.

8. Where a company for which land has been acquired under the Act applies for the previous sanction of the appropriate Government for the transfer of that land or any part thereof by sale, gift, lease or otherwise, no such sanction shall be given unless—

(i) the proposed transfer of land along with dwelling houses, amenities, buildings or work, if any, is to some other company or where the company is a co-operative society, such transfer is to any or all of its members, or

(ii) where the land has been acquired for the erection of the dwelling houses for workmen employed by the company, the proposed transfer of the land along with dwelling houses, if any, is to such workmen or their dependent heirs :

Provided that before giving any such sanction the appropriate Government shall consult the Committee.

3[Special provision in relation to a company.

9. When an application is made to the appropriate Government for acquisition of any land by a company, such acquisition shall ordinarily be made in accordance with the provisions of Part VII of the Act.]

Repeal.

10. All rules made by the appropriate Government for the guidance of its officers with respect to acquisition of land for companies under Part VII of the Act and in force immediately before the commencement of these rules shall, to the extent of the repugnancy, cease to have effect.