

SUSTAINABLE MINING AND GEOINFORMATION

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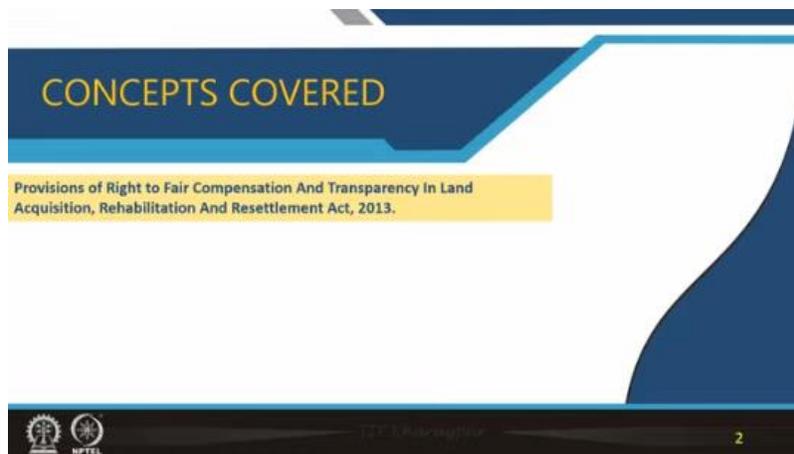
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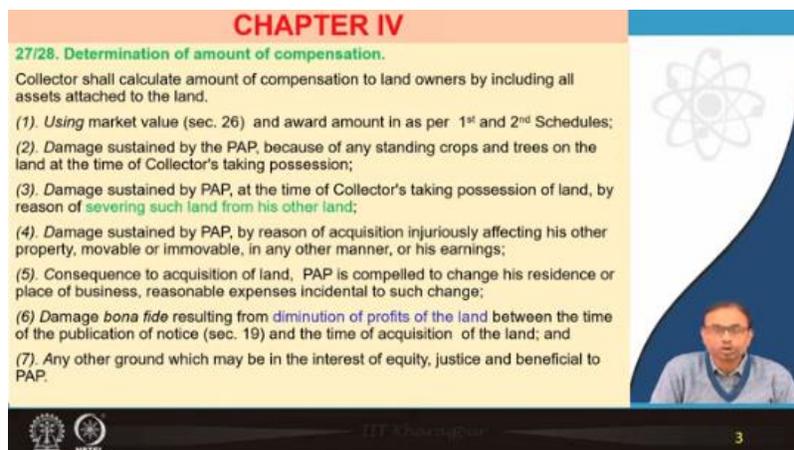
Week – 09

Lecture 42: Land Acquisition and Rehabilitation and Resettlement Act-II

Welcome students to the forty-second lecture on our NPTEL online certification course on the topic of 'Sustainable Mining and Geoinformation'. Today, we shall continue our discussion on the topic of 'Land Acquisition and Rehabilitation and Resettlement Act 2013'.



In the last lecture, we started the discussion on this topic, and today we shall continue the same topic.



In the previous class, we discussed up to Section 28. Today, we will start our discussion from Sections 27 and 28, where the district collector determines the amount of compensation as per the present Act. As per Sections 27 and 28, the collector shall calculate the amount of compensation to land owners and to the project-affected families by including all the assets that are attached to the land. So, compensation will include that for the land and for any assets over the land, i.e., houses, trees, some structures, etc. So, the assets will be evaluated, and compensation will be provided against those assets. The provisions are: number one, using market value as determined under Section 26. We discussed in the last class how the market value is calculated and the award amount is calculated as per the first and second schedules. These schedules are provided in this Act. For the determination of the amount of compensation, the first and second schedule will be useful now, apart from the market value of the land. Damage sustained by the project-affected person because of any standing crops. The value against the damage will be calculated. There may be trees; what is the value of those trees? The damage sustained by the PAP at the time of the collector taking possession of the land by reason of severing of other parts of the land in terms of loss of access. Let's say the family has a stretch of land, and a part of the land is being acquired, and because of this, access to another part of the land is lost. In such a case, there will be a loss to the farmer or the PAP. Such loss or damage will be evaluated and compensated. Damage by reason of acquisition of land which is injuriously affecting his other property, movable or immovable. So, this land is getting acquired, and because of the acquisition of the land, let us say some part of the building is damaged or some other property which is standing on the land is damaged. So, that damage will be quantified, and compensation will be given.

Now, consequent to the acquisition of the land, if the PAP is compelled to change his residence or place of business. It may so happen that because of the acquisition of a particular land, the land where the family was residing is no longer suitable for a good residence, or there was a business, and now because of the acquisition of the land, that location is no longer suitable for the business. In such a case, the PAP may have to move to a new location for residence purposes or for business purposes. Now, the reasonable expenses for moving will also be added to the compensation. Damage resulting from the diminution of profit of the land between the time of the publication of the notice and the time of the acquisition of the land. When the notification came for the acquisition of the land, and then acquisition takes some time—it may take 3 months, 6 months, 8 months, whatever it is—now, in between that period, because of the acquisition notification, some value may diminish in some cases. The loss of value of the land will also be compensated

for by including the loss in the compensation. Any other ground which may be in the interest of equity, justice, and beneficial to the PAP will also be added to the compensation amount.

Schedule I		
S. N.	Component of compensation package	Manner of determination of value
1.	Market value of land	To be determined as per section 26.
2.	Factor by which the market value is to be multiplied in the case of rural areas	1.00 (One) to 2.00 (Two) based on the distance of project from urban area, as may be notified by the appropriate Government.
3.	Factor by which the market value is to be multiplied in the case of urban areas	1(One).
4.	Value of assets attached to land or building	To be determined as provided under section 29.
5.	Solatium	Equivalent to one hundred per cent. of the market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 for rural areas or serial number 3 for urban areas plus value of assets attached to land or building against serial number 4 under column (2).
6.	Final award in rural areas	Market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 plus value of assets attached to land or building mentioned against serial number 4 under column (2) plus solatium mentioned against serial number 5 under column (2).
7.	Final award in urban areas	Market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 3 plus value of assets attached to land or building mentioned against serial number 4 under column (2) plus solatium mentioned against serial number 5 under column (2).
8.	Other component, if any, to be included	

This is Schedule I of the Act. Once you determine the market value, a factor you have to use for multiplication. So, in the rural area, the multiplication factor will be between 1 to 2, and in the urban area, the factor will be 1. So, the value of the land or the value of the asset, then you multiply it with the factor, and there will be an additional amount as per this act that you have to provide, which is known as the solatium, equivalent to 100 percent of the market value of the land plus the asset.

CHAPTER IV	
29. Determination of value of things attached to land:	
(1) Collector for determining the market value of the building and other immovable property or assets attached to the land to be acquired, to use the services of a competent engineer or specialist in the relevant field.	
(2) Collector for determining value of trees and plants to use services of experienced persons in the field of agriculture, forestry, horticulture, sericulture, etc.	
(3) for purpose of assessing value of standing crops damaged due to acquisition, may use the services of experienced persons in field of agriculture.	
30. Award of solatium:	
(1) Collector after determining total compensation to be paid, shall, to arrive at the final award, impose a- Solatium , amount equivalent to 100 % of the compensation amount . Solatium amount shall be in addition to the compensation payable to PAP.	
(2) Additional compensation: Collector shall, award an amount calculated @ 12% per annum on the market value for the period between date of publication of the notification of the SIA study (4, (2)) till the date of the award of the Collector or the date of taking possession of the land whichever is earlier.	

Determination of the value of things attached to the land. On the land, you may have crops, trees, any structure, houses, etc. The collector, for determining the market value of buildings and other immovable properties or assets attached to the land, will use the service of a competent engineer or specialist in the relevant field. If you have a tree or plant, then the service of an experienced person in the field of agriculture, forestry, horticulture,

sericulture, etc., may be taken. If there is a standing crop, then for the purpose of assessing the value of the standing crop, the service of an experienced person in the domain of agriculture may be taken. Similarly, if there is a house, then the competent civil engineer's service may be taken. Section 30 talks about the award of solatium. The collector, after determining the total compensation to be paid to the PAP, to arrive at the final award, will impose a solatium, which is an extra additional value. equivalent to 100 percent of the compensation amount as calculated above. We have calculated the value of the land and the asset, then multiplied it with the multiplying factor as given in Schedule I. So, that is the compensation amount. Above and over that, we shall add 100 percent extra value, which is the solatium. The solatium amount shall be in addition to the compensation that is payable to the PAP family. Now, additional compensation: The collector shall award an amount calculated at the rate of 12 percent per annum on the market value for the period between the date of the publication of the notification of the SIA study and the date of the award of the collector or the date of taking possession of the land. Because when the notification comes and beyond that, it takes some time for the award of compensation and for the acquisition of the land. For that intervening period, interest at the rate of 12 percent per annum has to be paid. We have to calculate the interest, and that will be added to the total compensation. So, to calculate the compensation: Get the market value of the land, then evaluate the value of the asset on the land, add them together, multiply with the multiplying factor as taken from Schedule I. Sum these up and add a hundred percent solatium. Beyond that, for the intervening period delay, we have to pay interest at the rate of 12 percent. Add the interest. Adding all this together, you arrive at the total compensation, which will be paid to the project-affected family before the possession of the land is taken by the collector. The collector is the responsible authority who will make the payment and who will take possession of the land from the project-affected family.

CHAPTER IV: R&R Award

31. R&R Award: (1) Collector shall pass R&R Awards for PAP in terms of entitlements provided in the **Second Schedule**.

2) R&R award to include all of the following: —

- (a) rehabilitation and resettlement amount payable to the family;
- (c) particulars of house site and house to be allotted, in case of displaced families;
- (d) particulars of land allotted to the displaced families;
- (e) one time **subsistence- and transportation -allowance** for displaced families;
- (f) payment for cattle shed and petty shops;
- (g) one-time amount to artisans and small traders;
- (h) details of mandatory employment to be provided to members of PAP families;
- (i) particulars of any fishing rights that may be involved;
- (j) particulars of annuity and other entitlements to be provided;
- (k) particulars of special provisions to be provided for SC and STs.



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Chapter 4, Resettlement and Rehabilitation award: The collector shall pass the resettlement and rehabilitation award for the PAP family in terms of the entitlement provided in the second schedule. When the R&R award is worked out, it will be as per the entitlement which is mentioned in the 2nd schedule of the Act. I will show you the second schedule here. Sec 31.2: The R&R award to include the following points:

- a) rehabilitation and resettlement amount payable to the family;
- c) Particulars of the house site or house to be allotted in case of a displaced family. In the case of a displaced family, they may be given a house in the resettlement colony which is prepared by the acquiring company. Particulars of the house site or the house number to be allotted to the displaced family will be mentioned in the R&R award.
- d) Particulars of land allotted to the displaced family. In some cases, the displaced family will be given land in another locality; particulars of that land are to be mentioned in the award.
- e) One-time subsistence and transportation allowance for the displaced family as per the second schedule.
- f) Payment for cattle shed and petty shops.
- g) One-time amount to artisans and small traders.
- h) Details of mandatory employment to be provided to the members of the PAP family. In some cases, one member of the PAP family may be provided employment in the company or in some other agency. The details of the mandatory employment must be mentioned.
- i) Particulars of any fishing rights that may be involved, particularly for the SC and STs involved. They have traditional fishing rights. In some cases, particularly for hydroelectric dam projects, fishing rights may be given to the displaced families.
- j) Particulars of annuity and other entitlements to be provided. In some cases, the government or the company will provide the affected family a monthly remuneration in terms of annuity. The amount of annuity will be mentioned in the award.
- k) Any other special provision which will be provided. to the SC and STs, particularly if the acquisition is taking place in a scheduled area. A scheduled area means where tribal people constitute more than 40 percent of the population and which is notified by the Government of India under the Fifth Schedule and Sixth Schedule of the Constitution.

There are many states in our country, and within some states, there are many districts inhabited by tribal people. When the tribal population exceeds 40%, the Government of India, under the Fifth Schedule and Sixth Schedule, has notified these as scheduled areas.

Normally, in scheduled areas, acquisition of land is not allowed, but in some cases, as a last resort, it may be permitted by the government. If that is allowed and when SC and ST people are displaced, some special statutory provisions are mentioned as per this Act. Those facilities must be provided in the R&R awards.

THE SECOND SCHEDULE		
Sl. No.	Elements of R&R Entitlements	Entitlement/provision
1.	Provision of housing units in case of displacement	<p>(1) If a house is lost in rural areas, a constructed house shall be provided as per the Indira Awas Yojana specifications. If a house is lost in urban areas, a constructed house shall be provided, with a plinth area not less than 50 sq mts.</p> <p>(2) The benefits listed above shall also be extended to any affected family which is without homestead land and which has been residing in the area continuously for a period of not less than three years preceding the date of notification of the affected area and which has been involuntarily displaced from such area:</p> <p>Any affected family in urban areas which opts not to take the house offered, shall get a one-time financial assistance for house construction, which shall not be less than one lakh fifty thousand rupees:</p> <p>If any affected family in rural areas wishes, it may opt for equivalent cost of the house in lieu of the constructed house:</p> <p>No family affected by acquisition shall be given more than one house.</p> <p>Explanation.—The houses in urban area may, if necessary, be provided in multi-storied building complexes.</p>

The Second Schedule explicitly mentions the different entitlements in such cases. You can see the table, the elements of resettlement and rehabilitation entitlements as per the schedule. There are nine points. First is the provision of housing units in case of displacement. If a house is lost in rural areas, a constructed house shall be provided as per the Indira Awas Yojana specifications. If a house is lost in urban areas, a constructed house shall be provided with a plinth area not less than 50 square meters. The benefits listed above shall also be extended to any affected family without homestead land that has been residing in the area continuously for at least three years. preceding the date of notification of the affected area and which has been involuntarily displaced. Any affected family in urban areas that opts not to take the house offer can receive a one-time financial assistance for house construction, which shall not be less than one lakh fifty thousand rupees. In urban areas, the PAP person may not opt for the house constructed by the company and may choose financial assistance. If any affected family in rural areas also wishes to take monetary compensation instead of the house built by the company, that may also be considered. They can also be given monetary compensation instead of the constructed house. No family affected by the acquisition shall be given more than one house. The underlying principle is that one family will get only one house or monetary compensation

for one house. They cannot get more than one house or monetary compensation for more than one house. Houses in urban areas may be provided in multi-storied building complexes. In urban areas where land is scarce and expensive, the company or the government can build houses as multi-storied buildings. There, the PAP will get the constructed house in the multi-storied building complex, not an individual house where one gets land and a house on top. It can also be a multi-storied building.

THE SECOND SCHEDULE		
Sl. No.	Elements of R&R Entitlements	Entitlement/provision
2.	Land for Land	<p>In the case of irrigation project, as far as possible and in lieu of compensation to be paid for land acquired, each affected family owning agricultural land in the affected area and whose land has been acquired or lost, or who has, as a consequence of the acquisition or loss of land, been reduced to the status of a marginal farmer or landless, shall be allotted, in the name of each person included in the records of rights with regard to the affected family, a minimum of one acre of land in the command area of the project for which the land is acquired.</p> <p>Provided that in every project those persons losing land and belonging to the Scheduled Castes or the Scheduled Tribes will be provided land equivalent to land acquired or two and a one-half acres, whichever is lower.</p>
3.	Offer for Developed Land	<p>In case the land is acquired for urbanisation purposes, 20% of the developed land will be reserved and offered to land owning project affected families, in proportion to the area of their land acquired and at a price equal to the cost of acquisition and the cost of development.</p> <p>Provided that in case the land owning project affected family wishes to avail of this offer, an equivalent amount will be deducted from the land acquisition compensation package payable to it.</p>

Provision number 2: Land for land. In the case of irrigation projects, affected families owning agricultural land in the affected area can request land for land. In such cases, land for land must also be provided. Provided that in every project, persons losing land and belonging to the Scheduled Caste and Scheduled Tribes will be provided land equivalent to the land acquired or two and a half acres, whichever is lower. This land provision for Scheduled Caste and Scheduled Tribe is a very important provision. Provision 3 offers developed land: In some cases, the company can develop the land and give it to the project-affected family. In case the land is acquired for urbanization purposes, the government is acquiring land for expanding municipal or city limits. There, 20% of the developed land will be reserved and offered to land-owning project-affected families in proportion to the area of their land acquired and at a price equal to the cost of acquisition and the cost of development.

THE SECOND SCHEDULE		
Sl. No.	Elements of R&R Entitlements	Entitlement/provision
4.	Choice of Annuity or Employment	Govt. shall ensure that PAP families are provided with the following options: (a) where jobs are created through the project, after providing suitable training and skill development, make provision for employment at a rate not lower than the minimum wages provided for in any other law for the time being in force, to at least one member per affected family in the project or arrange for a job in such other project as may be required; or (b) one time payment of five lakhs rupees per affected family; or (c) annuity policies that shall pay at least two thousand rupees per month per family for twenty years, with appropriate indexation to the Consumer Price Index for Agricultural Labourers.
5.	Subsistence grant for displaced families for a period of one year	Each affected family which is displaced from the land acquired shall be given a monthly subsistence allowance equivalent to Rs. 3000/- per month for a period of one year from the date of award. Addition to this amount, the Scheduled Castes and the Scheduled Tribes displaced from Scheduled Areas shall receive an amount equivalent to fifty thousand rupees. In case of displacement from the Scheduled Areas, as far as possible, the affected families shall be relocated in a similar ecological zone, so as to preserve the economic opportunities, language, culture and community life of the tribal communities.

Choice of annuity or employment: The government shall ensure that PAP families are provided with the following 3 options: a) Where jobs are created through the project after providing suitable training and skill development. Make provision for employment at a rate not lower than the minimum wages provided as per the law by the government. The job has to be provided to at least one member per affected family in the project or arranged for a job in another project as may be required. Let us take the example of Coal India Limited, which has many mines. So, if the company is not able to provide a job in the same project, it may consider giving employment in another mine or b) A one-time payment of 5 lakh rupees per affected family. Or c) Annuity policies that shall pay at least Rs. 2000 per month per family for 20 years. This is the annuity option. Of course, the company has to consider the appropriate indexation to the Consumer Price Index for agricultural labourers. Because the value of 2000 rupees will change, and you have to revise that price as per the Consumer Price Index. Subsistence grant for displaced families for a period of one year: Each affected family which is displaced from the land acquired shall be given a monthly subsistence allowance equivalent to Rs. 3,000 per month for a period of one year from the date of award. Additionally, the SC and ST people displaced from scheduled areas shall receive an extra amount of Rs. 50,000 in case of displacement from scheduled areas. As far as possible, the affected families shall be relocated in a similar ecological zone. Particularly when the ST people are displaced, they should be relocated from one area to an adjacent area where the ecological nature, socio-economic nature, the nature of the forest will be similar, so that they do not feel lost in a new environment. Also, to preserve economic opportunities, language, culture, and community life of the tribal people. So, these are the special provisions for the scheduled area.

THE SECOND SCHEDULE		
Sl. No.	Elements of R&R Entitlements	Entitlement/provision
6.	Transportation cost for displaced families	Each affected family which is displaced shall get a one-time financial assistance of fifty thousand rupees as transportation cost for shifting of the family, building materials, belongings and cattle.
7.	Cattle shed/Petty shops cost.	Each affected family having cattle or a petty shop shall get one-time financial assistance as notified by Govt. subject to a minimum of twenty-five thousand rupees for construction of cattle shed or petty shop.
8.	One-time grant to artisans, small traders and certain others	Each affected family of an artisan, small trader or self-employed person or an affected family which owned non-agricultural land or commercial, industrial or institutional structure in the affected area, and which has been involuntarily displaced from the affected area due to land acquisition, shall get one-time financial assistance according to the notification by Govt., subject to a minimum of twenty-five thousand rupees.
9.	Fishing Rights	In cases of irrigation or hydel projects, the affected families may be allowed fishing rights in the reservoirs, in a manner as prescribed by Government.
10.	One-time Resettlement Allowance	Each affected family shall be given a one-time Resettlement Allowance of fifty thousand rupees only.
11.	Stamp duty and registration fee	(1) The stamp duty and other fees payable for registration of the land or house allotted to the affected families shall be borne by the Requiring Body. (2) The land for house allotted to the affected families shall be free from all encumbrances. (3) The land or house allotted may be in the joint names of wife and husband of the affected family.

Similarly, you have the transportation allowance for displaced families, cattle shed, petty shop cost, one-time grant to artisans, small traders, and other sections of society, fishing rights, one-time resettlement allowance, stamp duty, and registration fee. So, these are the different provisions under the second schedule where you are providing the facility or the compensation.

CHAPTER IV: R&R Award	
32. Provision of infrastructural amenities in resettlement area.	-In resettlement area Collector shall ensure provision of all infrastructural facilities and basic minimum amenities specified in the Third Schedule.
38. Power to take possession of land-	(1) Collector shall take possession of land after ensuring that full payment of compensation as well as rehabilitation and resettlement entitlements are paid or tendered to the entitled persons within a period of three months for the compensation and a period of six months for the monetary part of rehabilitation and resettlement entitlements listed in the 2nd Schedule commencing from the date of the award made under Sec. 30. (2) Collector shall be responsible for ensuring that the rehabilitation and resettlement process is completed in all its aspects before displacing the affected families.

Provision of infrastructural amenities in the resettlement area. Section 32: The company is building a resettlement area. What are the infrastructural facilities that they will be providing? It is as per the provisions mentioned in the third schedule. What infrastructural facility and basic minimum amenities will be provided?

SCHEDULE 3

S. N. Infrastructure amenities to be provided by the acquirer of land

1. Roads within the resettled villages and an all-weather road link to the nearest pucca road, passages and easement rights for all the resettled families be adequately arranged.
2. Proper drainage as well as sanitation plans executed before physical resettlement.
3. One or more assured sources of safe drinking water for each family as per the norms prescribed by Govt. of India.
4. Provision of drinking water for cattle.
5. Grazing land as per proportion acceptable in the State.
6. A reasonable number of Fair Price Shops.
7. Panchayat Ghars, as appropriate.
8. Village level Post Offices, as appropriate, with facilities for opening saving accounts.
9. Appropriate seed-cum-fertilizer storage facility if needed.
10. Efforts must be made to provide basic irrigation facilities to the agricultural land allocated to the resettled families if not from the irrigation project, then by developing a cooperative or under some Govt. scheme or special assistance.
11. All new villages established for resettlement of the displaced persons shall be provided with suitable transport facility which must include public transport facilities through local bus services with the nearby growth centres/urban localities.
12. Burial or cremation ground, depending on the caste- communities at the site and their practices.
13. Facilities for sanitation, including individual toilet points.
14. Individual single electric connections (or connection through non- conventional sources of energy like solar energy), for each household and for public lighting.
15. Anganwadis providing child and mother supplemental nutritional services.
16. School as per the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009);




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As per the provisions of the third schedule, what are the provisions, infrastructural facilities, roads within the resettled village? All-weather road link, proper drainage and sanitation facilities, one or more assured sources of safe drinking water, provisions of drinking water for cattle, grazing land for the cattle, a reasonable number of fair price shops, panchayat ghar, post offices, appropriate seed and fertilizer storage facilities. Effort must be made to provide irrigation facilities; it is not mandatory. Like burial or cremation ground as per the caste community, facilities for sanitation including toilet facilities, individual single electric connections or connections through solar and other renewable energies, Anganwadis providing child and mother supplemental nutritional services. Schools as per the Right of Children to Free and Compulsory Education.

SCHEDULE 3

S. N. Infrastructure amenities to be provided by the acquirer of land

17. Sub-health centre within two kilometres range.
18. Primary Health Centre as prescribed by the Government of India.
19. Playground for children.
20. One community centre for every hundred families.
21. Places of worship and chowpal tree platform for every fifty families for community assembly, of members and dimension consonant with the affected area.
22. Separate land must be earmarked for traditional tribal institutions.
23. The forest dweller families must be provided, where possible, with their forest rights on non-timber forest produce and common property resources, if available close to the new place of settlement and, in case any such family can continue their access or entry to such forest or common property in the area close to the place of eviction, they must continue to enjoy their earlier rights to the aforesaid sources of livelihood.
24. Appropriate security arrangements must be provided for the settlement, if needed.
25. Veterinary Service Centre as per norms.




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Sub-health center within a 2 km range. Primary health center. Playground for children. Community center for every 100 families. Place of worship, Chowpal tree platform for every 50 families. Separate land must be earmarked for traditional tribal institutions. The forest-dweller family must be provided, where possible, with their forest rights on non-timber forest produce and common property resources. Appropriate security arrangements must be provided in the settlement colony. Veterinary services as per the norms. So, these are the different infrastructural facilities that will be provided in the resettlement colony.

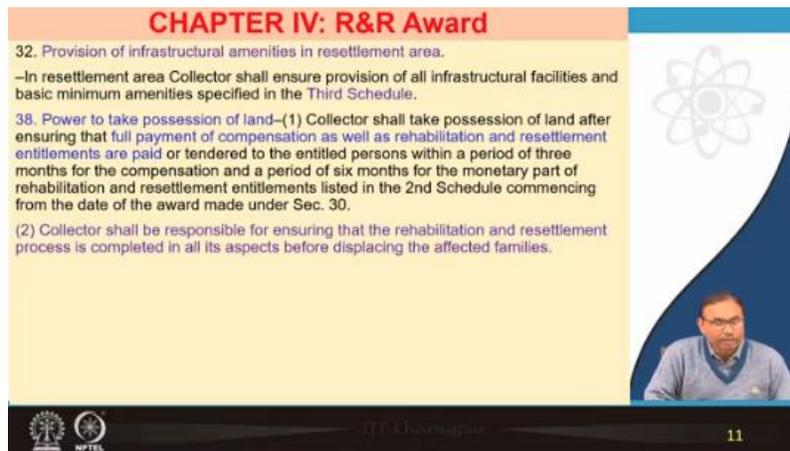
Now, the collector shall ensure that all these infrastructural facilities are made available in the resettlement colony.

CHAPTER IV: R&R Award

32. Provision of infrastructural amenities in resettlement area.
–In resettlement area Collector shall ensure provision of all infrastructural facilities and basic minimum amenities specified in the Third Schedule.

38. Power to take possession of land–(1) Collector shall take possession of land after ensuring that full payment of compensation as well as rehabilitation and resettlement entitlements are paid or tendered to the entitled persons within a period of three months for the compensation and a period of six months for the monetary part of rehabilitation and resettlement entitlements listed in the 2nd Schedule commencing from the date of the award made under Sec. 30.

(2) Collector shall be responsible for ensuring that the rehabilitation and resettlement process is completed in all its aspects before displacing the affected families.



Under section 38, the collector shall have the power to take possession of the land after ensuring full payment towards compensation, as well as rehabilitation and resettlement entitlement are paid after it is ensured that the R & R compensation has been paid, then the collector arranged to take over or the possession of the land. Collector shall be responsible for ensuring that the rehabilitation and resettlement process is completed in all its aspect before displacing the affected family. So, the families cannot be displaced until and unless all the rehabilitation and resettlement process, their compensation, everything is finished and then they will be asked to vacate.

SPECIAL PROVISIONS FOR SC & ST

41. Special provisions for Scheduled Castes and Scheduled Tribes.

(1) As far as possible, no acquisition of land shall be made in the Scheduled Areas.

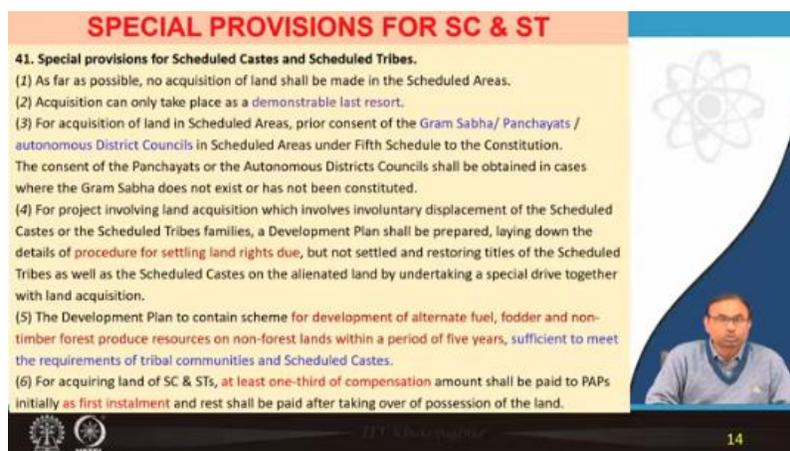
(2) Acquisition can only take place as a demonstrable last resort.

(3) For acquisition of land in Scheduled Areas, prior consent of the Gram Sabha/ Panchayats / autonomous District Councils in Scheduled Areas under Fifth Schedule to the Constitution. The consent of the Panchayats or the Autonomous Districts Councils shall be obtained in cases where the Gram Sabha does not exist or has not been constituted.

(4) For project involving land acquisition which involves involuntary displacement of the Scheduled Castes or the Scheduled Tribes families, a Development Plan shall be prepared, laying down the details of procedure for settling land rights due, but not settled and restoring titles of the Scheduled Tribes as well as the Scheduled Castes on the alienated land by undertaking a special drive together with land acquisition.

(5) The Development Plan to contain scheme for development of alternate fuel, fodder and non-timber forest produce resources on non-forest lands within a period of five years, sufficient to meet the requirements of tribal communities and Scheduled Castes.

(6) For acquiring land of SC & STs, at least one-third of compensation amount shall be paid to PAPs initially as first instalment and rest shall be paid after taking over of possession of the land.



Sec 41: Special provisions for SC and ST. As we have told that in the scheduled area if you are displacing the SC and ST from the scheduled area, some special provisions are to be implemented. As far as possible no acquisition of land shall be made in the scheduled areas, but if it is of last resort, then extra provisions are to be taken. Firstly, for acquisition of land in the scheduled area, prior consent of the Gram Sabha, Panchayat or autonomous district

council of the scheduled area under the fifth or sixth schedule should be obtained. Then for project involving land acquisition which involves the displacement of scheduled caste or scheduled tribe family., A development plan shall be prepared, laying down the details of procedure for settling land rights due, but not settle and restoring titles of the scheduled strikes as well as the scheduled cast on the alienated land by undertaking a special drive together with land acquisition. The development plan to contain scheme to provide alternate fuel, fodder, non-timber forest produce resources on non-forest land within a period of five years. Particularly the tribals, have a different living style. They are living in the forest area. They have a... So, when you are moving them from one forest to a non-forest land, you have to create a forest facility for them where they can enjoy the alternate fuel, fodder, non-timber forest and other things. Sufficient to meet the requirement of the tribal community and schedule caste people. For acquiring land of SC and STs, at least one third of the compensation amount shall be paid to the PAPs initially as first installment and rest shall be paid after taking over the possession of the land.

SPECIAL PROVISIONS FOR SC & ST

41. Special provisions for Scheduled Castes and Scheduled Tribes.

(7) Affected ST families shall be resettled preferably in the same Scheduled Area in a compact block so that they can retain their ethnic, linguistic and cultural identity.

(8) Resettlement areas predominantly inhabited by the Scheduled Castes and the Scheduled Tribes shall get land, to such extent as may be decided by the appropriate Government free of cost for community and social gatherings.

(9) Any alienation of tribal lands or lands belonging to SCs in disregard of the laws and regulations shall be treated as null and void, and in the case of acquisition of such lands, the rehabilitation and resettlement benefits shall be made available to the original tribal land owners or land owners belonging to the Scheduled Castes.

(10) Affected STs, other traditional forest dwellers and the SCs having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects.

(11) If families of SCs and STs are relocated outside of the district, then, they shall be paid additional 25 % rehabilitation and resettlement benefits to which they are entitled in monetary terms along with one-time entitlement of fifty thousand rupees.

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Affected ST families shall be resettled preferably in the same scheduled area in a compact block so that they can retain their ethnic, linguistic and cultural identity. Resettlement areas predominantly inhabited by the SC and STs shall get land to such an extent as may be decided by the government free of cost for community and social gatherings. Any alienation of tribal lands belonging to SCs with in regards to laws and regulations shall be treated void unless all these provisions are made available. Affected STs and other traditional forest dwellers and SCs having fishing right in a river or pond or dam in the affected area when they are moved to a new area, so they shall be given fishing right in the reservoir area of the irrigation or hydel project in the new area. If families of SCs and STs are relocated outside their own district, they shall be given an additional 25 percent R & R benefit, which may amount to a one time entitlement of 50000 rupees.

PROVISIONS FOR SC & ST

42. Reservation and other benefits:

(1) All benefits, including the reservation benefits available to the Scheduled Tribes and the Scheduled Castes in the affected areas shall continue in the resettlement area.

(2) Whenever affected ST families residing in Scheduled Areas (Fifth/ Sixth Schedule) are relocated outside those areas, then, *all the statutory safeguards, entitlements and benefits being enjoyed by them under this Act shall be extended to the area to which they are resettled regardless of whether the resettlement area is a Scheduled Area as per Fifth Schedule, or Sixth Schedule, or not.*

(3) Where the community rights have been settled under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), the same shall be quantified in monetary amount and be paid to the individual concerned who has been displaced due to the acquisition of land in proportion with his share in such community rights.



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Sec 42, Reservation and other benefit: This is very important for SC and STs. When they are moved from their original location to other location because of the involuntary displacement, all benefit including the reservation benefit available to the SCs and STs in the affected area shall continue in the resettlement area. Sometimes these reservations are location specific. So, let us say SC and ST people were getting reservation in the original location. Now they have moved to adjacent district. So, it is to be ensured that they also get the similar reservation benefit in those new resettlement locations. Whenever affected ST families residing in the scheduled area under the fifth and sixth schedule are relocated outside those areas then all the statutory safeguards, entitlements benefits being enjoyed by them under this shall under this act shall be extended to the area in which they are resettled regardless of whether they are part of the scheduled area or not so under the Fifth and sixth schedule. If in the scheduled area some tribal people are moved to a new location which may not be notified as the fifth and sixth schedule area. Whatever is the status of the new area, they will get the same right, benefit and protection as per this act. Where the community rights have been settled under the provisions of the Scheduled Tribes and other traditional forest dwellers. (Recognition of Forest Rights) Act of 2006, the same shall be quantified in a monetary amount and be paid to the individual concerned who has been displaced. Now, under the Forest Rights Act of 2006, the tribal people, they have a community right also. When the STs are moved from one location to another, the community rights also need to be granted in the new area.

REFERENCES

- THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013

NPTEL

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This is the provision of this act. Now, we have come to the end of this class. Today, we discussed the provisions of the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The discussion on this Act will continue in the next class. So, we will see you in the next class to continue the discussions on the Land Acquisition, Rehabilitation and Resettlement Act of 2013. This is a very important act for the mining industry, where we are acquiring a lot of land, particularly from forest areas. So, we will see you in the next class. Thank you very much.