



Dedicated Freight Corridor Corporation of India Ltd.

(A Government of India Enterprises)

5th Floor, Pragati Maidan, Metro Station Building Complex, New Delhi- 110001
Corporate Identity Number U60232DL2006GOI155068 Web:

www.dfccil.gov.in

No. 2018/HQ/Admin/RTI-342

New Delhi: 08.10.2018

Shri Sunil Singh Chauhan
R/o 904, Anand Nagar
Etawa, UP-206001
Mobile-9412183636

Subject: Providing information w.r.t. Original Application received under the RTI Act.2005.

Reference: Your RTI application dated 13.08.18 received in this office on 21.08.18.

Information i. r. o. your above RTI application is attached.

Hope the above information is complete and satisfactory. If not, then you can appeal within 30 days of receipt of the letter to the 1st Appellate Authority whose name and address is as under;

Shri Satish Kothari, GGM/ Administration DFCCIL,
5th Floor, Pragati Maidan Metro Station Building, New Delhi-110001.

(S.K.PANDA)

Dy. G.M./Admn.(PIO)

E-mail: skpanda@dfcc.co.in

9717636811

DA: 06 Sheets.



No.HQ/LAW/Misc.I/2012

Dated: 04.04.2016

Ms. Pinki Anand,
Additional Solicitor General of India,
Chamber No.3 & 4, ILI Building,
IInd Floor, Bhagwan Das Road,
NEW DELHI - 110 001

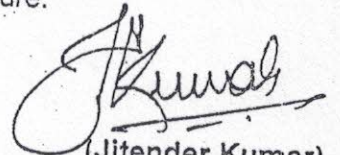
Sub. : Legal opinion in the matter of New Land Acquisition Act -2013
(RFCTLARR Act, 2013).

1.0 During the land acquisition process in DFCCIL, some clarifications are required regarding the implementation of RFCTLARR Act-2013 in DFCCIL. Therefore, you are requested to provide legal opinion as per brief terms of reference enclosed herewith. Relevant documents pertaining to the issue are also enclosed herewith for your kind consideration.

2.0 The concerned officer/s who is well conversant with the facts of the subject matter would be available for meeting as and when required by your good self to brief the matter.

3.0 Your good self is requested to expedite the matter being urgent in nature.

Encl. : Terms of Reference


(Jitender Kumar)
Manager/Law
A.A.16

No. HQ/SEMU/Entitlement Matrix/2015

Dated: 13.04.2015

Adviser (Infrastructure),
Railway Board,
Ministry of Railways,
Rail Bhawan,
New Delhi-110001

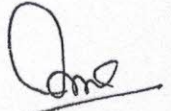
Sub.: Approval of draft Revised Entitlement Matrix as per new LA Act-2013.

Ref.: i). This office letter of even No. dated 04.03.2015.
ii). Railway board's letter no.2009/Infra/3/1/10/Pt.II dated 27.03.2015.

- 1.0 Vide this office letter dated 04.03.2015 (ref i above), Railway Board was requested to approve "Draft Revised Entitlement Matrix" as proposed vide Annexure-II for applicability of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act – 2013" (RFCT-LARR Act-2013) for payment of Land compensation as well as Resettlement and Rehabilitation (R&R) compensation to PAPs in DFCCIL project.
- 2.0 Vide letter dated 27.03.2015 (ref.ii above), Railway Board has advised that schedule I, II & III of new LA Act, 2013 has been enacted to RAA, 2008 from 01.01.2015: As such, all compensation and R&R for the land to be acquired by DFCCIL, be paid accordingly.
- 3.0 The draft Entitlement Matrix as per new LA Act-2013 has been discussed with Railway Board officials this version has been suitably modified as per the discussion.
- 4.0 In view of above, draft Entitlement Matrix as per new LA Act-2013 is resubmitted for kind approval. In case, there is delay in approving complete Entitlement Matrix, at least First Schedule of Entitlement Matrix may be approved immediately. Railway Board is also requested to issue detailed instructions regarding employment.

This has the approval of MD

DA: As above


(Anshuman Sharma
Director/P

Copy to:
Executive Director (L&A-I), Railway Board –for information and necessary action
please



No.HQ/LA/EC/Entitlement Matrix

Dated 15.06.2016

Additional Member/T&C and Infra,
Railway Board,
Ministry of Railway,
Rail Bhawan, New Delhi-110001

Sub.: Revised Awards declared by various Competent Authorities as per new LA Act, 2013

- Ref. : (i) Railway Board's letter no. 2011/Infra/6/10/Pt.3 dated 23.05.2015 (copy enclosed)
(ii) Railway Board's letter no. 2009/Infra/3/1/10/Pt. -II dated 27.03.2015(copy enclosed)
(iii) Railway Board's letter no. 2009/Infra/3/1/10/Pt.-I dated 18.01.2011(copy enclosed)

1.0 Brief background of the issue is as below:-

- (i). The Government of India had passed "The Right to Fair Compensation and Transparency in land acquisition, Rehabilitation and Resettlement Act, 2013" for acquisition of land w.e.f. 01.01.2014. As per section 105(1) of this act, "the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fourth Schedule". Ministry of Railways (through DFCCIL) is acquiring land for DFC project as per "the Railway Act, 1989 (24 of 1989)" mentioned at S.No.13 of the Fourth Schedule of this Act.
- (ii). As per Gazette notification No. 50 dated 31.12.2014, section 10, earlier sub-section 3 of section 105 has been substituted as "The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1st January, 2015."
- (iii). In view of above, Ministry of Railways vide letter no.2009/Infra/3/1/10/Pt-2 dated 27.03.2015 (ref.ii) advised that Schedule I, II and III of RFCTLA/RR Act, 2013 has been enacted to RAA, 2008 from 01.01.2015. Further, vide letter no.2011/Infra/6/10 Pt.3 dated 23.05.2015 (ref.i), Ministry of Railways approved the "Entitlement Matrix" for DFC project in accordance with RFCTLARR Act, 2013.
- (iv). In Mughalsarai - Sonnagar section, all the ongoing works of DFCCIL in Chandauli district (UP) have been completely stopped by PAPs for last six months with demand of higher compensation and job. There are about 35 villages in Chandauli district falling in the alignment of DFCCIL in the length of about 32 kms. The issue of violent protest of PAPs (demanding employment in IR as well as higher compensation as per New LA Act-2013) against giving physical possession of land in Chandauli district is being raised for the last 3-4 years at every coordination meeting of Chief Secretary, UP and being discussed regularly in Project Monitoring Group (PMG) meeting as well as Pragati meetings being held by PMO. There are 11 villages in Chandauli district where majority of PAPs have not received land compensation for the awards issued before 31.12.2014.
- (v). In the state of West Bengal (District Hooghly), the awards under section 20F were originally issued in year 2013 and 2014 which contained the compensation payable as per the Entitlement Matrix issued by the MoR during 2011. These awards have subsequently been revised/modified by Competent Authority (nominated State Government officials) after August 2014 onwards with the compensation payable at the rate prescribed in the RFCTLARR 2013. The Competent Authorities in the State of West



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/s/

Bengal have stopped the land acquisition process in their respective areas till the revised/modified awards issued by them as per new LA Act-2013 are approved by DFCCIL.

(vi). As per the Railway Act, there is no provision for amendment/revision/modification of the awards issued under section 20F of the said Act for determination of the amount payable as compensation.

(vii). The awards under section 20F in West Bengal were originally issued during January 2013 to November 2014 which contained the compensation payable as per the Entitlement Matrix issued by the MoR during 2011. These Awards have subsequently been revised/modified by Competent Authority in September, 2015 onwards with the compensation payable at the rate prescribed in the RFCTLARR 2013. It needs to be seen whether the revision/modification of Awards by West Bengal Government is justified.

(viii). As per provisions of section 105(1), the provisions of the RFCTLARR 2013 shall not apply to the land acquisition under Railways Act and only the provisions relating to schedule I, II & III regarding determination of compensation under this Act are applicable for the land acquisition under Railway Act w. e. f. 01.01.2015 (the date notified by the MoR). It needs to be seen whether the Govt of West Bengal can revise the compensation in line with Schedule I, II & III of the RFCTLARR for the awards issued prior to 01.01.2015.

(ix). In view of the provisions of Section 105 (1) of the RFCTLARR 2013, it needs to be seen whether the provisions of Section 24 of the RFCTLARR 2013 can be applied in the matter of determination of compensation for the land acquisition under the Railways Act.

2.0 As NHAI was also facing similar type of problems in their land acquisition, recently they have implemented the provisions of clause 24 of new LA Act 2013, to their compensation package after taking legal opinion from ASG and approval of Ministry of Road Transport and Highways. NHAI has issued the following instructions to their field offices vide letter dated 03.02.2016:-

"It is, therefore, seen from the legal opinion accepted by the Ministry that wherever award of compensation under section 3G of NHAI Act, 1956 declared by CALA on or before 31.12.2014 but compensation in respect of majority of the land areas notified in the relevant 3A notification was not deposited in the accounts of the beneficiaries on or before 31.12.2014, then, all the beneficiaries shall be entitled to compensation in accordance with the provisions of RFCTLARR Act, 2013"

The correspondence of NHAI, legal opinion etc. is enclosed as Annexure-II for ready reference.

3.0 The execution work of Rail Fly Over (RFO) at Ganjkhawaja (Chandauli, UP) is totally held up for the last 3-4 years due to violent resistance by land owners. Construction of RFO is a long lead item requiring about 2 years to complete. During PMG meeting held at Lucknow on 17.03.2016 in which Chief Secretary, UP as well as Additional Secretary, PMG were present, the issue of problems of land acquisition in Chandauli district was discussed. Officers from NHAI were also present in the meeting. Chief Secretary, UP as well as Additional Secretary, PMG opined that on the pattern of NHAI, implementation of clause 24 of New LA Act, 2013 should also be accepted by DFCCIL on priority to resolve the issue of Land Acquisition in Chandauli (PMG meeting minutes enclosed as Annexure-III).



4.0 To resolve the issue of applicability of Clause No. 24, legal opinion has been taken by DFCCIL from Additional Solicitor General. Copy of the legal opinion given by ASG is enclosed as Annexure-I. Summary of the legal opinion given by ASG is as below:-

"Provisions of section 24 of the RFCTLARR Act-2013 is applicable to DFCCIL from 01.01.2015 even though land is being acquired as per the Railway Act, 1989 from 01.01.2015"

"Revised/Modified awards based on the RFCTLARR Act-2013, superseding the old awards issued before 31.12.2014, where disbursement of land compensation to PAPs is not deposited in the account of the beneficiaries with respect to majority of land holdings may be accepted by DFCCIL".

"The term majority land holding will constitute majority in terms of land area of one award".

5.0 The land acquisition issue of 11 villages in Chandauli District (U.P.) can only be resolved through applicability of section 24 of the New LA Act – 2013. If this issue is not resolved immediately, it will not be possible for DFCCIL to adhere to the present target of commissioning of section. Also, it may not be possible to complete land acquisition in West Bengal till the revised awards are accepted by DFCCIL.

6.0 Railway Board has fixed targets for opening of various sections. Hence there is an urgent need to settle land acquisition issues.

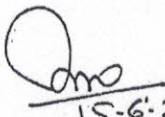
7.0 In view of above, the Railway Board is requested to approve:-

"The applicability of Section 24 of the new Acquisition Act, 2013 as opined by ASG on land acquisition being done by DFCCIL as per RAA-2008 in UP and West Bengal."

An early action for above is requested.

This has the approval of MD.

DA: As above


15-6-2016
(Anshuman Sharma)
Director/PP

Copy for kind information to:

- (i) Executive Director (L&A) – I, Railway Board
- (ii) Executive Director (PP), Railway Board



No.HQ/LA/EC/Entitlement Matrix

Dated: 15.07.2016

**Chief Project Manager,
MUGHALSARAI**

**Chief Project Manager,
Kolkata**

Sub.: Applicability of Section 24 of RFCTLARR Act – 2013 in state of UP and West Bengal.

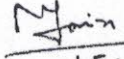
- Ref.:(i) Railway Board's letter no.2009/Infra/3/1/10 Pt-2 dated 14.07.2016
(copy enclosed)
(ii) DFCCIL's letter no.HQ/LA/EC/Entitlement Matrix dated 15.06.2016
(copy enclosed).
(iii) ASG, India's legal opinion dated 08.04.2016 (copy enclosed).

1.0 In view of CPM/MGS's and CPM/KKK's various references to corporate office requesting applicability of section-24 of RFCTLARR Act – 2013 in Uttar Pradesh (District Chandauli) and West Bengal to solve various land acquisition problems, legal opinion was taken from Additional Solicitor General, India. After obtaining the legal opinion, the subject matter was referred to Railway Board vide DFCCIL's letter dated 15.06.2016 (ref.ii). Railway Board vide letter dated 14.07.2016 (ref.i) has approved the proposal.

2.0 CPMs may examine each case of delay where compensation in respect of majority of land holdings was not deposited in the account of beneficiaries despite award being issued by the Competent Authority and take suitable necessary action in case there has been a default before invoking Section 24 of RFCT-LARR Act, 2013.

3.0 You are advised to take further necessary action expeditiously.

DA : As above


15.7.16
(MUKESH KUMAR JAIN)
GM/LA & SEMU/EC

Copy for kind information to:-

- 1.0 Director/PP.
2.0 Director/Finance.
3.0 GGM/Fin/EC

