

It has been estimated that there were about 60 million displaced persons/project affected persons (DPs/PAPs), since independence to 2000[1] and as per Government sources at least 75 percent of them have not been rehabilitated[2]. The Expert Group on Prevention of Alienation of Tribal Land and its Restoration set up by the Government of India estimated that, of the total displaced due to development projects, 47 per cent are tribal population[3]. The Constitutional provisions and protective laws – Land laws, the provisions of the Panchayats (Extension to the Scheduled Areas) Act (PESA), Forest Rights Act (FRA), etc have special safeguards for protection of tribals' individual and community right to land and forest, religious identity, cultural, tradition and self-determination.

The consequences of not complying with the social impact assessment in land acquisition for industrial development are vividly demonstrated in the cases of three mega development projects – Tata Steel Ltd (TSL), Heavy Engineering Corporation (HEC) and Bokaro Steel Ltd (BSL) in Jharkhand. The Study reveals that these projects had been established without undertaking any social impact assessment. The DPs/PAPs mostly the tribal people lost their identity, culture, tradition, language and system of self governance. As per the study report, 43,925 people of 12,550 families of 24 villages were displaced by the TSL, 40,000 people of 12,990 families of 23 villages were uprooted by the HEC and 30,095 people of 6019 families of 51 villages were displaced by BSL[4]. Presently, the DPs/PAPs of the above projects have assimilated in the crowd of daily wage labourers, rickshaw pullers and domestic servants.

The Comptroller and Auditor General (CAG) observed that rehabilitation is not up to mark in the Special Economic Zone (SEZ) projects. For instance, APIIC acquired 9287.70 acres of land (6922.29 acres of Patta land and 2365.41 acres of Government/assigned land) during 2007-08

2. Mandatory consent of the community:

Second major change was made regarding the mandatory consent. It has been provided in the section 4(1) of the Principal Act that 'whenever the appropriate Government intends to acquire land for a public purpose, it shall consult the concerned Panchayat, Municipality or Municipal Corporation, as the case may be, at village level or ward level, in the affected area[7]. Further provided that 'the appropriate Government shall ensure that adequate representation has been given to the representatives of Panchayat, Gram Sabha, Municipality or Municipal Corporation'[8].

Chapter IIIA The ordinance clearly denies the mandatory consent of the community in land acquisition for the major projects. How can the land of farmers and Adivasis be acquired without their consent, when the Government actively involves the corporate sector in each and every policy formation for them? How can democracy be so selective? Is democracy one day business in every five years for the farmers, Adivasis and poor?

Indeed, it is a serious concern for the states having Fifth and Sixth Scheduled areas, where the Constit

and their very existence. Their lives are closely interlinked with forests for food, fuel, medicine, fodder and livelihood. Their God and guardian spirits reside in hills, forests, groves etc. Traditionally, ownership of land was by the community and economic activity mainly

The studies and g 75 percent of displaced people have not been rehabilitated[16] in last 5 decades. Similarly, the CAG observed that the rehabilitation is not up to mark in the SEZs[17], which is serious concern. It is obvious, that the Government officials do not focus on rehabilitation and resettlement precisely because they are neither held accountable nor punished for the non-performance. Hence, the accountability needs to be fixed for the achievement of the objectives of principal Act. Therefore, the provision for punishment needs to be reinforced.

Fifth major amendment was done regarding the return of unutilized land by incorporation of “substitution of period” in the section 101 of the Act, which is again the denial of the rights to original land owners with the clear intention to protect the corporate interest. The section - 101 in the principal Act provides, “When any land acquired under this Act remains unutilized for the period of five years from the date of taking over the possession, the same shall be returned to the original land owner or owners or their legal heirs[18]. There are many cases, where the land was acquired under the provisions of ‘public purpose’ but remained unutilized for years and later on some part of land was diverted against main purpose it was acquired for. For instance, 12,708.59[19] acres of land was acquired for the Tata Steel, Jamshedpur (Jharkhand) in 1907 but only 2163.1 acres land was used for the actual purpose till 2005 and rest of the land remained unutilized. Out of this, 4031.075 acres of land was illegally sub-leased[20]. 7,199.71 acres of land was acquired for the Heavy Engineering Corporation, Ranchi in 1958 but 4,008.35 acres of land was used for the actual purpose and rest 2,910 acres of land remained unutilized[21]. Out of it 793.68 acres of land subleased illegally.

It seems that the ordinance was brought with the clear intention to protect the corporate interests. Those corporate will harvest the benefit, who have acquired huge chunk of land under the purview of ‘public purpose’ but unable to utilize for many years and later diverted the land for pure commercial purposes. It was proved in the CAG report on the performance of Special Economic Zone (SEZ) 2012-13, tabled during the winter session of the Parliament. The report reveals that the land acquired by invoking the ‘public purpose’ under the section 6 of Land Acquisition Act 1894 didn’t serve the objectives of the SEZ Act[22].

As per the CAG report, since the enactment of SEZ Act, 576 formal approvals of SEZ covering 60374.76 hectares was granted in the country, out of which 392 SEZs covering 45,635.63 hectares have been notified till March, 2014[23]. Out of 392 notified zones, only 152 have become operational (28488.49 hectares). The land allotted to the remaining 424 SEZs (3188.6.27 hectares, which is 52.81% of total approved) was not put to use, even though the approvals and notifications in 54 cases date back to 2006[24].

The CAG further observed that out of the total 392 notified SEZs, in 30 SEZs (1858.17 hectares) in Andhra Pradesh, Maharashtra, Odisha and Gujarat, the Developers had not commenced

investments in the projects and the land had been idle in their custody for 2 to 7 years[25]. The report also reveals that only a fraction of the land so acquired was notified for SEZ and later de-notification was also resorted to within a few years to benefit from price appreciation[26]. In terms of area of the land, out of 39245.56 hectares of land notified in the six states, 5402.22 hectares (14%) of land was de-notified and diverted for commercial purposes in several cases[27]. The CAG has criticized developers, including Reliance, DLF and Essar, for acquiring land for SEZs but using only a fraction of it and most part of the land remained unutilized. It is a clear denial of rights to the communities.

The Land Acquisition Ordinance defeats the prime objectives of the 'Right to fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013' The provisions under chapter – II & III i.e. social impact assessment, mandatory consent of the affected people and provisions to safeguard food security of the communities constitute soul of the principal Act. Making the provisions under section – 87 regarding offence & punishment to the government officials and section – 101 regarding the returning of unutilized land to the original land owners, non-applicable has shattered the confidence of the land owners and project affected persons, whose moral was otherwise e2a10 0 1 3295ma18916(r)-2p90al-sond s19

- [3] Ibid.
- [4] Minj, Sunil & Dungdung, Gladson. 2013. Vikas Ke Kabargah. Bihar-Jharkhand: Desaj Prakashan.
- [5] CAG Report on the performance of SEZ for the year 2012-13
- [6] The documents provided by the Bokaro Steel Limited under the Rights to Information Act.
- [7] Right to fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.
- [8] Ibid.
- [9] Jharkhand Industrial Policy, 2012.
- [10] WRIT PETITION (CIVIL) NO. 180 OF 2011 Orissa Mining Corporation Ltd versus Ministry of Environment & Forest & Others.
- [11] Report of the High Level Committee on Socio-Economic, Health and Educational Status of Tribal community of India published by the Ministry of Tribal Affairs, May, 2014.
- [12] Right to fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.
- [13] Ibid.
- [14] Itterah, Anil Chandy. 2013. Food Security in India-Issues and suggestions for effectiveness. New Delhi: Indian Institute of Public Administration.
- [15] Ibid.
- [16] Report of the High Level Committee on Socio-Economic, Health and Educational Status of Tribal community of India published by the Ministry of Tribal Affairs, May, 2014.
- [17] CAG Report on the performance of SEZ for the year 2012-13
- [18] Right to fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013
- [19] The documents provided by the Deputy Commissioner of Jamshedpur under the Rights to Information Act.