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**Udaipur 2<sup>nd</sup> Feb; 2013.**

Sri Jairam Ramesh,  
Hon Minister, Rural Development,  
Government of India,  
**New Delhi-110 001**

**Sub:** Our Submission on Land Acquisition, R & R Bill, 2011.  
**Ref.** Your Notice to Amendments in the Bill and the Bill introduced in L.S.

Sir,

With reference to above in the above subject, we have to submit rural peasants and farmers' concerns in general and the tribals' in particular as under:

1. Our first impression and observation is that if all the amendments proposed by you on behalf of GOI; in the Bill are accepted, the Bill will be substantially a tool in the hands of bureaucracy or simply saying in the hands of lower bureaucracy-the concerning District Collectors and will not remain a progressive piece of legislation for which you have been fighting painstakingly since last long time. Many proposals like at SL. No. 14, 47 and 48 have compelled us to conclude so.

Proposed amendment at SL No. 14 (Page 3, clause 3) the Dist Collector (DCs) are being deemed as the appropriate government (AG) which is very dangerous. A single person may easily be managed particularly in the present corrupt era. Appropriate government should always be deemed/designated either central or the state government in any law, DCs or DDCs may be delegated powers by concerning AGs. This is the established norm and practice in legislative work.

Provision of State Level Committee in the Bill vide Clause 8 composition of which is represented by senior bureaucrats headed by the Chief Secretary is being depreciated by your proposal at SL No. 47 and 48 which is not warranted in monitoring and assessments.

Please reconsider and withdraw these amendments.

2. The Government is discriminating in rural and more rural areas for valuation of the compensation of the land being acquired- It can be found at SL No. 143 (page 17, First Schedule) where in the government is now proposing 1-2 time addition in the value based on the distance of the project from urban area, this; the ascertaining of distance too has been left on the appropriate government which will notify later on. This is further attempt on part of the Central Government to dilute the original proposal of providing 4 time market value of the land being acquired in Rural Area in the Draft Bill, just to appease the Corporate Sector who was opposed to this holistic view from very beginning. If government discriminates in rural and more rural areas, then it will have to accept genuine demand of tribals to provide them more compensation than the Rural Areas on the governments' this very scale itself. If this is the scale, GOI will have to review and revise subsidies in many welfare schemes of Rural Area and its Tax Holiday Policy as well. Valuation of tribal's land in rural areas is already a difficult task as their land/land in these areas is very often sold and bought.

Moreover, the requiring body will prefer land nearer to urban areas as it will have to pay compensation at a cheaper rate due to this amendment and the body will want to enjoy better infrastructure facilities available near urban areas.

You are therefore requested to please make two categories, namely tribal dominated/Scheduled Area and Rural Area and amend this particular clause so as to read 3 (Three) for tribal dominated or Scheduled areas and 2 (Two) for rural areas. Please drop the idea of dividing the rural area.

3. Amendment proposed in SL No. 6 (page No. 3, clause 3) (3) (a) has further diluted provisions of R&R to the PAPs by making it discretionary for appropriate government on applicability of this Act in case of a private company requests/purchases land, equal to or more than such limits in rural and urban areas, as may be prescribed by the appropriate Government, **through private negotiations with the owner of the land!** One can understand purchasing/bargaining powers of the owners of the land individually. If government intends to provide transparency and fair price in Land Acquisition and R&R cases as it has intended in Amendment of the Title of the Bill vide SL No. 5 (page No. 1), the government should withdraw this particular amendment and specify quantum of Land Acquisition both for Rural and Urban Areas as 100 Acres in the Act itself.
4. The Government is further playing the game of words in the house, the country and its citizens by proposing amendment at SL No. 37 (page No. 5, clause 7) in Sec 7 (4) (a) substituting the word “stated” with the word “any”. If the LA does not fulfill the **STATED Public Purpose, how the LA can be justified by achieving any (Not Stated) Public Purpose?** It is just like any Doctor claiming to treat a person’s dieses of CANCER or DENGUE with a particular medicine and later he tries to defend himself in case of negligence against him that at least he was able to cure pain/fever of the patient! This single word would washout all the aims and objectives of this particular Bill and **should not take place.** When we read this amendment together with Sec 7 (4) (b) “the project is not in the larger public interest”, which is being omitted, the situation worsens. Does it not clear intension of the Government?
5. Amendment proposal at SL No. 27 (page No. 4, clause 4) has devalued importance of Gram Sabhas as provided in the **PESA Act prevailing in the Fifth Scheduled Area States. “Gram Sabhas” should be added in this particular Clause.**
6. In same way, proposed amendment at SL No. 41 (page 5, clause 7), this proposed second proviso to sub sec (4) of Sec 7 will make all the exercises of the Expert Group futile in Appraisal of SIA of the project if the government is going against the Recommendations/Report of the Expert Group! This should not be pressed for and withdrawn.
7. Proposed amendment at SL No. 49, substitution for line 12, (page 6 Clause 8), the effect will be that the committee (now the appropriate govt.) **will not have to declare in its Report that a minimum required land is being acquired for the project. Please withdraw it.**
8. Proposed amendment at SL No. 51 (page 6 Clause 8), **will do away the concerned Dist Collector to explore possibilities of acquiring waste, degraded or barren land for the project. Moreover, he will not have to declare in its Report that acquisition of the agricultural land, especially the land under assured irrigation is only as a demonstrable last resort. [See Sec 8 (2) (d) (i) and (ii) of the Bill introduced in LS]. Please withdraw it.**
9. The original provisions of Food Security (FS) as appeared in the Bill introduced in the LS has been diluted, earlier it was considered and Food Security was assured in each District at Micro Level, now the amendment proposed at SL No. 57 (page 7, clause 10) has pulled the FS at Macro Level- the State Level.
10. Similarly proposed amendment at SL No. 58 (page 7, clause 10) is bound to worsen the situation of FS as the maximum aggregate area of multi-crop land to be acquired would not have been more than 5% in a District as per Bill. Now this particular proposed

amendment would leave this ceiling on discretion of concerning States-causing chaos for FS in future.

Amendment proposal of SL No. 61 (page 7, clause 10) will more worsen the FS situation in Dist/State as the ceiling of net geographical sown area has been left on discretion of the concerned State which was specified in the Bill,

11. **The provisions of Sec 43 of the Draft Bill as introduced in LS should be kept intact as mandatory and proposed amendment at SL No. 112 (page No. 15, clause 43) should not be pressed as it will make this provision of constituting a National Committee discretionary on wish of the Central Government.** Since LA and R&R is in Concurrent List, it is an obligation of the Union Government to evolve a mechanism of Monitoring across the country on cases and issues of LA and R&R, thus central government should not retreat itself in performing its obligation.
12. **Representation of reputed NGOs, MPs and MLAs in appropriate number should be assured while considering amendment proposed at SL No. 113 (page 15, clause 44A [new]) at appropriate place in clause 44A (2),**
13. The quality of justice to be delivered in disputes related to LA,R&R has been compromised while proposing amendment at SL. No. 115 (page 15, clause 47) whereby judges of HC have been delisted and simply retired or serving District Judges or qualified legal practitioners (LPs) with 7 years experience may be appointed as POs in the Authority. In the Bill introduced in LS, DJs with at least 5 years of experience could be appointed; Minimum Experience for LPs should be made 12-15 years and appointments should be subject to approval and scrutiny by the concerning HCs (as only those LPs are recruited as ADJs who have experience of at least 7 years and further they are promoted as DJs in next 5/6 years). **Only those Judges in Service should be appointed as POs in the proposed Special Courts-the Authority for the sake of impartiality and independence of the judiciary and make it sure that no victim-displaced-affected person will have to travel out of his home district for justice.**  
**It should be assured that every tribal dominated district should have this Special Court-the Authority.**
14. In the same way, right to appeal by the appropriate Government in such cases has been taken away by proposed amendment at SL No. 120 (page 15, clause 68) which is bound to make adverse effect in the greater public interest in providing justice to the PAPs. Only requiring body will have right to appeal, the government will have no such right.
15. Amendment proposed at SL No. 130 (page No. 16, clause 95) is also a loose provision as the requiring body may just use only a small part of the land acquired for its project, even in this situation the remaining land (a bigger part) cannot be reverted because the word "or part thereof" is being omitted. This should be dealt with carefully and this amendment should be withdrawn,
16. Proposed amendment at SL No. 134 (page 16, clause 96), **the word forty% should be substituted with fifty%. Why the Government/requiring body should keep 60% of gains/profits earned on resale of unused acquired land without any development? It should be shared equally between them and the original owners of the land acquired, this is demand of the natural justice.**
17. **Why amendment at SL No. 55 (page 7, clause 8) is proposed to substitute "whether the consent of at least 80%" with "whether the prior consent" Please read it carefully, we could not understand this amendment.**
18. **Foot Note given at the bottom of the Second Schedule and Foot Note No. 2 at the bottom of the Third Scheduled should be omitted as it provides ways to the requiring body due to this reason or that, to avoid fulfillment of certain elements of R&R and components of Infrastructural amenities which are required to be provided to PAPs mentioned in these two Schedules.**

**In alternative** of the suggestion of omission as proposed above, it may be provided that in case these elements/infrastructure facilities are not provided, **the Acquirer/Requiring Body shall have to compensate adequately in terms of money** in lieu of these elements/facilities if it fails.

19. In the original Draft proposals, this Act was to be made applicable from Retrospective effect which was a welcome step looking to a new legislation amending the British-era Act of 1894. Hence the Act when passed should be made applicable from the date of year 2007 when this Bill was first introduced in the Lok Sabha.
20. This Bill would give right to the appropriate authority for acquisition of lands provided to the Forest Dwelling Scheduled Tribes or the Other Traditional Dwellers as the case may be, under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, if passed in its present form. This shall be in contravention of the provisions of the said Forest Rights Act.

**So we propose and demand that following words should be inserted at the end of the Proviso of Sec 2 (1) (c):**

**Provided further that the land which is subjected to the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in contravention of the said Act.”**

**Report of Dr N. C. Saxena Committee constituted by the MoEF to investigate into the Vedanta Group in Odisha, dated Aug 03 2009 is a clear mandate on the issue.**

21. In sub sec (2) (b) of Sec 41 in line 6, insert the words “belonging to PAPs” after the word Scheduled Tribes. In the present form of the Bill, the PAPs have no representation in the R&R Committee while the requiring body has, this is impartiality; hence this suggestion.

We are sure that you will consider all submissions as above in a judicious and sympathetic way keeping aims and objectives of this historic piece of legislation.

We will not want to sum up this communiqué before extending our thanks and congratulations to GOI through you, the Standing Committee on the Bill and all the members of both the houses, including Leaders of Opposition for bringing this progressive law, though belated, making them too an appeal to consider our submissions and do the needful in this regard.

Thanking you once again with all due regards,

Yours sincerely,

**(Vishnu Kant)**

**Copy for Information and doing the needful to:**

1. Smt Sushama Swaraj, Leader of Opposition, LS, Delhi,
2. Sri Arun Jaitaly, Opposition Leader, RS; Delhi,
3. Sri Rajnath Singhji, MP, All India President, BJP, Delhi
4. Smt. Sumitra Mahajan, MP-L S; Delhi
5. Sri Jagdeoramji, All India President, ABVKA, Jashpurnagar,
6. Sri G. S. Kothari, All India GS; ABVKA, Jashpurnagar,
7. Sri Somaya Julu, All India Org Sec; ABVKA, Mumbai
8. Sri Bhupender Yadav, MP-RS, Delhi,
9. Sri Phagansinghji Kulaste, MP-RS; Delhi and
10. Sri M.M.Joshi, Fmr Union Minister, Sr. MP, New Delhi

Yours sincerely,

**(Vishnu Kant)**

PI review non applicability of CPC for matters related to LA,R&R.