

Land Acquisition Act.

Acquisition of land under Part VII of- Instructions regarding feasibility of land the procedure to be followed in respect of

GOVERNMENT OF MAHARASHTRA

Revenue Department.

Circular No.LQN.3862-H

Sachivalaya, Bombay, 6th November 1963.

C I R C U L A R.

Under paragraph 5(iii) of G.C.R.D.No.LQN-3862-H, dated the 26th August 1963 the procedure to be adopted in the case of acquisition of land for companies other than private Ltd companies was explained. It was stated in the said paragraph that the better course would be to bring such acquisitions under sec.40(1)(aa) which was added by Act No.LXI of 1962. This was because it was generally known and assumed that the agreements executed with the various public limited companies as also the cooperative societies, educational, cultural and other societies under section 41 of the Land Acquisition Act, 1894, did not contain a provision incorporating the terms on which public shall be entitled to use the work so as to comply with sub-section (5) of sec.41 as interpreted by the Supreme Court in R.L.Arora V.State of U.P. (A.I.R. 1962 S.C.page 764). It has, however come to the notice of Government in a recent case that the directions contained in the said paragraph 5(iii) are being followed irrespective of whether the agreement under section 41 complies with the requirements of sub-section(5) of section 41 as interpreted by the Supreme Court. In that case Government considered the legal position and advised the Land Acquisition officer that the instructions contained in the said paragraph 5(iii) of the Circular referred to above apply to cases where the terms on which the public shall be entitled to use the work are mentioned in the agreement as required, under section 41(5) of the Land Acquisition Act. Accordingly, the said Land Acquisition Officer was asked to proceed further from the stage at which it was pending as per instructions issued in Government Resolution, Revenue Department No.LAQ-2555-G, dated the 10th January 1956 as amended or amplified from time to time unless some injunction or stay has been issued in any particular case. The object of Government in issuing these circulars from time to time has been to ensure that no needless errors creep in the acquisition proceedings. If the Land Acquisition Officer is satisfied that there is no error or that the particular case does not fall within the scope of the Circular, he should bring the facts of the case to the notice of Government and seek directions.

2. As stated in the judgement of the Supreme Court in R.L. Arora Vs. The State of U.P.A.I.R.(1962) S.C.page 764 at page 774, "It is works like a hospital, a public reading room, or a library, or an educational institution open to the public, or such other work as the public may directly use that are contemplated under the relevant words in Sec. 40(1)(b) and 41" and where an agreement executed by such company under section 41 expressly lays down the terms on which the public shall be entitled to use the hospital or a public or such other work as the public may directly use, such acquisition will not be affected by the Supreme Court Judgement in R.L.Arora V.State of U.P.

3. All the Land Acquisition Officers are, therefore, requested to examine carefully the agreement executed by each Company (including a co-operative or other society) in

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in each case, and check up whether the work for which the land is proposed to be acquired is for any of the purposes mentioned in para 2 above and whether the agreement contains the terms on which the public shall be entitled to use the work complying with the provisions of section 41(5) of the Land Acquisition Act as interpreted by the Supreme Court in R.L. Arora V. State of Uttar Pradesh. The directions contained in paragraph 5(iii) of the Circular dated the 26th August 1963 will not apply to such cases and the Land Acquisition Officers should proceed further from the stage at which they were pending as per instructions issued in Government Reso. R.D.No.LAQ.-2555-G dated 10th January 1956, as amended or amplified from time to time unless some injunction or stay is issued in any particular case.

4. If there are any doubts in any case, they may be referred to Government for orders stating the facts of the case and specifying the points on which the orders of Govt. are considered necessary.

By order and etc.

No.L.R. 527 of 1963
Poona, 19th Dec. 63.

Poona
Copy forwarded for information and guidance to the Dy.D.L.R. Nagpur, all S.L.Rs; with spare copies for subordinate offices.

Delunary
for Settlement Commissioner and
Director of Land Records, Poona.

spw/1812. *MS*

OFFICE OF THE S. L. R. P. C., POONA.	
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for *Spec. Adm. Officer M.L.R. in P.C. and*
1st Adm. M.L.R. Officer for D.S.D.

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