

Himachal Pradesh
Public Works Department

No.PW-(R) Land Acquisition/WS/2017-10901-12
From

Dated:- 24/1/18

To
Engineer-in-Chief,
HP.PWD, Shimla.

The All the Chief Engineers,
HP.PWD, Mandi. Hamirpur, Kangra.

All the Superintending Engineers
HP.PWD (Under South Zone) Solan, Shimla,
Rampur, Nahan & Rohroo.

All the Land Acquisition Collector(Shimla,
Mandi and Kangra) HP.PWD

Subject: - Regarding Acquisition of land by private negotiation and upkeep of Land
Record/General Guideline and instruction. (Standing order No. 28)

I have been directed to refer to the Additional Chief Secretary(PW) to the Govt. of
Himachal Pradesh letter No.PBW(B)F(5)40/2017-Instructions dated 01/2018 addressed to this
office as well as to your office and copy endorsed to all the Superintending Engineers and Social
Development officer of this office on the subject cited matter.

You are therefore, requested to go through the contents of the letter and take further
appropriate necessary action in the matter please.

Superintendent Gr.I
for Superintending Engineer(Works)
HP.PWD, Shimla-2

Copy forwarded alongwith its enclosures to the Executive Engineer(IT) of this
office. He is requested to uploade the instruction/guideline on the HPPWD website please.
Encl: As above.

Superintendent Gr.I
for Superintending Engineer(Works)
HP.PWD, Shimla-2

No.PBW (B)F(5)40/2017-Instructions Most Urgent
Government of Himachal Pradesh
Public Works Department

From

The Addl. Chief Secretary (PW) to the
Govt. of Himachal Pradesh, Shimla-2

1. The Engineer-in- Chief, HPPWD,
Nirman Bhawan , Shimla-2
2. The All Chief Engineer, HPPWD, C.E.(S2)
Shimla, Mandi, Hamirpur and
Dharmshala, H.P.
3. The Land Acquisition Collector, HPPWD
(Shimla, Mandi and Kangra) Himachal Pradesh

Dated Shimla-171002 the .01. 2018

Subject:

Regarding Acquisition of Land by private negotiation
and upkeep of Land Record / General Guidelines and
Instruction . (Standing Order No. 28.)

Sir,

I am directed to forward herewith a photocopy of
General Guidelines/Instructions for acquisition of land by private
negotiation and upkeep of Land Record .

You are, therefore, requested to take further appropriate
action and compliance be reported in the matter to this department .

Yours faithfully,

Special Secretary (PW) to the
Govt. of Himachal Pradesh
Govt of Himachal Pradesh

Endst.No.PBW(B)F(5)40/2017 Dated -01-2018

Copy is forwarded for information and necessary action to:-

1. The All Superintending Engineer, HPPWD, Himachal Pradesh.
2. The Social Development Officer ,HPPWD, HPRIDC, Nirman Bhawan , Shimla .
3. Copy G/F

Special Secretary (PW) to the
Govt. of Himachal Pradesh

Acquisition of Land by Private Negotiations and upkeep of Land Records General Guidelines and Instructions

1. Two ways of acquiring land :- in case it is found that acquisition of land is imminent for a public purpose, following two options will be available with the concerned department, which are contained in Himachal Pradesh Financial Commissioner Standing Order No.28 :-
 - (i) Acquisition by private negotiation.
 - (i) Compulsory acquisition under the provisions of the new Land Acquisition Act "Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act-2013."
2. Decision to acquire land by private negotiation or by compulsory acquisition shall be taken at the level of Administrative Secretary of the Department based on the field reports and recommendations of Head of the Department.
3. The acquisition of land often takes considerable time and execution of the projects gets delayed. For speedier acquisition of land, the process of acquisition by private negotiations with the interested land owners have proved to be beneficial to both the parties i.e. land owners as well as acquiring department.
4. Negotiation process for acquisition of land has been considered an option to simplify the otherwise complicated legal process and to expedite acquisition, which, through legal process, takes inordinately long time. A route through the relevant statutes already exists. Under the procedure of private negotiations, all the statutory benefits are given and it is as good as an Award to the general satisfaction of the land owners.
5. Preparation of necessary data to be prepared under the supervision of Executive Engineer of the concerned division:- It should have the following details before publication of preliminary notification u/s 11 of the LARR Act-2013, which is desirable so that in the event of failure of negotiations, the land can be acquired under the compulsory provisions of the ibid Act;
 - (i) Name of the village Hadbast No. Tehsil and Distt.

- (ii) Details of Khasa Nos. with area and classification of land as shown in the Jamabandi such as Chahi, Nehri, Pahar, Ghairmumkin abadi, Ghairmumkin Nadi etc.
- (iii) Copies of last jamabandi regarding these Khasra Nos.
- (iv) 'Aks Shajra' of the land proposed to be acquired. This 'Shajra' should give details of village 'abadi' within 'lal lakir', roads and canals including any bridges. Size of 'karam' in inches should invariably be indicated in one corner of the Aks Sharja.
- (v) Site plan of the land to be acquired showing structures/fixtures of high value including buildings etc.
- (vi) Original documents should be properly examined:- It is not sufficient to obtain mere copies of documents of titles. It is of prime importance to examine such documents in original where title rests upon that.
- (vii) All co-sharers who have been shown as land owners in the updated land records should be called for negotiation and given an opportunity of being heard. This exercise should be done meticulously with respect to;
 - (a) Record of service made to the each interested land owners i.e. date of issuing of summons, obtaining signature of the land owners on it, as a proof of service made.
 - (b) Date time & venue of conducting the meeting.
 - (c) Record of attendance of the each land owners. This record should be available in the office of Chairman of the negotiation committee, L.A.O. office and office of the Executive Engineer at the same time.
- (viii) Precautions to be taken in the case of minor land owners:- If the vendor is a minor, he can act only through his guardian and the competence of the guardian should be scrutinized. If there is no guardian competent to alienate the minor's rights, one would have to be sought from the civil court.

6. **Demarcation of the land proposed for acquisition:-** The field agencies i.e. an officer of the rank of at least that of Assistant Engineer should be present on the spot while marking the land on the spot in presence of the land owners and Land Acquisition Collector as per the provision of section 20 of the LARR Act-2013 or under section 3B of N.H. Act-1956. This is very important as it will minimize the scope for any kind of litigation as to correctness of boundaries. The demarcation proceedings should be drawn up in writing and kept as part of the essential record.
7. **Conclusion of Negotiation:-** When the negotiation committee constituted for the purpose by the Govt. successfully concludes the market value of the land with the land owners as per the general instructions and further acceptance by the land owners, the detailed proceedings to this effect would be drawn and sent to the Govt. for approval of the negotiated rates through the Deputy Commissioner concerned without any delay. The statement of land owners in context of acceptance of the negotiated rates should be recorded and retained as evidence in the record. The concerned Executive Engineer will keep the record of negotiations in his office for any future reference and evidence.
8. **Approval of negotiated rates and transfer of land in favour of the department by taking possession from the land owners and getting the mutations attested:-** The Executive Engineer concerned would ensure the arrangement/demand of amount of compensation due to the interested land owners as per outcome of mutually accepted negotiated rates and subsequent approval of the Govt. in the manner prescribed as early as possible and also coordinate with Land Acquisition Collector in getting the possession of the land and also getting the mutation attested in favour of the department. Any delay in this context can result in the land owners backing out of the agreement of negotiated rates. Subsequently, the Executive Engineer concerned would make an entry with all details of acquired land and compensation paid in the "ASSET REGISTER" to be maintained by him.
9. **Acquisition of land in context of old constructed roads:-** There are many instances of directions for acquisition of land by the civil courts (including Hon'ble High Court), ordering acquisitions where roads have been constructed

many years ago (more than thirty to forty years in certain cases). These directions are owing to weak defense of the department and non availability of relevant records for producing evidence. It has also been revealed in umpteen cases that land records pertaining to acquisition for construction of roads have been changed reducing the area of the land that was actually acquired during land settlement operations and in such cases land owners have already received amount of compensation and eye receiving the same once again. Thus it becomes quite necessary that pre-settlement and post-settlement records of the land pertaining to the acquisition should invariably be verified and expert opinion sought by the concerned Executive Engineer. Such cases also come before the negotiation committee constituted for the purpose of acquisition of land and both land records of pre and post settlement should be checked and verified to avoid paying compensation for the second time.

10. Spot Verification:- It has been the experience of the department that in quite a few cases of CWP's filed by the petitioners for getting the direction of the Hon'ble High Court for acquisition of their land, it is seen that the land on the spot has not been utilized by the department for construction of road neither it is required in future. In such cases or otherwise also the spot verification should be done by at least an officer of the rank of Assistant Engineer. This will help in mitigating the litigations of the department.
11. Assessment of the Structures coming in the alignment of the Road:- It is also seen that the assessment of structures and buildings are done arbitrarily by the officers of the department and no evidence of the same is kept in the record of the department. Therefore it becomes very important that photographs of the structures and buildings may be retained as record for future references along with copies of calculation sheets.

The above instructions shall be followed by the official of the department
Mutatis-Mutandis
