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Acquisition of Land for Establishing Special Economic Zone in India

M.N. Kaushika*
Student
School of Excellence in Law, The Tamil Nadu Dr. Ambedkar Law University, Chennai, Tamil Nadu, India

Abstract

Land, one of the five elements of the earth, a key source of identity, has been a core of controversies in recent scenario, when government-initiated steps in acquiring private land for public purpose under the doctrine of "Eminent domain". The situation became much worse after the enactment of Special Economic Zone, 2005. SEZ and land acquisition are intertwined as large areas of land are required for setting up a SEZ. SEZ and land acquisition are taking place at a faster pace in our country. On the one side, state governments are showing large-scale interests in setting up of SEZ in their respective states and are competing to attract private, foreign investment hoping it will help generation of additional economic activity, technology transfer, foreign exchange earnings, increase export of goods and services by attracting investment from domestic and foreign sources, which automatically generates huge employment opportunities, creation of infrastructure facilities thus bringing up economic and industrial growth of the state and the nation. On the other side, this is received with wide-scale protests, dissent, uproar, and opposition from the farmers and their dependents on land as their livelihood is put at stake. It is well accepted that a SEZ helps in developing basic infrastructure facilities with world class, which paves way for the overall economic development of the country, but this should not be done by sub serving the interests of the common people. Thus, an obligation is imposed on the government to make sure that land acquisition for establishing SEZ is in the best interests of the people at large.

Keywords: *Land acquisition, Private property, Public purpose, Special economic zone*

****Author for Correspondence*** E-mail: srikaushika41297@gamil.com

INTRODUCTION

The development of the country's economy on the one hand and traditional means of livelihood of common people on the other is a much-debated topic in the current scenario. Land, the basic and long-lasting source for production as well as for human inhabitation, is one of the most disputed issues in the public policies in India. Decisions concerning land allocation and land use pattern comprise diverse array of issues that can go beyond the considerations of economic growth [1]. When any Government initiates steps in developing its economy in long term it should have in its mind the basic interests of the common people. SEZ and land acquisition are taking place in a faster pace in our country. It is well accepted that SEZ helps in developing basic infrastructure facilities with world class, which pave way for the overall economic development of the country, but this should not be done by subverting the interests of the common people. Thus, an obligation is imposed on the government to make sure that land acquisition for establishing SEZ is in the best interests of the people at large.

WHAT IS SEZ?

SEZ, an acronym for Special Economic Zone is a geographical area demarcated within a territory, which has special economic laws, more liberal from the typical economic laws of the country. It has a special set of policy instrument, which is not applicable to the rest of the country. In some territory, it is a foreign territory for the purposes of fiscal laws, trade operation, and tariffs. The main intention for creation of special economic zone is economic development and growth by promotion of increase in foreign direct investment and exports [2]. The category SEZ includes free trade zones (FTZ), export processing zones

(EPZ), free zones (FZ) industrial parks (IP), industrial estates (IE), free ports, free economic zones and urban enterprise zones [3].

WHAT IS LAND ACQUISITION?

Land, one of the five elements in the world, is a key source of identity, belongingness, economic sustenance, and social bonding, and it constitutes many more meanings to India's peasants and rural community. It represents a social and productive asset as well as a source of security, and shapes prospects of substantive citizenship in much of rural India. The whole issue of land rights and access to it has to be envisioned not in pure economic terms (e.g., a unit of production) but as a basis for the larger sense of well-being of the population [4]. Land acquisition refers to the process by which the government forcibly acquires private land for a public purpose with or without the consent of the owner of the land under the power of 'eminent domain', which could be different from a market price of the land. It has been experienced from the recent land acquisition that attempt of land acquisition for establishment of SEZ in India is not voluntary but forceful in nature and without any consent.

HISTORY OF SPECIAL ECONOMIC ZONE ACT, 2005

SEZ is an outcome of surge in economic growth [5]. India like other developing countries adopted the export promotion measures through Export Processing Zones (EPZ). Asia's first EPZ was started in Kandla, India, in 1965. It was followed by the Santacruz Export Processing Zone (SEPZ) which came into operation in 1973. Later, the Government of India (GOI) started five more EPZ during 1980s in five different states: Uttar Pradesh, West Bengal, Kerala, Tamil Nadu and Andhra Pradesh in the following cities Noida, Falta, Cochin, Madras and Visakhapatnam, respectively. In 1998, one more EPZ came into operation in Surat. However, EPZs were not able to emerge as effective export promotion schemes on account of the multiplicity of controls and clearances; absence of world-class infrastructure; and an unstable fiscal regime. Thus, to overcome this and to attract larger foreign investments in India, the new strategy, the Special Economic Zones (SEZs) Policy was announced in April 2000. Based on this, the EXIM policy, 2000 of GOI has launched a new scheme of Special Economic Zones (SEZs). Under this scheme, the EPZs at four places, Kandla, Santa Cruz, Cochin and Surat were converted into SEZs. Further, in 2003, the other existing operational EPZs at Noida, Falta, Madras and Visakhapatnam were also converted to SEZs. In addition to that, approvals have been given to set up 26 SEZs in various regions of the country. SEZs in India functioned from 2000 to 2006 under the provisions of the foreign trade policy and fiscal incentives were made effective through the provisions of relevant statutes. To instil confidence in investors and to have long-term government commitment to stable SEZ policy, a comprehensive draft SEZ Bill was prepared after extensive discussions with the stakeholders. The Special Economic Zones Act, 2005, was passed by the Parliament in May 2005, which received Presidential assent on the 23rd of June 2005. After extensive consultations, the SEZ Act, 2005, supported by SEZ Rules, came into effect on 10th February 2006, providing for drastic simplification of procedures and for single-window clearance on matters relating to central as well as state governments [6].

Basic Objective of the Act

The preamble of SEZ Act, 2005, states that SEZs have been established "for the promotion of exports". For notifying an area to be Special Economic Zone, the central government will make sure the following criteria are satisfied:

- Generation of additional economic activity
- Promotion of export of goods and services
- Investment from domestic and foreign sources
- Creation of employment opportunities
- Creation of infrastructure facilities [7]

Thus, the underlying object of SEZ has nexus with "public purpose".

SEZ and Land Acquisition

Though the aspect of land acquisition by the government – center and state, for public purpose is age old, land acquisition for establishment of SEZ has been a center of controversies in the recent scenario. With the advent of Special Economic Zones (SEZ) Act, 2005, and Special Economic Zone Rules, 2006, investors' interest in setting up of SEZs in India has increased many folds, giving rise to wide spread compulsory/forcible acquisition of land by the government under the doctrine of "eminent domain" [8] and has eventually led to the displacement of millions of people from their land that has impoverished their traditional means of livelihood.

SEZ and land acquisition are intertwined as large areas of land are required for setting up a SEZ. On the one side, state governments are showing large-scale interest in setting up of SEZ in their respective states and are competing to attract private, foreign investment hoping it will help generation of additional economic activity, technology transfer, foreign exchange earnings, boost to export of goods and services by attracting investment from domestic and foreign sources, which automatically generates huge employment opportunities, creation of infrastructure facilities [9], thus bringing up economic and industrial growth of the state and the nation. On the other side, this is received with wide-scale protests, dissent, uproar, and opposition from the farmers and their dependents on land as their livelihood is put up at stake [10].

According to SEZs regulations and guidelines, a multi-product SEZ is needed to have 1000 hectares while a single-product SEZ can be established in as little 100 hectares of land. Thus, SEZs may incorporate a single manufacturing unit, or a cluster of multi-product industrial units. Guidelines also suggest that 35% of land must be assigned for the industrial or processing purposes; rest of the land can be used for housing purpose, services, institutions, parks, and so on. Only units approved under the SEZ scheme are to establish units in the premises of SEZ [11]. This led to wide-scale land acquisition for establishing more and more SEZs.

How Lands Are Acquired for SEZ

Several past and present land acquisitions have been conducted under the offence of "public purpose" clause of the LAA Act, 1894, now replaced with LARR Act, 2013. There are guidelines from the central government to the state governments for peaceful land acquisition process; the first targeted land for acquisition should be of waste and barren land and, if necessary, single-crop agricultural land could be acquired for the SEZs through lawful acquisition machinery. Further, it has been said that only if essential then a portion of double-cropped agricultural land can to be taken to fulfil the minimum land requirement, especially for the setting up of a multi-product SEZ and acquired land area should not be more than 10% of the total land required for the establishment of SEZ (Department of Commerce, GOI, 2015) [12].

PROCEDURE FOR ESTABLISHMENT OF SEZ IN INDIA

According to SEZ Act, 2005, a SEZ can be set up either by the central government, state government, public or private sector including foreign company individually or as consortium. A developer [13] who intends to set up a SEZ after identifying the area, has to submit a proposal in Form A to the concerned state government. The state government within a period of 45 days, from the date of its receipt, along with its recommendations has to forward it to the Board of Control. A developer can also directly submit the proposal to the board and get concurrence from state government. Further, a state government intending to set up a SEZ may directly forward the application to the board after identification of the area. The central government can directly notify the SEZ, without any application being made to the board or reference to the state government.

The application submitted to the board by the developer should contain the following details: name, address and status of the developer (whether individual/private company/state government/NRIs, etc.), and should be accompanied by a project report covering the following particulars: Form A contains the following particulars:

- Location of the proposed SEZ with details of existing infrastructure and infrastructure proposed to be established
- Its area and distance from the nearest seaport/airport/rail/road, etc.

- Financial details, including proposed investment, mode of financing and viability of the project
- Details of foreign equity and repatriation of dividends, etc., if any
- Whether the SEZ will allow only certain specific industries or will be a multi-product SEZ
- Activities proposed in the processing and non-processing area.
- Details of Employment likely to be generated [14]

The board may either approve or reject the proposal after reasonable opportunity is given to the applicant. After scrutiny, the Board of Approval may forward the application to the central government who may grant the letter of approval after it deems the application to be fit one. Once approval is granted, the developer has to furnish document information about the area to the central government. The central government will notify the area as SEZ.

SEZ and LARR Act

Land acquisition was based on the doctrine of "eminent domain" which empowered the state to acquire land for the purposes of general good. The state governments and the central government apply the doctrine of eminent domain for acquiring land. They have displaced large number of people in the past for large-scale projects like dams, canals, thermal plants, sanctuaries, industrial facilities, and mining. These occurrences are generally categorized as "development-related displacement".

Public sector and government projects were not the only purposes for which land was forcibly acquired by the state. Even in the Nehru period, land was acquired not only for purely public projects but for private industry too.

The Land Acquisition Act, 1894, as amended from time to time, permits the acquisition of land for industrial concerns, provided the acquisition is needed for erection of dwelling houses and/or connected amenities for the workers of the company, or for construction of works/industry which is for *public purpose*, or for construction which is likely to prove useful to the public. Establishment of industrial parks is indeed a 'public purpose' activity. The activity is privately funded with or without any financial participation of the government; the benefits such as employment generation, industrialization, economic growth, quality of life, profits, income generation, etc., all serve public purpose. Land so acquired for a private sector company under Part VII of the Act cannot, however, be transferred by sale, mortgage, gift, and lease or otherwise except with the previous sanction of the appropriate government [15].

SEZ can be set up by any private or public, joint or exclusively state-owned, or even foreign-owned company, anywhere in India. The SEZ Act effectively facilitates the establishment of SEZs "on demand", including from private commercial actors. They thus constitute a mechanism by which any export-oriented industry can, with government assistance, achieve exemption from a large range of tax obligations, wherever they choose to locate in India.

However, in a landmark judgment in RL Aurora v. State of Uttar Pradesh, the Supreme Court held that the government could not justify acquiring land for a textile machinery manufacturer as a 'public purpose'. It further declared that the Land Acquisition Act did not contemplate that the government should be made a general agent for companies to acquire lands for them for their private profit. Unfortunately, the Nehru government responded by amending the law through the Land Acquisition (Amendment) Act, 1962, to allow land to be acquired for a private firm "which is engaged in or is taking steps for engaging in any industry or work for a public purpose".

Thus, the state succeeded in preserving its authority to acquire land for private industry. Concept of public purpose was further diluted during the time of Indira Gandhi's regime by the Land Acquisition (Amendment) Act, 1984, which included the acquisition of land for 'planned development' and subsequent sale to private enterprise. Hence, it came as a biggest blow to the ordinary farmers and land owners. The Statement of Objects and Reasons of the

1984 Act clearly acknowledge that the acquisition of land often deprives the holder of the property of his or her livelihood and that the promotion of public purposes needs to be balanced with the rights of the individuals whose lands are acquired. While acknowledging the sacrifices of the individuals, whose land is acquired, it places on record that acquisition of lands for private enterprises ought not be placed on the same footing as acquisitions for state or for enterprises under it. One of the main proposals in the amendment was to ensure that the acquisition of land for non-government companies is made under part VII of the Act. Acquisitions through part VII of the Act are subject to the condition prescribed under sections 40 and 41of the Act. There is no scope for any acquisition if the same is not for public purpose. By the exclusion of acquisition of land for companies from the definition of public purpose, through the exclusionary rider placed at the end of Section 3(f) of the Act, this amendment made a significant progress in defining the public purpose. Though the definition is not exhaustive, the negative exclusion of certain items as not public purpose was very much accepted as a right move [16].

Apex court in Sooram Pratap Reddy and others v. District Collector, Ranga Reddy Dist. and others [17], stated that "public purpose" includes any purpose wherein even a fraction of the community may be interested or by which it may be benefited. As such SEZs, mines, shopping malls, factories, dams, and other large-scale projects have been facilitated by expropriation of land under the Land Acquisition Act.

The Supreme Court of India recently ruled, "If the project taken as a whole is an attempt in the direction of bringing in foreign exchange, generating employment opportunities and securing economic benefits to the state and public at large, it will serve public purpose."

LARR Act2013

The Land Acquisition Act (LAA), 1894, had been criticized for long time, as being an archaic legislation, which paved way for enacting a comprehensive act, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement, LARR Act, 2013, which is people-centric.

The Act unequivocally states that the government can acquire land for private sector, only for projects that are designed to serve public purpose.

- After acquisition, the land can be transferred to a private company for public purpose.
- It can be acquired on the request of a private company for immediate use for a public purpose.

The main advantage of LARR Act, 2013, is the consent clause, for acquiring land for strategic purposes including land acquisition for private companies or public-private projects, wherein benefits generally accrue to the public, provided in acquiring land for private companies 80% of the project families' consent is obtained and for land acquired for public-private partnership projects, 70% of the project affected families' consent is obtained through prior informed process. Then only, the government's eminent domain power comes into picture. However, if the government declares public purpose and controls the land directly, then consent of the land owner shall not be required. It also provides for compensation as high as four times more than the existing practice in rural areas and two times in urban areas.

But in disguise it widens the scope of land acquisition, by use of the phrase 'for any purpose useful to general public' expands the scope by including almost everything by justifying it 'as useful to general purpose'.

Eminent Domain and Constitutional Right to Property

The eminent domain –the word was first used by Hugo Grotius. Grotius argued that the property of the subjects is under the eminent domain of the state, i.e., state may use, alienate or even destroy the property. But this had to be done for public utility and the state had to 'make good the loss' to those who lose their property [18]. It is thus an essential attribute and inseparable incidence of sovereignty. It exists without any declaration to that effect. Though this power of government is indisputable, still it should be exercized

subject to the safeguards imposed by the Constitution [19]. The concept of 'eminent domain' connotes the legal capacity of the state to take the private property of individuals for public purposes [20].
This power is inalienable as it is based on the two maxims that (1) salus papuli supremo Lex esto i.e., the interest and claim of the whole community is always superior, and (2) Necessitas publica major EST quam privata, i.e., public necessity is greater than private interest and claim of an individual. Essentially it deals with the power of the state to expropriate lands of individuals who are not willing sellers, based on the principle that interest of the whole community is greater than individual interest [21].

The importance of the power of public domain can hardly be emphasizedas it is necessary for the proper functioning of the governmental obligation for public purposes to take private property. It can also be called an offspring of public necessity. Thus, if private property is needed for welfare of public at large, it can be acquired under this power.

The Constitution originally provided the right to property under Articles 19 and 31. Article 31 guarantees that a person cannot be deprived of his property by an executive order (property right can be deprived only through legislation).

Secondly, such deprivation can only be for public purpose, and
Thirdly, compensation for deprived property must be equivalent to the market value of the property acquired

It is this provision that has been interpreted as being the source of the state's 'eminent domain' powers. Even though government has sovereign power to acquire land, when government sought to acquire land for public purpose, immediately land owners were initiating and filing a writ petition either before the Supreme Court under Article 32 or before High Court under Article 226.It was a great hurdle for the government. Hence, to overcome the hurdles, there were series of amendments brought to the Constitution and finally in 1974 by forty-fourth amendment, Articles 19(1)(f) and 31 were repealed and Article 300-A was inserted, thus bringing down the property right of an individual from the status of fundamental right to that of the legal right. Thus, if the government acquires private land in an unfair manner, citizens can knock the door of judiciary by challenging the action of the government in the court of law to safeguard their interests [23].

In Gilubhai Manaia Khachar v. State of Gujarat [24], Supreme Court has, however, held that because of controversial aspects of Article 31, it was deleted from the Constitution and it should not be brought back by judicial interpretation. The court admitted the exercise of power of eminent domain recognized under Article 300A requires existence of public purpose and payment of money for the property acquired; amount need not be just equivalent to the property acquired but at the same time it must not be illusory; if, in any case, law fails to satisfy the requirements of 'public purpose' and 'adequate payment' it may held to be invalid under Article 300A. In this regard, legislative decision shall be final; however, requisition and acquisition of property may still be challenged on the ground whether a piece of property is acquired for public purpose or whether compensation paid is adequate or not.

In the case of State of Bihar v. Kameshwar Singh, Supreme Court defined eminent domain as "the power of a sovereign to take property for public use without the owner's consent upon making just compensation" [25].

Arguments Favouring Land Acquisition for SEZ
With the advent of LPG Policy, 1990, India has progressively opened up its economy to face the new challenges effectively and utilize the opportunities positively. Considering the importance of foreign direct investments and exports promotion of the country, the government showed a positive attitude towards opening of numerous SEZs.

Citing globalisation, arguments run in favour of land acquisition, that in the absence of land acquisition, India will remain a step back compared to other countries as without acquiring a patch of land we cannot dream for setting up of a big manufacturing unit, the basic infrastructure, i.e., land is required for any green field project. Another argument was that new industrial units established in SEZ by the acquisition of land would generate many employment opportunities, directly and indirectly. The logic seems to be that industrial development leads to economic development and economic development is national development. Thus, industrial purpose is public purpose [26].

CURRENT POSITION OF SEZ IN INDIA

Though the concept of SEZ can be traced back to 1960's in India, there are many lacunae as it suffers from lack of central legislation. The enactment of SEZs Act, 2005, provided a long-term stable policy. There have been mixed trends of noteworthy achievements and shortcomings in the performance of SEZs in the country.

The number of approved and notified SEZs in a span of about eleven years since the SEZs Act and Rules notified in February 2006, as of 31st March 2017, are:

- No. of formal approvals421 SEZs
- No. of notified SEZ345
- No. of in-principleapprovals33
- No. of operational SEZs218
- No. of units approved within the SEZs4456

The latest figures from the ministry of commerce and industry (MOCI) show that most of the Indian SEZs are concentrated in a few states. As of May 1, 2017, around 85% of formally approved SEZs are in 9 states alone, that is in the states of Andhra Pradesh, Karnataka, Tamil Nadu, Telangana, Gujarat, Haryana, Maharashtra, Kerala, and Uttar Pradesh. A summation of 196 exporting SEZs are lying in these 9 states out of the 218 exporting SEZs. The focus of SEZs in these specific states limits the scope of the scheme, i.e., balanced employment generation, infrastructural development, and balanced regional growth.

The compound annual growth rate of the export from SEZs during the year 2005-06 to 2016-17 is 33%, whereas the compound annual growth rate of India's export for the same period is only 14%. It shows that units within SEZs are performing much better than the units outside the SEZs in terms of export growth. The export performance of SEZs in India showed inclined trend since the inception of SEZ Act 2005, irrespective of global economic conditions, mainly the great recession in 2008-09. Soon after SEZ Act, 2005, the export performance shows a stagnant growth, that is up to 2008-09 and thereafter it shows a tremendous increase in the SEZs export. The growth rate of exports of SEZ for the year 2009-10 had been 121% regardless of global economic downturn whereas at the same time the growth rate of India's overall export was only 0.57%, which means that Indian SEZs have already made their place in the fast-growing global market. But the export performance of SEZs showed declining trend after it gained great heights in the year 2009-10, mainly because of the lack of confidence on the part of investors due to imposition of DDT, MAT, and proposal to withdraw direct tax benefit from April 2017. But in the last financial year, i.e., 2016-17, SEZ export showed inclined trend. SEZs in India contribute around 25% of the country's overall export trade from the year 2009-10 till date. It shows that the scope for SEZs growth in the country is broad and in turn increases the investment, employment generation, and balanced regional development [27].

Though SEZs confer numerous positive impacts on the economy, there are various negative features associated with the establishment of SEZs in India, which need to be considered.

Arguments against Land Acquisition for Establishment of SEZ in India

Land acquisition for SEZ often involves agricultural land and the central and state governments are acquiring the land from the farmers. It has already been noted that consent of the land owner is not required either under SEZ or under land acquisition [28].

The critics worries that creation of large number of SEZs may not be desirable as:

- It would result in large amount of agricultural land grabbing on account of huge land requirement for such ventures;

- Revenue loss to the government due to excessive fiscal concessions and tax holidays;
- Concentration of wealth results in massive gains to few private business enterprises, etc. [29].
- Further, it leads to mass destruction of livelihoods, including agriculture, horticulture, fisheries and other traditional means of livelihood [30].

The IMF also opined that the planned private sector-led SEZs could be helpful in attracting foreign direct investment (FDI) and promoting exports in India, particularly if close links were developed with the rest of the economy but stressed that care should be taken to avoid a complex and biased tax incentive system that could lead to substantial revenue losses [31].

It is thus important for the government to consider not only the potential benefits arising from SEZs but also the likely impact of establishment of SEZs on agricultural production, employment, and water and food security.

Consequences of Land Acquisition

Land is the principal source of livelihood in an agrarian economy. Acquiring large acres of valuable land for SEZs would create negative impact on the livelihood of farmers, their dependants, and other land owners. Serving thousands of acres of valuable land hoping it will increase level of employment, industrialization, economy of the country, infrastructure facility by relaxing the laws of the land, including those meant for welfare of labor, environmental protection, taxation, etc., but in reality, it leads to adverse results as it creates very little job creation than those displaced. Forcible acquisition of land for SEZs by the government as eminent domain results in transfer of resources, valuables from average and poor people to private business entities, corporations, and foreign entities, which leads to destruction of livelihood and large-scale displacement of local population, problems relating to food security, etc.

Displacement from their own land makes people – agriculturists and other common persons –lose their identity, their livelihood provider, their occupation, and source of income. Further, compensation given for acquired land is meagre in comparison to its present rate in the economy. Displacement from the land results in search of new jobs to earn livelihood, only knowledge of agricultural activities makes it difficult for them, and they end up becoming casual unskilled labor in industrial unit for small salary.

In this kind of developmental process, always the beneficiaries are the big corporations and losers are the farmer community and ordinary people, the peasants and tenants, agricultural laborers, trial's and fishing community who are dependent on land in several ways. This type of development leads to concentration of wealth in a few hands. Thus, SEZ policy becomes a land grab policy, which is met with wide-scale protests [32].

Protests Over Land Acquisition for SEZ in Nandigram

The protests and political violence in Nandigram in West Bengal (150 km from Kolkata) in January and March 2007, posed a substantial threat to the success of SEZs in India. The Communist Party of India – Marxist (CPIM) government in West Bengal was working with an Indonesian foreign investor, the Salim group, to set up a petrochemical SEZ in Nandigarm. The chemical hub would require the acquisition of over 14,000 acres (57 sq. km) of land. The SEZ would be spread over 29 villages of which 27 are in Nandigram. Probodh Panda, CPI MP from the district said that most of the land acquired was multi-crop and would affect over 40,000 people [33].

Local people were infuriated using force to evict people from their places of residence and agricultural livelihood. The local farmers repeatedly informed that the land is fertile enough for multi-crop farming and raised their voice against the project when their livelihood was at stake. The villagers were predominantly supported by political forces to the extreme left such as the Maoists, Congress and the Trinamool Congress to organize a social movement under the banner of the Bhoomi Ucched Pratirodh Committee (BUPC or the

Committee to Prevent Land Eviction) to prevent the setting up of the SEZ.

The situation went out of control where it had bloodshed of protesters. The situation in Nandigram continued to be tense till central forces were deployed to ease the situation. Land acquisition in Nandigram was affected by the power of absentee landlords whose interests coincided with the political opposition groups in the area. Land acquisition and SEZs earned a bad name after these incidents and urged the need for the central government to recalibrate its policies on land acquisition. Chief Minister Buddha deb Bhattaacharya reassured the people of Nandigram in late December 2007 that there will be no SEZ in Nandigram and that the violence caused due to land acquisition was deeply regretted. Government later preferred Nayachar, a sparsely populated island, 30 km from Haldia, to set up the much-protested chemical hub [34].

Kakinada SEZ
Kakinada SEZ falls in the East Godavari District, located at North-East Coast of Andhra Pradesh. It is one of the agriculturally most productive districts of Andhra Pradesh, contributing about 10% of the total food production of the state. Horticulture is also an important source of livelihood. Yet another important source of livelihood is fisheries. Kakinada SEZ is one of the biggest in Andhra Pradesh, affecting 16 villages. It is also to be noted that apart from 9896 acres for SEZ, an additional area of 2666 acres was also to be acquired for a new port in Thondangi Mandal. When villagers protested against the acquisition of land, it led to arrest of a few elderly people, since then villagers were threatened time and again from withdrawing development programs from Kakinada villages. Further, NREGA was withdrawn, primary health centers were closed, old-age pension was stopped and so on. Such aggressive measures were undertaken by the government to acquire lands; it even led to death of a few farmers [35].

SEZ Hosur – GMRK rishnagiri Special Investment Region, Tamil Nadu, India
The government of Tamilnadu through its executing agency TIDCO [36] tied up with GMR infrastructure Ltd. and planned to establish a multi-product SEZ near Hosur taluk in Krishnagiri district of Tamilnadu. The estimated cost of the project was Rs. 2300 crore. About 4300 acres of land were identified in the said district.
In September 2006, thousands of farmers, landless peasants, and social activists from the nearby villages of the proposed site protested against SEZ at Bairamangalam. Protestors claimed that the proposed site was highly fertile and cultivable land. Moreover, they solely depended upon agriculture and they did not have any other means of livelihood, whereas the revenue officials had shown these lands as unproductive dry lands. They requested the government to acquire another site instead of taking possession of agricultural land. They further suggested to the government to take about 7500 acres of "poromboke land" which is situated nearby for establishing SEZ [37]. However, the project is in operation.

Massive resistance to land acquisition in Goa has pushed the state government to ask for de-notifying the SEZs that were supposed to come up. Anti-SEZ protesters had argued that the "outsiders" would flood Goa in search of SEZ jobs that the locals will not be able to fill, leading to dilution of their identity. This de-notification is the first time in history that ethnic issues have led to reversal of central industrial policy [38].

But the case is different in land acquisition for SEZ in Cheyyar taluk of Theruvanamalai district in Tamilnadu. About ten village panchayats have passed a resolution against land acquisition for SEZ. There are some other movements also challenging the land acquisition in different parts of the state. But the movements in Tamilnadu are generally localized and centered on the demand for enhancement of the compensation for land and also demanding employment to the affected families [39].

Does Land Acquired Serve the Objectives of SEZ Act?
Land is the most crucial and attractive component of the SEZ scheme. Comptroller and Auditor General of India has found that

several hectares of land acquired in the name of SEZ invoking public purpose were either sold off or used for other purposes. CAG report of 2013 overland acquired by the centre between 2006 and 2013 found that out of 45,635.63 hectares of land notified in the country for SEZ purposes, operation commenced only in 28488.49hectares (62.42%) of land. The audit found that many developers approached the state governments for allotment/purchase of vast areas of land in the name of SEZ. But, only a fraction of the land so acquired was notified for SEZ. Later de-notification is resorted to within a few years to benefit from price appreciation, that is, land parcels acquired at discounted rates, much below the market value, were diverted to private builders in urban areas for commercial exploitation [40]. In case of Sri City SEZ in Andhra Pradesh, the audit found that 2070.12 hectares of allotted land was not used for the intended purpose but was rather de-notified and allotted by SEZ developers to private companies such as Alstom, PepsiCo, Cadbury, Colgate, etc.

The acquisition of land by the government from the public is proving to be a major transfer of wealth from the rural populace to the corporate world.

The audit report further held, since the enactment of SEZ Act, 2005, 576 formal approvals of SEZs covering 60,374.76 hectares was granted in the country, out of which 392 SEZs covering 45,635.63 hectares were notified till March 2014.Out of 392 notified zones, only 152 had become operational, and SEZ shad no noticeable impact on the national economy, the audit said [41].

A PIL was filed by an NGO regarding unscientific acquiring of land for SEZs and seeking return of unutilized land to the farmers. Non-utilization of land acquired for SEZ. Apex court chaired by CJ J.S. Khehar issued notice to the Ministry of Commerce and Industry and the states of Telangana, Andhra Pradesh, Maharashtra, Karnataka, Tamil Nadu, West Bengal, and Punjab on the PIL which alleged that almost 80% of the land acquired for SEZ was lying unused [42].

CONCLUSION

It is a well-accepted principle: salus populi supreme lex Esto , i.e., the interest and claim of the whole community is always superior to the individual interests. However, the state must act as a benevolent trustee of people’s land. This can be well achieved by acquiring waste land, but the government in tie ups with private or foreign sector acquire agricultural land at large. Corporates, while identifying the land for projects, should avoid acquiring productive land because it hurts the sentiments of the locals. The government of India must make sure that land acquisition and SEZs must prove beneficial for the people of the country and not harmful.

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