

SYNOPSIS

That the Petitioner is filing the present Writ Petition in Public Interest under Article 32 of the Constitution of India seeking mandamus to cancell / struck down the contradictory amendements made by state governments to the State Acts and Rules by distroying basic structure of the original Central Act, *The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* (hereinafter called “the Central/Principal Act”) and *The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014* (herenafter called “the Central Rules”), through ordinances under Article 254(2) of the constitution of India, whereby the basic structure of the Original central Act and Rule has been changed to give exemption to large categories of projects from consent provisions, Social Impact Assessment, Objections by affected citizens and participation of local bodies etc, thereby violated Fundamental right guaranteed to citizens of India under Article 14, 19(1)(g) and 21 of the Constitution.

Through the above said ordinances by Central Government and many state governments a large number of projects, primarily linear category projects like industrial corridors, expressways, highways etc are exempted from very important consent provisions, social impact assessment, participation of representative local bodies like Gram Sabha in Social Impact Assessment study, expert appraisal processes, public hearing, objections, and safeguard provisions to safe guard food security

etc. All these provisions were termed as core spirit of the central Act 2013 and Central Rules 2014. Further to this, the amendments making collector a sole authority to make enquiry to their satisfaction is to suppress people's voices and extending widespread corruption in upcoming cases.

The said amendments made by the State Acts also diluted the provision for return of unutilized land. The central act had a provision to return unutilised land to the people when if it remained unutilized for more than 5 years. It also had provision for fresh award if the compensation to majority of affected people not paid after declaration of Award. In all most all state amendments, it is tried to either extend the period of making the acquisition void and changing the payment of compensation the beneficiaries by declaration of award and depositing the compensation with the court or the state treasury.

Even though "land" is a matter in the State list, the "acquisition and requisitioning of property" finds place in the Concurrent list. The manner in which the Concurrent list works is that if there is a central law on any subject in the list, a state law cannot bypass the same. But the State Governments have passed Land Acquisition Acts and Rules for States by amending the provisions of the Central Act passed by Parliament and created conflict by violating the principle that the State Acts cannot overrides Central Acts, in the event of conflict the central legislation will prevail state laws, even though items are in concurrent list. The states cannot amend states Acts, even if the item is in concurrent list, if the State Act is in conflict with

Central Act. These amendments made by the states are also destroying and violating the basic structure of the Central Act. Even though there is exception to this principle under Article 254(2), it does not mean or cannot mean that the state amendment can destroy or violate even the basic structure of the central legislation.

That in 2014, the Central government introduced amendments to The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act) diluting the stringent provisions of social impact assessment and consent clauses in the 2013 Act by the promulgation of the Land Acquisition Ordinance under Article 123 on the last day of December 2014. The provisions of the ordinance were sought to be kept alive by repeated promulgation on April 3 and May 30 of 2015. The Central Ordinance eventually lapsed on August 31, 2015. The stage then shifted to the states. Several states then sought to implement the content of the Ordinance by routing it through their respective state legislatures.

That the said amendments are made by violating Article 21 of the Constitution of India and have adversely affected the rights of livelihood of land owners and farmers. This Hon'ble Court many times held that Article 21 is not meant for animal existence of citizens but the right to live life with dignity which includes right to livelihood also. 'Life' in Article 21 of the Constitution is not merely the physical act of breathing. It does not connote mere animal existence or continued drudgery

through life. It has a much wider meaning which includes right to live with human dignity, right to livelihood, right to health, right to pollution free air, etc. Right to life is fundamental to our very existence without which we cannot live as human being and includes all those aspects of life, which go to make a man's life meaningful, complete, and worth living. Thus, the bare necessities, minimum and basic requirements that is essential and unavoidable for a person is the core concept of right to life. The Central Act of 2013 was brought to give effect to pre existing fundamental right to livelihood of citizens. It ensures that livelihood will not be taken away unless: 1) it is in public interest and that is seen by social impact assessment 2) The affected citizens are given rehabilitation. The amendments made without considering the above factors will take away fundamental rights of the citizens.

That some of the state have amended the state Land Acquisition acts and State rules and created conflict with Central Act and Central Rules the remaining states have not done amendment to their State Land Acquisition Acts and Rules. That means citizens in different states will be forced to follow different laws/ rules and it is discrimination and violation of Article 14 of the constitution of India.

The manner in which the states have carried out amendments raises serious issues about the constitutionality of such measures. Under Article 254 of the Constitution, if any provision of a state law is inconsistent with the Central law in respect of any matters falling in the Concurrent List, then the

state law is void to the extent of the repugnancy. However, the state law would prevail if the assent is obtained from the President under Article 254(2).

The amendments to the State Acts have been passed by the state legislatures relying upon Entry 42 of the Concurrent List. Once the Parliament had enacted a right under the 2013 Act, the states could amend such law and make it applicable in the state only if the state law was reserved for the consideration of the President and assent accorded under Article 254(2).

That some states like Andhra Pradesh (Section 30A of the Andhra Pradesh State Act) and Telangana not only diluted the central act provisions but also brought provisions of voluntary land acquisition under which they can enter into mutual agreement with land owners and payment of lumpsum amount (Section 31A) to other affected persons for Rehabilitation and Resettlement. The Central act and Central Rules have identified not only land owners but also placed other affected persons under the purview of Rehabilitation and Resettlement and consent provisions. The state amendments will reject the purpose of central act and will bring money and muscle power again in centre to grab more land. Other states have also brought section 31A through amendments to state acts to pay the lumpsum amount in case of projects exempted from Social Impact Audit and consent provisions as listed in 10A.

That as per central act 70% consent of land owners is necessary for Public Private Participation Project. The state amendments

have removed the consent clause of PPP paving way for many private projects that are running under the grab of PPP. In PPP Projects, tax payers money is spent while acquiring land and creating infrastructure whereas in the profit making stage private players take away the maximum share.

LIST OF DATES

1894	The Land Acquisition Act 1894 was passed
27.09.2013	The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 passed by Indian Parliament.
24.05.2014	State of Chhattishgarh has passed notification and designated collector as competent authority to acquire land upto 2470 acres. The Notification also designated all Sub-Divisional Officers (Deputy Collector /Joint Collector) to perform powers of the collector under section 23, 24, 25,26, 27,28, 29, 30,31,32,33,34,35, 36,37,38 and 39 of the Act.
08.08.2014	The Central Government notified The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014.
22.10.2014	Uttar Pradesh Government has issued notification in pursuance of provisions of clause (3) of Article 348 of the Constitution and changed factor 2 as the factor by which the market value to be multiplied in the case of any land to be acquired in rural areas of UP.
20.11.2014	Andhra Pradesh Government notified The Andhra Pradesh Right to Fair Compensation

and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014.

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| 04.12.2014 | Haryana Government notified the Haryana Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Rules, 2014 |
| 20.12.2014 | Telangana Government notified Telangana State Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014. |
| 31.12.2014 | The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance 2014 was issued with amendments to certain Provisions of 2013 Central Act. |
| 05.01.2015 | Tamil Nadu Government passed ordinance and amended the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in its application to the State of Tamil Nadu and inserted The Fifth Schedule to the Act to exempt certain projects from fulfilling requirements of the Act. |
| 30.01.2015 | Tripura Government issued notification regarding amendment the Tripura Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015. |
| 07.02.2015 | Odisha Government notified Odisha Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015. |

- 02.03.2015 Sikkim Government published the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Sikkim) Rules, 2015.
- 30.03.2015 Jharkhand Government Notified the Jharkhand Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015.
- 03.04.2015 The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance 2014 was repealed and a fresh ordinance The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance 2015 was issued.
- 09.04.2015 Himachal Pradesh Government Notified the Himachal Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment) Rules, 2015.
- 12.05.2015 Uttar Pradesh Government notified The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Uttar Pradesh) rules, 2015.
- 30.05.2015 The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, (Amendment) Ordinance, 2015 passed by the Central Government. Through this ordinance Chapter IIIA and Section 10A was inserted to the original Act, to exempt many projects from compliance of Chapter II (Determination of Social Impact and Public Purpose) and Chapter

III (Special Provision to Safeguard Food Security). Amendments made to other sections are: Sections 2(2), 3, 24, 31, 46, 67, 67A, 87, 101, 105 and 113.

- 01.08.2015 Assam Government notified the Assam Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015.
- 31.8.2015 The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, (Amendment) Ordinance, 2015 expired.
- 17.10.2015 Karnataka Government Notified the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Karnataka) Rules, 2015.
- 12.08.2016 Gujarat Government passed the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, (Gujarat Amendment) Act, 2016 in tune with the expired ordinance passed by Central Government.
- 26.12.2016 Telangana Government passed bill to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in its application to the State of Telangana with retrospective effect from 1st January 2014.
- 09.06.2017 Tamil Nadu Government notified the Right to Fair Compensation and Transparency in Land acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation and Resettlement) Rules, 2017.

- 30.06.2017 Telangana Government notified the Telengana State Land Acquisition (Consent Award, Voluntary Acquisition and Lump-sum payment towards Rehabilitation and Resettlement Act, 2013.
- 2017 Jharkhand Government passed the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, (Jharkhand Amendment) Act, 2017 with retrospective effect from 1st January 2014.
- 30.05.2018 Andhra Pradesh Government passed the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, (Andhra Pradesh Amendment) Act, 2018 with retrospective effect from 1st January 2014 and inserted chapter IIIA to the Act to exempt certain projects from Chapter II and III of the Original Act.
- 23.07.2018 Andhra Pradesh Government notified the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Andhra Pradesh Amendment Rules 2018 passed new rules and diluted the Original Central Act Passed by Parliament in 2013.

.11.2018 Hence, this Writ Petition

**IN THE SUPREME COURT OF INDIA
EXTRA ORDINARY ORIGINAL JURISDICTION**

**WRIT PETITION (C) NO. _____ OF 2018 (P.I.L)
PUBLIC INTEREST LITIGATION
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)**

IN THE MATTER OF:

1. Ms. Medha Pravin Patkar

Petitioner No. 1

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| 2. | Prafulla Samantara | Petitioner No. 2 |
| 3. | Ms. Ulka Madhukar Mahajan | Petitioner No. 3 |
| 4. | Ms. Meera Sanghamitra | Petitioner No. 4 |
| 5. | Mukesh | Petitioner No. 5 |
| 6. | Krishnakant M. Chauhan | Petitioner No. 6 |
| 7. | Mallela Seshagiri Rao | Petitioner No. 7 |
| 8. | Suresh Kumar Rathaur | Petitioner No. 8 |
| 9. | Bhupender Singh Rawat | Petitioner No. 9 |
| 10. | Godasu Jangamma | Petitioner No. 10 |

VERSUS

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| 1. | Union of India
Through its Secretary,
Ministry of Law & Justice
New Delhi-110001 | Respondent No.1 |
| 2. | State of Andhra Pradesh
Through its Chief Secretary
Government of Andhra Pradesh 1st Block
1st Floor A.P Secretariat Office
Velagapudi – 522503 | Respondent No.2 |
| 3. | State Jharkhand
Through its Chief Secretary
Government of Jharkhand 1st Floor
Project Building, Dhurwa
Ranchi – 834004 | Respondent No.3 |
| 4. | State of Tamil Nadu
Through its Chief Secretary
Government of Tamil Nadu Secretariat
Chennai – 600009 | Respondent No.4 |
| 5. | State of Telangana
Through its Chief Secretary | Respondent No.5 |

Government of Telangana Block C
3rd Floor,
Telangana Secretariat Khairatabad
Hyderabad, Telangana

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| 6. | State of Gujarat
Through its Chief Secretary
Government of Gujarat 1st Block
5th Floor Sachivalaya
Gandhinagar – 382010 | Respondent No.6 |
| 7. | State of Jharkhand
Through its Principal Secretary cum L.R
Law Department, Government of Jharkhand
2nd floor Jharkhand mantralay
Project building secretariat
Dhurwa, Ranchi 834004 | Respondent No.7 |
| 8. | State of Uttar Pradesh
Through its Chief Secretary
Government of Uttar Pradesh
Shri Lal Bahadur Shastri Bhawan
Lucknow – 226 001 | Respondent No.8 |
| 9. | State of Karnataka
Through its Chief Secretary
Government of Karnataka
Bangalore – 560001 | Respondent No.9 |
| 10. | State of Odisha
Through its Chief Secretary
Government of Odisha
Bhubaneswar – 755001 | Respondent No.10 |
| 11. | State of Chhattish Garh
Through its Chief Secretary
Government of Chhattisgarh
Mahanadi Bhawan
Mantralaya
Naya Raipur – 490002 | Respondent No.11 |
| 12. | State of Madhya Pradesh
Through its Chief Secretary
Government of Madhya Pradesh
Bhopal – 462004 | Respondent No.12 |
| 13. | State of Himachal Pradesh
Through its Chief Secretary
Government of Himachal Pradesh
Shimla – 171002 | Respondent No.13 |
| 14. | State of Assam
Through its Chief Secretary
Government of Assam | Respondent No.14 |

P.O. Assam Sachivalaya
Guwahati- 781006

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| 15. | State of Haryana
Through its Chief Secretary
Government of Haryana
Chandigarh- 160004 | Respondent No.15 |
| 16. | Union Territory of Tripura
Through its Chief Secretary
Government of Tripura
New Secretariat Complex
Agartala - 799011 | Respondent No.16 |
| 17. | Union Territory of Sikkim
Through its Chief Secretary
Government of Sikkim
New Secretariat Development Area
Gangtok - 737101 | Respondent No.17 |

TO:
The Hon'ble Chief Justice of India
And His Lordships Companion Judges
of the Supreme Court of India

The humble petition of the
Petitioner above named.

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner is filing the present Writ Petition in Public Interest under Article 32 of the Constitution of India seeking mandamus to cancel / struck down the contradictory amendments made by state governments to the State Acts and Rules by distroying basic structure of the original Central Act, *The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* (hereinafter called “the Central/ Principal Act”), through ordinances under Article 254(2) of the constitution of India, whereby the basic structure of the Original central Act has been changed to give exemption to large categories of projects from consent provisions, Social Impact Assessment, Objections by affected citizens and participation of local bodies etc, thereby violated Fundamental right guaranteed to citizens of India under Article 14, 19(1)(g) and 21 of the Constitution.
2. (1)All Petitioners are Citizens of India. Petitioner No. 1 Ms. Medha Pravin Patkar is a renowned social activist nationally and internationally primarily for her work with Narmada Bachao Andolan in developing an alternative discourse around development paradigm. For her work she has received national and International awards including Right Livelihood Award also known as Alternative Nobel and Goldman Environment Prize. She is also founding member of National Alliance of People’s Movements, a pan India network of community

organisations working to defend community rights over natural resources and securing their constitutional rights.

Petitioner No. 2 Mr. Prafulla Samantara is a social activist with Lok Shakti Abhiyan in Orissa and is involved in struggles of tribals and farmers to defend destruction of their farm land and forests from takeover in name of corporate led development. For his efforts to protect environment he has been awarded prestigious Goldman Environment Prize in 2017.

Petitioner No. 3 Ms. Ulka Mahajan is a social activist and founder member of Sarvahara Jan Andolan which has worked with tribals and farmers for nearly two decades to secure their tenurial rights and protect their land from forcible acquisition in Raigarh District of Maharashtra.

Petitioner No. 4 Meera Sanghamitra is a social activist working for rights of marginalised communities and farmers and workers affected by developmental projects in ANDHRA Pradesh and Telangana.

Petitioner No. 5 Mr. Mukesh is a farmer and also affected by Sardar Sarovar Dam on the river Narmada.

Petitioner No. 6 Mr. Krishnakant Chauhan is a social activist working with farmers of Gujarat in their effort to secure their land rights and improve agrarian conditions.

Petitioner No. 7 Mr. Mallela Seshagiri Rao is a farmer whose land has been acquired for the new capital of ANDHRA Pradesh in Amravati forcefully.

Petitioner No. 8 Mr. Suresh Kumar Ratahur is a farmer and social activist who works with NREGA and agricultural workers in and around Varanasi, UTTAR Pradesh.

Petitioner No. 9 Mr. Bhupender Singh Rawat is a farmers leader based in Delhi who had worked extensively for past three decades with farmers in National Capital Region.

Petitioner No. 10 Ms. Godasu Jangamman is a NREGA worker and a marginal farmer based in ANDHRA Pradesh.

(2) The Petitioners have no personal interest in the litigation and the Petition is not guided by self-gain or for gain of any other person/institution/body and that there is no motive other than public interest in filing this writ petition.

(3) That the petitioner is filing the present petition on his own and not at the instance of someone else. The litigation cost, including the advocate's fee and the travelling expense of the lawyers, if any, are being borne by the petitioner himself.

3. The Case in Brief and facts constituting the cause of action

(1) That Indian Parliament had passed The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and the Ministry of Law and Justice had published it through Gazette Notification on September 27, 2013. The draft Act, which replaced an earlier 1894 law, was debated over for almost two years. People's movements and civil society organisations had analysed that while the new law had several positive features like consent of landowners or food Security related provisions, it had a few lacunae. One of the foremost concerns was the broad and all encompassing definition of public purpose which includes, National Defence and Security Projects, Infrastructure Projects, Relief Development, Planned Housing, Planned Development and Housing for Displaced Persons. The Act was finally passed with many provisions to protect the right of land owners, such as Preliminary Investigation for Determination of Social Impact and Public Purpose, Appraisal of Social Impact Assessment Report by and Expert Group, (Chapter II Section 5 to 9), Special Provisions to Safeguard Food Security Act (Chapter III, Section 10), Lapse of Social Impact Assessment Report (Section 14), Hearing of Objections (Section 15), Preparation of Rehabilitation and Resettlement Scheme by the Administrator (Section 16), Approved Rehabilitation

and Resettlement Scheme to be made public (Section 19), Publication of declaration and summary of Rehabilitation and Resettlement (Section 19), Notice to persons interested (Section 21), Award of Solatium and Calculation of Compensation to Land Owners (Section 30 and First Schedule), Rehabilitation and Resettlement Award (Chapter V Section 31 to 42), Return of Unutilised Land (Section 101), How much land can be acquired through private negotiations (Section 2(3) The Second Schedule), ceiling on Acquisition of Irrigated Multi Cropped Land / Agricultural Land etc. Copy of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 dated 27.09.2013 is attached herewith and annexed as **ANNEXURE P-1.**

Preliminary Investigation for Determination of Social Impact and Public Purpose

- (2) That Chapter II of the Central Act has provision for Determination of Social Impact and Public Purpose. As per section 4(1) of the Act whenever the appropriate Government intends to acquire land for 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 and carry out a Social Impact Assessment study in consultation with them, in such manner and from such date as may be specified by such Government by notification. The appropriate

Government shall ensure that adequate representation has been given to the representative of Panchayat, Gram Sabha, Municipality or Municipal Corporation, as the case may be, at the stage of carrying out the Social Impact Assessment Study. The act also has provision that the appropriate Government shall ensure the completion of the Social Impact Assessment Study within a period of six months from the date of its commencement. As per subsection (3) of section 4 The Social Impact Assessment Study report referred to in subsection (1) shall be made available to the public in the manner prescribed under Section 6.

Calculation of Compensation to land owners and award of Solatium

- (3) That Section 30 of the Central Act read with the First Schedule the compensation is widely conceived as 4 times the market value for acquisition in rural areas and 2 times the market value in urban areas along with value of assets determined in the Act.

Rehabilitation and Resettlement Award

- (4) That Chapter V (Section 31 to 42) read with The Third Schedule of the Central Act has provision for Rehabilitation and Resettlement Award for affected families by the collector. As per Section 31(1) the Collector shall pass Rehabilitation and Resettlement Awards for each affected family in terms of the entitlements provided in the Second Schedule. Sub section (2) of Section 31 has

provision regarding the essential things to be included in the Rehabilitation and Resettlement Award. That as per Section 32 of the Act every resettlement area as defined under this Act, the collector shall ensure the provision of all infrastructural facilities and basic amenities specified in the Third Schedule.

Return of Unutilised Land

- (5) That as per Section 101 of the Central Act when any land acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by revision in the manner as may be prescribed by the Appropriate Government.

Introduction of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 by amending / diluting provisions of the Central Act.

- (6) That an ordinance to amend The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance 2014 was published by the Ministry of Law and Justice vide Gazette Notification dated December 31, 2014. Copy of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation (Amendment) Ordinance

2014 dated 31.12.2014 is attached herewith and annexed as **ANNEXURE P-2**.

(7) That through the said amendment ordinance the following provisions were inserted:

"In the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the principal Act), for the words "private company" wherever they occur, the words "private entity" shall be substituted."

(8) That in sub section (2) of Section 2 of the Original Act the following proviso was inserted to ordinance:

(i) *In sub-section (1) in clause (b) in sub-clause (i) the words "private hospitals", private educational institutions and" shall be omitted;*

(ii) *In sub-section (2), after the second proviso the following proviso shall be inserted, namely:-*

"Provided also that the acquisition of land, for the projects listed in section 10A and the purposes specified therein, shall be exempted from the provisions of the first proviso to this sub-section."

(9) That Section 3 of the Principal Act was amended through ordinance as follows:

"in the principal Act, in section 3 (i) in clause (j), in sub-clause (i), for the words and figures "the Companies Act,

1956", the words and figures "the Companies Act, 2013" shall be substituted;

(ii) after clause (y), the following clause shall be inserted, namely:

'(yy) "private entity" means any entity other than a Government entity or undertaking and includes a proprietorship, partnership, company, corporation, non-profit organisation or other entity under any law for the time being in force.'

(10) That in the Principal Act a new Chapter IIIA had been inserted to the Act and provided power to appropriate Government to exempt certain projects from the application of Chapter II and Chapter III of the Act of 2013. Through the amendment the following clauses were introduced:

"10A. (1) The appropriate Government may, in the public interest, by notification, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely:-

(a) such projects vital to national security or defence of India and every part thereof, including preparation for defence or defence production;

(b) rural infrastructure including electrification;

(c) affordable housing and housing for the poor people;

(d) industrial corridors; and

(e) Infrastructure and social infrastructure projects including projects under public private partnership where the ownership of land continues to vest with the Government.”

(11) That sub section (2) of Section 24 of the Principal Act was amended to and changed the definition given for period in the Act. The amendment is as follows:

“In the principal Act, in section 24, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:-

"Provided further that in computing the period referred to in this sub-section, any period or periods during which the proceedings for acquisition of the land were held up on account of any stay or injunction issued by any court or the period specified in the award of a tribunal for taking possession or such period where possession has been taken but the compensation lying deposited in a court or in any account maintained for this purpose shall be excluded."

(12) That Section 46 of the Principal Act was amended as follows:

In the principal Act, in section 46, in sub-section (6), in the explanation, in the clause (b), the words “any persons other than” shall be omitted.

(13) That in sub section 87 the following amendments were made:

“In the principal Act, for section 87, the following section shall be substituted, namely:-

“87. Where an offence under this Act has been committed by any person who is or was employed in the Central Government or the State Government as the case may be at the time of commission of such alleged offence, no court shall take cognizance of such offence except with the previous sanction of the appropriate government, in the manner provided in section 197 of the Code of Criminal Procedure.”

(14) That in Section 101 of the Principal Act, the following amendments were made:

In the principal Act, in Section 101 for the words, “a period of five years” the words, “a period specified for setting up of any project or for five years, whichever is later,” shall be substituted.

(15) That in Section 105 of the Principal Act the following amendments were made through ordinance:

“In the principal Act, for section 105,-

(i) For sub-section (3), the following sub-section shall be substituted, namely:-

“(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the third schedule shall apply to the

enactments relating to land acquisition specified in the fourth schedule with effect from 1st January 2015,”

(ii) Sub-section (4) shall be omitted.

(16) That Section 113 of the Principal Act was diluted by amendment ordinance as follows:

In the principal Act, in section 113, in sub-section (1),-

(i) for the words, "the provisions of this Part", the words, "the provisions of this Act" shall be substituted;

(ii) in the proviso for the words "a period of two years" the words "a period of 5 years" shall be substituted.

(17) That the Said ordinance was repealed on April 3, 2015 and the Government of India published another ordinance The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015 on April 3, 2015.

A copy of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015 dated April 3, 2015 is attached herewith as **Annexure P-3**.

(18) That another amendment was made to the Principal Act by The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Second Ordinance 2015, published by the Ministry of Law and Justice vide Gazette Notification dated May 30, 2015. Copy of The Right to Fair Compensation

and Transparency in Land Acquisition, Rehabilitation Amendment) Second Ordinance 2015 dated 30.05.2015 is attached herewith and annexed as **ANNEXURE P-4**.

(19) That through the said amendment ordinance the following provision was inserted:

"In the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the principal Act), for the words "private company" wherever they occur, the words "private entity" shall be substituted."

(20) That in sub section (2) of Section 2 of the Original Act the following proviso was inserted to ordinance:

"Provided also that the acquisition of land, for the projects listed in section 10A and the purposes specified therein, shall be exempted from the provisions of the first proviso to this sub-section."

(21) That Section 3 of the Principal Act was amended through ordinance as follows:

"in the principal Act, in section 3, (i) in clause (j), in sub-clause (i), for the words and figures "the Companies Act, 1956", the words and figures "the Companies Act, 2013" shall be substituted; (ii) after clause (y), the following clause shall be inserted, namely:

'(yy) "private entity" means any entity other than a Government entity or undertaking and includes a

proprietorship, partnership, company, corporation, non-profit organisation or other entity under any law for the time being in force."

(22) That in the Principal Act a new Chapter IIIA had been inserted to the Act and provided power to appropriate Government to exempt certain projects from the application of Chapter II and Chapter III of the Act of 2013. Through the amendment the following clauses were introduced:

"10A. (1) The appropriate Government may, in the public interest, by notification, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely: —

(a) such projects vital to national security or defence of India and every part thereof, including preparation for defence or defence production;

(b) rural infrastructure including electrification;

(c) affordable housing and housing for the poor people;

(d) industrial corridors set up by the appropriate Government and its undertakings (in which case the land shall be acquired up to one kilometer on both sides of designated railway line or roads for such industrial corridor); and

(e) Infrastructure projects including projects under public private partnership where the ownership of land continues to vest with the Government:

Provided that the appropriate Government shall, before the issue of notification, ensure the extent of land for the proposed acquisition keeping in view the bare minimum land required for such project.

(2) The appropriate Government shall undertake a survey of its wasteland including arid land and maintain a record containing details of such land, in such manner as may be prescribed by the appropriate Government.

(23) That sub section (2) of Section 24 of the Principal Act was amended to and changed the definition given for period in the Act. The amendment is as follows:

“In the principal Act, in section 24, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:

"Provided further that in computing the period referred to in this sub- section, any period or periods during which the proceedings for acquisition of the land were held up on account of any stay or injunction issued by any court or the period specified in the award of a tribunal for taking possession or such period where possession has been taken but the compensation lying deposited in a court or in any designated account maintained for this purpose shall be excluded."

(24) That Section 31 of the Principal Act was amended as follows:

In the principal Act, in section 31, in sub-section (2), in clause (h), after the words 'affected families', the words 'including compulsory employment to at least one member of such affected family of a farm labourer' shall be inserted.

(25) That in sub section (6) of section 46 the following amendments were made:

"In the principal Act, in section 46, in sub-section (6), in the Explanation, in clause (b), the words "any person other than" shall be omitted."

(26) That in Section 67 of the Principal Act, the following amendments were made:

In the principal Act, after section 67, the following section shall be inserted, namely:

"67A. The Authority shall, after receiving reference under section 64 and after giving notice of such reference to all parties concerned, hold the hearing in the district where the land acquisition takes place for settlement of the objections raised in the reference."

(27) That in Section 87 of the Principal Act the following amendments were made through ordinance:

"In the principal Act, for section 87, the following section shall be substituted, namely:

"87. Where an offence under this Act has been committed by any person who is or was employed in the Central Government or the State Government, as the case may be,

at the time of commission of such alleged offence, the court shall take cognizance of such offence provided the procedure laid down in section 197 of the Code of Criminal Procedure, 1973 is followed."

(28) That Section 101 of the Principal Act was diluted by amendment ordinance as follows:

In the principal Act, in section 101, for the words, "a period of five years", the words "a period specified for setting up of any project or for five years, whichever is later," shall be substituted.

(29) That Section 105 of the Principal Act was amended as follows:

"In the principal Act, in section 105,

(i) for sub-section (3), the following sub-section shall be substituted, namely:

"(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1st January, 2015."

(ii) sub-section (4) shall be omitted."

(30) That in sub Section (1) of Section 113 the following amendments were made:

“In the principal Act, in section 113, in sub-section (1),

(i) for the words "the provisions of this Part", the words "the provision of this Act" shall be substituted;

(ii) in the proviso, for the words "a period of two years", the words "a period of five years" shall be substituted.

(31) That the said The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Second Ordinance 2015 was expired on 31.08.2015. But different state Governments like Gujarat, Andhra Pradesh, Telangana, Jharkhand and Tamil Nadu have amended the state acts in tune with the central amendment act ordinance by invoking Article 254(2) of the Constitution and passed the ordinances. State of Andhra Pradesh, Telangana, Jharkhand and Tamil Nadu have introduced the amended act with retrospective effect from 1st January, 2014 nullifying the application of central Act in these states. A Comparison Chart showing amendments made by the State Government in The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is annexed herewith and attached as **ANNEXURE P-5**.

(32) That State of Gujarat has introduced The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Gujarat Amendment)

Act, 2016 through an ordinance on 12th August 2016 and diluted Provisions under Central Act by invoking Article 254(2) of the Constitution of India. The Government has amended Section 2(2) and exempted project listed in Section 10A. Section 10 of the Act also has amended and exempted specific projects listed under this section from application of the Provisions Chapter II and III of the Act. Other provisions amended by the State of Gujarat in its State Act are Sections 23, 24, 31A, 40(2), 46(6), 87.

A copy of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Gujarat Amendment) Act, 2016 dated 12.08.2016 is annexed herewith and attached as **ANNEXURE P-6.**

(33) That State of Andhra Pradesh has introduced The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in its application to the State of Andhra Pradesh through an ordinance on 30th May, 2018 with retrospective effect from 1st January 2014 and diluted Provisions under Central Act by invoking Article 254(2) of the Constitution of India. The Government has amended Section 2(2) of the Act, introduced Chapter IIIA and exempted projects listed under Section 10A. The State amendment also inserted Chapter IVA for Voluntary acquisition of Land and also

inserted Section 30A to give power to state Government to enter into agreement with land owners for acquisition of land and introduced payment unspecified lump sum amount for rehabilitation, which diluted the provisions for calculation of compensation. The State Government amended Section 101 of the Act and diluted the provision for return of unutilised land after a period of 5 years mentioned in the Central Act. Other provisions amended / inserted by the State of Andhra Pradesh in its State Act are Sections 23, 23A, 24, 31A, 33A, 46, 87 and 109.

A Copy of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in its application to the State of Andhra Pradesh dated 30th May, 2018 is attached herewith and annexed as **ANNEXURE P-7**.

(34) That State of Telangana has introduced The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Telangana Amendment) Act, 2016 through an ordinance December 26, 2016 with retrospective effect from 1st January 2014 and diluted Provisions under Central Act by invoking Article 254(2) of the Constitution of India. The Government has amended Section 2(2) and exempted project listed in Section 10A. Section 10 of the Act also has amended and exempted specific projects listed under this section from application

of the Provisions Chapter II and III of the Act. The State amendment also inserted Chapter IVA for Voluntary acquisition of Land and also inserted Section 30A to give power to state Government to enter into agreement with land owners for acquisition of land and introduced payment unspecified lump sum amount for rehabilitation, which diluted the provisions for calculation of compensation. Other provisions amended / inserted by the State of Telangana in its State Act are Sections 23, 31A, 33A, 46, 87, 101 and 109.

A Copy of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Telangana Amendment) Act, 2013 passed through ordinance dated 26.12.2016 is attached herewith and annexed as **ANNEXURE P-8**.

(35) That State of Tamil Nadu has introduced The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in its application to the State of Tamil Nadu through an ordinance dated 5th January, 2015 with retrospective effect from 1st January 2014 and diluted Provisions under Central Act by invoking Article 254(2) of the Constitution of India. The Government has amended Section 105 of the Act and inserted Section 105A to the Act.

A Copy of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act, 2013 in its application to the State of Tamil Nadu passed through ordinance dated 5th January, 2015 is attached herewith and annexed as **ANNEXURE P-9**.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014 (Central Rules 2014)

(36) Ministry of Rural development Department of Land and Resources has notified The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014 on 8th August 2014. This rules have detailed guideline for Social Impact Assessment study (Section 3), Institutional support and facilitation for Social Impact Assessment (Section 4), Project-specific Terms of Reference and Processing Fee for the Social Impact Assessment (Section 5), Selection of the Social Impact Assessment team (Section 6), Process of conducting the Social Impact Assessment (Section 7), Process for conducting public hearings (Section 8), Submission of Social Impact Assessment Report and Social Impact Management Plan (Section 9), Social Impact Assessment Report and Social Impact Management Plan (Section 10), Appraisal of Social Impact Assessment Report by an Expert Group (Section 11), Consideration of the Social Impact Assessment Report, recommendations of the

Expert Group etc (Section 12), Web-based Work Flow and Management Information System for Land Acquisition and Rehabilitation & Resettlement (Section 13), Additional Norms with regard to the Social Impact Assessment Process (Section 14), Inventory of Waste, Barren and Unutilised Land (Section 15), Consent Requirements (Section 16), Consent of the Gram Sabha (Section 17), Consent of the Affected Land owners (Section 18), Roles and responsibilities of the appropriate Government for consent processes (Section 19), Roles and responsibilities of the Requiring Body for consent processes (Section 20).

A Copy of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014 dated 8th August 2014 is attached herewith and annexed as **ANNEXURE P-10**.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation and Resettlement, Development Plan) Rules, 2015 Amendment made by states to State Rules.

(37) That the Ministry of Rural development Department of Land and Resources has again notified the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Compensation,

Rehabilitation and Resettlement, Development Plan) Rules, 2015 on 18th December 2015. The Rules contains provisions / amended provisions regarding Request for acquisition of land (Section 3), Action by Collector on receiving request (Section 4), Publication of preliminary notification (Section 5), Hearing of objections (Section 6), Preparation of Rehabilitation and Resettlement Scheme and public hearing (Section 7), Publication of the approved Rehabilitation and Resettlement Scheme (Section 8), Development Plan for Scheduled Castes or Scheduled Tribes families (Section 9), Publication of declaration for acquisition (Section 10), Land acquisition award (Section 11), Fishing rights of affected families (Section 12), Recovery of excess amount (Section 13), Recovery of rehabilitation and resettlement benefit (Section 14), Limits of extent of land under sub-section (3) of section 2 (Section 15), Powers, duties and responsibilities of Administrator (Section 16), Rehabilitation and Resettlement Committee at Project Level (Section 17), Salaries, allowances, etc. of Presiding Officer, Registrar and other officers and employees of Authority (Section 18), Procedure of National Monitoring Committee (Section 19), Manner of return of unutilised land (Section 20).

A Copy of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation and Resettlement, Development Plan) Rules, 2015 dated 18th

December 2015 is attached herewith and annexed as **ANNEXURE P-11.**

(38)That State Governments of Andhra Pradesh, Jharkhand, Telangana, Uttar Pradesh, Karnataka, Odisha, Tamil Nadu, Chhattisgarh, Madhya Pradesh, Himachal Pradesh, Assam, Haryana, Union Territory of Sikkim and Tripura have diluted the Central Act / Rules and amended the state rules in tune with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, (Amendment) Ordinance, 2015 which was expired on 31.8.2015. The following are changes made by state governments to dilute state rules:

Social Impact Assessment provisions changed in state rules

Clause in Central Rules	State of Andhra Pradesh	State of Jharkhand	State of Sikkim	State of Telangana	State of Uttar Pradesh
Notice Period for ensuring participation in public hearing: 3 Weeks	Notice Period for ensuring participation in public hearing: Chapter III, Section 11(3) 1 Week	Notice Period for ensuring participation in public hearing: Chapter III, Section 11(3) 2 Weeks	Notice Period for ensuring participation in public hearing: Chapter II Section 9(9) 2 Weeks	Notice Period for ensuring participation in public hearing: Section 11(3) of Rules 2014 1 Week	Notice Period for ensuring participation in public hearing: Section 68 (v). 2 Weeks
Time Period for conducting the SIA and submitting the report: 6 months	No Change	No Change	No Change	No Change	Time Period for conducting the SIA and submitting the report: Section 37. 2 months

Requirement to determine nature of the land, the size of holdings, ownership patterns, land prices, changes in ownership.	Is in the rules	Is in the rules	Is in the rules	Is in the rules	Not in the rules
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Return of Unutilised land acquired under 2013 Rules
diluted in State Rules

Clause in Central Rules	State of Jharkhand	State of Karnataka	State of Osdisha	State of Tamil Nadu	State of Telangana	Tripura
If any land is lying unused for a period of 5 years or more, the land may be returned either to the original owners and their heirs or be reverted to a government land bank.	No provision for returning land back to the original owners or their heirs. The land will revert back to a government land bank.	Before the land is returned to the original owners or their heirs, they must deposit the current market value of the land minus the compensation paid at the time of acquisition . Section 37(i)	No provision for returning land back to the original owners or their heirs. The land will revert back to a government land bank.	If the District Collector is satisfied that the land in question may be used for some other purpose, then he can pass a notice reverting the land to a government land bank. Section 29(i)	The 5 year period has been increased from either 5 years or the time period required for setting up the project, whichever of the two is higher. Chapter VII, Section 34 of 2014 Rules	Before the land is returned to the original owners or their heirs, they must deposit the current market value of the land minus the compensation paid at the time of acquisition . Section 22

Dilution of Provision Related to Food Security

Clause in Central Rules	State of Chhattisgarh	State of Jharkhand	State of Madhya Pradesh
The limit on acquisition of irrigated multi cropped land: Not more than 1% of the total irrigated land in the State	The limit on acquisition of irrigated multi cropped land: Not more than 2% of the total irrigated land in the State	The limit on acquisition of irrigated multi cropped land: Not more than 2% of the total irrigated land in the State. Section 17(ii).	No Change

The limit on acquisition of other agricultural land: Not more than 5% of the total net sown area in the State	The limit on acquisition of other agricultural land: Not more than 1% of the total net sown area in the State	The limit on acquisition of other agricultural land: Not more than 1/4th of the total net sown area in the State	The limit on acquisition of other agricultural land: Not more than 50% of the total net sown area in the State
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Dilution of Provision Related to Consent from land owners

Clause in Central Rules	State of Himachal Pradesh	State of Jharkhand	UT of Sikkim
Quorum of Gram Sabha for obtaining consent: 50%	The quorum of the Gram Sabha is to be fixed according to provisions of either the Himachal Pradesh Panchayati Raj Act, 1994 (one-third of the total members) or the Himachal Pradesh Municipal Corporation Act, 1994 (half of the total members) or the Himachal Pradesh Municipal Act, 1994 (half of the total members). Section 17(3)	The quorum for the Gram Sabha has been reduced to 1/3rd in the Jharkhand Rules. Section 20(3).	No Change
Requirement of having 1/3rd woman representation.	Not in the rules	Provision is in the rules	Provision is in the rules
Time Period for displaying the terms and conditions of the acquisition: 3 Weeks	No change in rules	Time Period for displaying terms and conditions of the acquisition: Chapter IV Section 19 1(ii). 10 days	Time Period for displaying the terms and conditions of the acquisition: Section 9(9) 15 days

Dilution of Provision for calculating compensation to land owners. Different multiplying factors are being adopted in different states.

Clause in Central Rules	State of Assam	State of Chhattishgarh	State of Haryana	State of Tripura
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Multiplying Factor for land in Urban Areas: 1.0	Multiplying Factor for land in Urban Area: 1.5	Multiplying Factor for land in Urban Area: 1.0	Multiplying Factor for land in Urban Area: 1.0 Schedule A	Multiplying Factor for land in Urban Area: 1.0
Multiplying Factor for land in Rural Areas: 2.0	Factor for land in Rural Areas: 2.0	Multiplying Factor for land in Rural Areas: 1.0	Multiplying Factor for land in Rural Areas: 1.0	Multiplying Factor for land in Rural Areas: 1.0

(39)That on 22.10.2014 Uttar Pradesh Government has issued notification in pursuance of provisions of clause (3) of Article 348 of the Constitution and changed factor 2 as the factor by which the market value to be multiplied in the case of any land to be acquired in rural areas of UP. A copy of the notification published by Uttar Pradesh Government dated 22.10.2014 is attached herewith and annexed as **ANNEXURE P-12.**

(40)That on 20.11.2014 Andhra Pradesh Government notified The Andhra Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014. A Copy of the Andhra Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 dated 20.11.2014 is attached herewith and Annexed as **ANNEXURE P-13.**

(41)That on 04.12.2014 Haryana Government notified the Haryana Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement

(Amendment) Rules, 2014. A Copy of the Haryana Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Rules, 2014 dated 04.12.2014 is attached herewith and Annexed as **ANNEXURE P-14.**

(42)That on 20.12.2014 Telangana Government notified Telangana State Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014. A Copy of the Telangana Government notified Telangana State Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 dated 20.12.2014 is attached herewith and Annexed as **ANNEXURE P-15.**

(43)That on 30.01.2015 Tripura Government issued notification regarding amendment the Tripura Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015. A Copy of the Tripura Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015 is attached herewith and annexed as **ANNEXURE P-16.**

(44)That on 07.02.2015 Odisha Government notified Odisha Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015. A Copy of the Odisha Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015 dated 07.02.2015 is attached herewith and Annexed as **ANNEXURE P-17.**

(45)That on 02.03.2015 Sikkim Government published the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Sikkim) Rules, 2015. A Copy of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Sikkim) Rules, 2015 dated 02.03.2015 is attached herewith and Annexed as **ANNEXURE P-18.**

(46)That on 30.03.2015 Jharkhand Government Notified the Jharkhand Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015. A Copy of the Jharkhand Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015 dated 30.03.2015 is attached herewith and Annexed as **ANNEXURE P-19.**

(47)That on 09.04.2015 Himachal Pradesh Government Notified the Himachal Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment) Rules, 2015. A Copy of the Himachal Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment) Rules, 2015

dated 09.04.2015 is attached herewith and Annexed as **ANNEXURE P-20.**

(48)That on 12.05.2015 Uttar Pradesh Government notified The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Uttar Pradesh) rules, 2015. A Copy of the Uttar Pradesh Government notified The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Uttar Pradesh) rules, 2015 dated 12.05.2015 is attached herewith and Annexed as **ANNEXURE P-21.**

(49)That on 01.08.2015 Assam Government notified the Assam Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015. A Copy of the Assam Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015 is attached herewith and Annexed as **ANNEXURE P-22.**

(50)That on 17.10.2015 Karnataka Government Notified the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Karnataka) Rules, 2015. A Copy of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Karnataka) Rules, 2015 dated 17.10.2015 is attached herewith and Annexed as **ANNEXURE P-23.**

(51)That on 09.06.2017 Tamil Nadu Government notified the Right to Fair Compensation and Transparency in Land acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation and Resettlement) Rules, 2017. A Copy of the Tamil Nadu Right to Fair Compensation and Transparency in Land acquisition, Rehabilitation and Resettlement (Compensation, Rehabilitation and Resettlement) Rules, 2017 dated 09.06.2017 is attached herewith and Annexed as **ANNEXURE P-24.**

(52)That on 30.06.2017 Telangana Government notified the Telangana State Land Acquisition (Consent Award, Voluntary Acquisition and Lump-sum Payment towards Rehabilitation and Resettlement) Rules 2017 and modified/introduced Power of State Government under this section 10A, Consent Award Under Section 23A, Voluntary Acquisition (Sale) of Land, Section 11 to 15 Lump Sum Payment towards rehabilitation and Resettlement, Section 16 to 18, Miscellaneous Section 19 to 20. A Copy of the Telangana Government notified the Telangana State Land Acquisition (Consent Award, Voluntary Acquisition and Lump-sum Payment towards Rehabilitation and Resettlement) Rules 2017 dated 30.06.2017 is attached herewith and Annexed as **ANNEXURE P-25.**

(53)That on 23.07.2018 Andhra Pradesh Government notified the Right to Fair Compensation and Transparency

in Land Acquisition, Rehabilitation and Resettlement Andhra Pradesh Amendment Rules 2018 and diluted the Original Central Act Passed by Parliament in 2013. A Copy of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Andhra Pradesh Amendment Rules 2018 dated 23.07.2018 is attached herewith and Annexed as **ANNEXURE P-26**.

(54)That in ***Kaiser-I-Hind Pvt. Ltd. And Ors vs National Textile Corporation 2002 (8) SCC 182 Para 78*** a constitution bench of This Hon'ble Court held that :

“78. The assent of the President or the Governor, as the case may be, is considered to be part of the legislative process only for the limited purpose that the legislative process is incomplete without them for enacting a law and in the absence of the assent the Bill passed could not be considered to be an Act or a piece of legislation, effective and enforceable and not to extend the immunity in respect of procedural formalities to be observed inside the respective houses and certification by the presiding officer concerned of their due compliance, to areas or acts outside the besides those formalities. The powers actually exercised by the President, at any rate under Articles 31A, 31C, 254(2) and 304(b) is a special constituent power vested with the Head of the Union, as the protector and defender of the Constitution and safety valve to safeguard the Fundamental Right of citizens and Federal structure of the country's policy as adopted in the Constitution. A genuine,

real and effective consideration would depend upon specific and sufficient information being provided to him inviting, at any rate, his attention to the Central law with which the State law is considered or apprehended to be repugnant, and in the absence of any effort or exercise shown to have been undertaken, when questioned before courts, the State law cannot be permitted or allowed to have predominance or overriding effect over that Central enactment of the Parliament to which no specific reference of the President at all has been invited to. This, in my view, is a must and an essential requirement to be satisfied; in the absence of which the 'consideration' claimed would be one in vacuum and really oblivious to the hoard of Legislations falling under the Concurrent List in force in the country and enacted by the Parliament. To uphold as valid the claim for any such blanket assent or all round predominance over any and every such law - whether brought to the notice of the President or not, would amount to legitimization of what was not even in the contemplation or consideration on the basis of some assumed 'consideration'. In order to find out the real state of affairs as to whether the 'Assent' in a given case was after a due and proper application of mind and effective 'consideration' as envisaged by the Constitution, this court as well as the High Court exercising powers of judicial review are entitled to call for the relevant records and look into the same. This the courts have been doing, as and when considered necessary, all along. No reception

therefore could be taken to the High Court in this case adopting such a procedure, in discharge of its obligations and exercise of jurisdiction under the Constitution of India.”

4. **Source of Information:** The Petitioner relies on Acts, Amendment Act, Rules and Amendment Rules passed by Parliament, published in Official Gazette through ordinances by the Central Government, Acts, amendment Acts, Rules and Amendment Rules passed by the state governments and published in official gazette, observations of some Newspapers etc as well as personal knowledge and experience related to Land acquisition Act.

5. **Details of Remedies Exhausted:** The Petitioners have not approached any court of authority for remedy against the issues raised in this Petition. That the Petitioner does not have any alternative equally efficacious remedy other than to approach this Hon’ble Court than by way of filing this writ petition under Article 32 of the Constitution of India.

6. That the present petition will be beneficial for land owners and farmers India is India as the amendments in Central Act, Central Rules, State Acts and State Rules are adversely affecting their fundamental rights.

7. **Nature of Personal Interest, if any, of the Petitioner:** The Petitioners have no personal interest in this Petition and it is being filed in Public Interest.

8. That the Petitioners have not filed any other writ petition same or similar to the present writ petition, neither in this Hon'ble Court nor in any other Court or forum across the land

9. The Petitioner declares that the issue raised was neither dealt with nor decided by a Court of law at the instance of the petitioner or to the best of his knowledge, at the instance of any other person.

10. The Petitioners have not approached any authority for relief for the subject matter of this petition.

11. That the Petitioner is filing the instant Writ Petition inter alia on the following amongst other grounds:-

GROUND

- A. Because central Act The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014 overrides all state Acts and rules. The amendment made by states in Land Acquisition Act and Rules through ordinances under Article 254(2) of constitution conflicting with Central Act and the amendments contradicting the central Act and State Act are liable to be deleted.

- B. Because the states cannot use concurrent list used to modify the state Act, if the state Act conflict with Central Act.
- C. Because the states have made amendments to Part II, Part III and various other sections of the State Acts and State Rules which ultimately changed the basic structure of the Central Act in states *The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* and *The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014* by using exception Rule under Article 254(2) of the constitution. Article 254(2) cannot be used to amend state Act in a manner that it violates the basic structure of the Central Act passed by the Parliament. That in ***Kesavananda Bharati Sripadagalvaru and Ors. v. State of Kerala and Anr. (1973) 4 SCC 225*** this Hon'ble court held that basic structure of the constitution cannot be changed through constitutional amendment. The act passed by the Parliament also has a basic structure and it cannot be amended by passing ordinance under Article 254(2) of the constitution.
- D. Because The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has been made to effectuate rights under Article 21 of the Citizens of India. This Hon'ble Court held that under Article 21 the citizens have a right

to live with dignity not just animal life. Right to live a life with dignity includes right to livelihood also. 'Life' in Article 21 of the Constitution is not merely the physical act of breathing. It does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes right to live with human dignity, right to livelihood, right to health, right to pollution free air, etc. Right to life is fundamental to our very existence without which we cannot live as human being and includes all those aspects of life, which go to make a man's life meaningful, complete, and worth living. Thus, the bare necessities, minimum and basic requirements that is essential and unavoidable for a person is the core concept of right to life. The Central Act of 2013 and Central Rules 2014 brought to make right under Article 21 of the constitutional make effective just like the Right to Information Act 2005 brought to pre existing fundamental rights. The Central Act of 2013 and Central Rules 2014 ensures that livelihood of citizens will not be taken away unless (1) it is essential in public interest and that is seen by social impact assessment, (2) the affected persons are given rehabilitation (alternate livelihood). Only after satisfying these conditions the land can be taken forcibly. The State Government have amended the acts and rules and taken away the fundamental rights of the citizens

- E. Because some states have amended the Acts and Rules and they will not comply with the central Act and Rules and the remaining states have not amended the Acts and Rules and they will comply with the Central Act and Rules. This caused discrimination and violation of Article 14 of the Constitution.
- F. Because the amendments to the Act and Rules made by states governments are against the direction passed by the constitution bench of this Hon'ble Court in ***Kaiser-I-Hind Pvt. Ltd. And Ors vs National Textile Corporation 2002 (8) SCC 182***. This ***Hon'ble Court in Para 78*** of the Judgment held that:

“...The powers actually exercised by the President, at any rate under Articles 31A, 31C, 254(2) and 304(b) is a special constituent power vested with the Head of the Union, as the protector and defender of the Constitution and safety valve to safeguard the Fundamental Right of citizens and Federal structure of the country's policy as adopted in the Constitution. A genuine, real and effective consideration would depend upon specific and sufficient information being provided to him inviting, at any rate, his attention to the Central law with which the State law is considered or apprehended to be repugnant, and in the absence of any effort or exercise shown to have been undertaken, when questioned before courts, the State law cannot be permitted or allowed to have predominance or overriding effect over that Central enactment of the Parliament to which no

specific reference of the President at all has been invited to. This, in my view, is a must and an essential requirement to be satisfied; in the absence of which the 'consideration' claimed would be one in vacuum and really oblivious to the hoard of Legislations falling under the Concurrent List in force in the country and enacted by the Parliament. To uphold as valid the claim for any such blanket assent or all round predominance over any and every such law - whether brought to the notice of the President or not, would amount to legitimization of what was not even in the contemplation or consideration on the basis of some assumed 'consideration'. In order to find out the real state of affairs as to whether the 'Assent' in a given case was after a due and proper application of mind and effective 'consideration' as envisaged by the Constitution, this court as well as the High Court exercising powers of judicial review are entitled to call for the relevant records and look into the same....”

12. GROUNDS FOR INTERIM RELIEF

- A. Because the amendments made in the Land Acquisition Act and Rules by the State Governments is adversely affecting the interest of the Land Owners and farmers of the country, their fundamental rights are affected and the land is being acquired without their consent by not providing rehabilitation to them, urgent intervention of this court is necessary.

- B. As explained in the main grounds of the Petition, the farmers and Landowners of the country deserve to get immediate relief from this Hon'ble Court.

13. MAIN PRAYER

In light of the aforesaid, the Petitioner, therefore, pray that this Hon'ble Court may kindly be pleased to:

- a. Issue a writ of Mandamus or any other appropriate writ, order or direction in the nature thereof, declaring that the Land Acquisition Acts and Rules made by States by amending the original central Act, *The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* passed by the Parliament, overrides the central act, are illegal and deserves to struck down;
- b. Issue a writ of Mandamus or any other appropriate writ, order or direction in the nature thereof, declaring that:
 - (i) the amendments made / provisions inserted to Sections 2(2), 10A, 23, 24, 31A, 40(2), 46(6), 87 of The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Gujarat Amendment) Act, 2016 are illegal and deserves to struck down;
 - (ii) the amendments made / provisions inserted to Sections 2(2) Chapter IIIA, Section 10A, Chapter IVA, Section 30A Sections 23, 23A, 24, 31A, 33A, 46, 87, 101 and 109 of The Right to fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement (Andhra Pradesh Amendment) Act, 2018 are illegal and deserves to struck down;

- (iii) the amendments made / provisions inserted to Sections 2(2), 10A, Chapter II and III, Chapter IVA Sections 23, 30A, 31A, 33A, 46, 87, 101 and 109 of The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Telangana Amendment) Act, 2016 are illegal and deserves to struck down;
- (iv) the amendments made / provisions inserted to Sections 105 and 105A of The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Tamil Nadu Amendment) Act, 2014 are illegal and deserves to struck down;
- (v) the amendments made / provisions inserted to Chapter III and Section 11(3) of The Andhra Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, is illegal and deserves to struck down;
- (vi) the amendments made / provisions inserted to Chapter III, Sections 11(3), 17(ii), Chapter IV, Sections 19 1(ii) and 20(3) of Jharkhand Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015 are illegal and deserves to struck down;

- (vii) the amendments made / provisions inserted to Chapter II and Section 9(9) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Sikkim) Rules, 2015 are illegal and deserves to struck down;
- (viii) the amendments made / provisions inserted to Section 11(3), Chapter VII and Section 34 of Telangana State Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2014 are illegal and deserves to struck down;
- (ix) the amendments made / provisions inserted to Section 37 and 68 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Uttar Pradesh) rules, 2015 are illegal and deserves to struck down;
- (x) the amendments made / provisions inserted to Section 37 (i) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Karnataka) Rules, 2015 are illegal and deserves to struck down;
- (xi) the amendments made / provisions inserted to Section 29 (i) of Tamil Nadu Right to Fair Compensation and Transparency in Land acquisition, Rehabilitation and Resettlement

(Compensation, Rehabilitation and Resettlement)

Rules, 2017 are illegal and deserves to struck down;

(xii) the amendments made / provisions inserted to Section 22 of Tripura Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015 are illegal and deserves to struck down;

(xiii) the amendments made / provisions inserted to Section 17(3) of Himachal Pradesh Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment) Rules, 2015 are illegal and deserves to struck down;

(xiv) the amendments made / provisions inserted to Schedule A of Haryana Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Rules, 2014 are illegal and deserves to struck down;

(xv) the amendments made / provisions inserted to Odisha Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015 which overrides The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014, are illegal are illegal and deserves to struck down;

- (xvi) the amendments made / provisions inserted to Assam Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015 which overrides The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014 are illegal and deserves to struck down;
- (xvii) the amendments made / provisions through Sections 10A, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 23A inserted to Telangana State Land Acquisition (Consent Award, Voluntary Acquisition and Limp-sum Payment towards Rehabilitation and Resettlement) Rules 2017 which overrides The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014 are illegal and deserves to struck down;
- c. Issue any other appropriate writ, order or direction as the nature and circumstances of the present case may require;

14. INTERIM PRAYER

In light of the aforesaid, the Petitioner, therefore, pray that this Hon'ble Court may kindly be pleased to:

- a. Issue a writ of Mandamus or any other appropriate writ, order or direction in the nature thereof, restoring the

original central act *The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* and central rules *The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014* in all states which have amended the state / acts rules and should be in force till the present Petition is finally adjudicated;

- b. Issue any other appropriate writ, order or direction as the nature and circumstances of the present case may require;

And for this act of your kindness the Petitioner is duty bound and shall ever pray.

**FILED BY:
(PRASHANT BHUSHAN)
Advocate for the Petitioner**

Drawn By: OMANAKUTTAN.K.K.

Drawn on: 01.11.2018

Filed On:

Place: NEW DELHI

**IN THE SUPREME COURT OF INDIA
EXTRA ORDINARY ORIGINAL JURISDICTION**

**WRIT PETITION (C) NO. _____ OF 2018 (P.I.L)
PUBLIC INTEREST LITIGATION
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)**

IN THE MATTER OF:

MEDHA PRAVIN PATKAR & ORS

....PETITIONERS

VERSUS

UNION OF INDIA & ORS

....RESPONDENTS

AFFIDAVIT

I, _____, aged about __ years, S/o _____,
presently at New Delhi, hereby solemnly affirm and state as
under:-

1. That I am the Petitioner in the aforementioned writ petition and as such well conversant with the facts of the case and I am competent to swear this affidavit.
2. That I have read and understood the contents of the Synopsis and list of dates (pages _____) and the Writ Petition running into pages _____ to _____ are true to my knowledge and belief and the legal submissions made in the Petition are on advice received and believed to be true and correct.
3. That the Annexures are true copies of their respective originals.

4. That this Petition is only motivated by public interest. I affirm that I have no personal gain, private motive or oblique reason in filling this Public interest litigation.
5. That I Have done whatsoever enquiry that was possible and I state that no relevant facts in my knowledge have been withheld.

DEPONENT

VERIFICATION:

I, the deponent above named, do hereby verify that the contents of paragraph to of the above affidavit are true and correct to my knowledge and belief and no part of it is false and nothing material has been concealed there from.

Verified by me at _____ on this day of , 2018.

DEPONENT

**IN THE SUPREME COURT OF INDIA
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PAPER BOOK

(FOR INDEX KINDLY SEE INSIDE)

Counsel for Petitioner: PRASHANT BHUSHAN