

राजस्थान सरकार
राजस्व (ग्रुप-6) विभाग

क्रमांक प०१(३)राज-६/११/पाई/१७

जयपुर, दिनांक २०/०३/२०२०

1. समस्त अतिरिक्त मुख्य सचिव/प्रमुख शासन सचिव/शासन सचिव।
2. समस्त जिला कलक्टर, राजस्थान।
3. समस्त भूमि अवाप्ति अधिकारी।

परिपत्र

विषय— भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन मे उचित प्रतिकर और पारदर्शिता अधिकार अधिनियम, 2013 की धारा 24 के संबंध में।

उपरोक्त विषयान्तर्गत निर्देशानुसार लेख है कि राजस्व विभाग के परिपत्र क्रमांक प. 1(3) राज-6/2011/7 दिनांक 11.3.2014 द्वारा निरसित भूमि अर्जन अधिनियम, 1894 के तहत भूमि अर्जन की प्रजलित कार्यवाही के संबंध में आगामी कार्यवाही के लिए भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन मे उचित प्रतिकर और पारदर्शिता अधिकार अधिनियम, 2013 की धारा 24 में की गई व्यवस्था के संबंध स्थिति स्पष्ट की गई थी।

अधिनियम, 2013 की धारा 24 सही विवेचना के लिए पांच जजों की बैंच को रेफर किये गये प्रकरण में माननीय सर्वोच्च न्यायालय ने एस.एल.पी (सी) संख्या 9036-9038/2016 इन्दोर डेवलेपमेंट ऐथोरिटी बनाम मनोहरलाल व अन्य में पांच जजों की बैंच ने दिनांक 6.3.2020 द्वारा निर्णय पारित किया गया। माननीय सर्वोच्च न्यायालय द्वारा पारित निर्णय https://main.sci.gov.in/supremecourt/2016/8700/8700_2016_3_1501_21394_Judgement_06-Mar-2020.pdf पर उपलब्ध है।

माननीय सर्वोच्च न्यायालय द्वारा धारा 24 की व्याख्या के संबंध में बिंदु निर्धारित कर निम्नानुसार निर्णित किया है:-

क्रम संख्या	प्रश्न	उत्तर
1.	Whether the word "or" in Section 24(2) of the Act of 2013 used in between possession has not been taken or compensation has not been paid to be read as "and"?	The word 'or' used in Section 24(2) between possession and compensation has to be read as 'nor' or as 'and'. The deemed lapse of land acquisition proceedings under Section 24(2) of the Act of 2013 takes place where due to inaction of authorities for five years or more prior to commencement of the said Act, the possession of land has not been taken nor compensation has

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		been paid. In other words, in case possession has been taken, compensation has not been paid then there is no lapse. Similarly, if compensation has been paid, possession has not been taken then there is no lapse.
2.	Whether proviso to Section 24(2) of the Act of 2013 has to be construed as part thereof or proviso to Section 24(1)(b)?	The proviso to Section 24(2) of the Act of 2013 is to be treated as part of Section 24(2) not part of Section 24(1)(b).
3.	What meaning is to be given to the word "paid" used in Section 24(2) and "deposited" used in the proviso to Section 24(2)?	The expression 'paid' in the main part of Section 24(2) of the Act of 2013 does not include a deposit of compensation in court. The consequence of non-deposit is provided in proviso to Section 24(2) in case it has not been deposited with respect to majority of land holdings then all beneficiaries (landowners) as on the date of notification for land acquisition under Section 4 of the Act of 1894 shall be entitled to compensation in accordance with the provisions of the Act of 2013. In case the obligation under Section 31 of the Land Acquisition Act of 1894 has not been fulfilled, interest under Section 34 of the said Act can be granted. Non-deposit of compensation (in court) does not result in the lapse of land acquisition proceedings. In case of non-deposit with respect to the majority of holdings for five years or more, compensation under the Act of 2013 has to be paid to the "landowners" as on the date of

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		notification for land acquisition under Section 4 of the Act of 1894.
4.	<p>What are the consequences of payment not made?</p> <p>What are the consequences of the amount not deposited?</p> <p>What is the effect of a person refusing to accept the compensation?</p>	<p>In case a person has been tendered the compensation as provided under Section 31(1) of the Act of 1894, it is not open to him to claim that acquisition has lapsed under Section 24(2) due to non-payment or non-deposit of compensation in court. The obligation to pay is complete by tendering the amount under Section 31(1). Land owners who had refused to accept compensation or who sought reference for higher compensation, cannot claim that the acquisition proceedings had lapsed under Section 24(2) of the Act of 2013.</p>
5.	<p>What is mode of taking possession under the Land Acquisition Act and true meaning of expression the physical possession of the land has not been taken occurring in Section 24(2) of the Act of 2013?</p>	<p>The mode of taking possession under the Act of 1894 and as contemplated under Section 24(2) is by drawing of inquest report/memorandum. Once award has been passed on taking possession under Section 16 of the Act of 1894, the land vests in State there is no divesting provided under Section 24(2) of the Act of 2013, as once possession has been taken there is no lapse under Section 24(2).</p>
6.	<p>Whether the period covered by an interim order of a Court concerning land acquisition proceedings ought to be excluded for the purpose of applicability of Section 24(2) of the Act of 2013 ?</p>	<p>The provisions of Section 24(2) providing for a deemed lapse of proceedings are applicable in case authorities have failed due to their inaction to take possession and pay compensation for five years or more before the Act of 2013 came into force, in a proceeding for land acquisition pending with concerned authority as on 1.1.2014. The period of</p>

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		subsistence of interim orders passed by court has to be excluded in the computation of five years.
7	Whether Section 24 of the Act of 2013 revives barred and stale claims?	Section 24(2) of the Act of 2013 does not give rise to new cause of action to question the legality of concluded proceedings of land acquisition. Section 24 applies to a proceeding pending on the date of enforcement of the Act of 2013, i.e., 1.1.2014. It does not revive stale and time-barred claims and does not reopen concluded proceedings nor allow landowners to question the legality of mode of taking possession to reopen proceedings or mode of deposit of compensation in the treasury instead of court to invalidate acquisition.

अतः विभाग द्वारा पूर्व में जारी परिपत्र दिनांक 11.3.2014 के आशिक संशोधन में माननीय सर्वोच्च न्यायालय द्वारा भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता अधिकार अधिनियम, 2013 धारा 24 के प्रावधानों की गई उपरोक्त व्याख्या अनुसार आवश्यक कार्यवाही किया जाना सुनिश्चित करावे।

(कमलेश आबुसदिक) 10-3-20
शासन उप सचिव

प्रतिलिपि:-

1. प्रमुख शासन सचिव, माननीय राज्यपाल महोदय।
2. प्रमुख शासन सचिव, माननीय मुख्यमंत्री महोदय।
3. विशिष्ट सहायक, माननीय राजस्व मंत्री महोदय।
4. निजी सचिव, मुख्य सचिव।
5. निजी सचिव, अतिरिक्त मुख्य सचिव, वित्त विभाग।
6. निजी सचिव, प्रमुख शासन सचिव, विधि विभाग।
7. निजी सचिव, प्रमुख शासन सचिव, राजस्व विभाग।
8. समस्त संभागीय आयुक्त

(कमलेश आबुसदिक) 10-3-20
शासन उप सचिव