

# **CHAPTER—III**

## **Acquisition of Land**



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#### Process of Land Acquisition

**3.1** GNIDA acquires land through three processes, *i.e.*, Acquisition, Resumption and Direct Purchase.

#### *Acquisition*

**3.1.1** Land is acquired and compensation paid under the provisions of Land Acquisition Act, 1894 (LAA, 1894) and the Uttar Pradesh Land Acquisition (Determination of Compensation and Declaration of Award) Rules, 1997 (*Karar Niyamawali*).

The Government of India enacted the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LAA, 2013), which came into force from 1 January 2014, to replace the LAA, 1894.

Out of 15,259.65 hectare of land acquired by GNIDA since inception (January 1991) to September 2019, ninety *per cent* of the land has been acquired under the LAA, 1894, eight *per cent* land has been acquired through direct purchase and the remaining two *per cent* through resumption. The procedure for acquisition under the LAA, 1894, which has been the principal mode of land acquisition by GNIDA, is depicted in the **Chart 3.1** below:

**Chart 3.1: Process of land acquisition under Land Acquisition Act, 1894**

#### Section 4

- Publication of **notification** in the Official Gazette by the Appropriate Government for land acquisition for public purposes.

#### Section 5A

- **Hearing** of objections of the landowners by the Collector.

#### Section 6

- **Declaration by the appropriate Government** in the Official Gazette to the effect that particular land is required for public purpose, after considering the report made under Section 5A.

#### Section 7

- After declaration, Collector to take **order from the appropriate Government** for acquisition of the land .

#### Section 11

- **Sub-section (1): Enquiry and award** by Collector for true area of the land and compensation which in his opinion should be allowed **subject to approval of the appropriate Government** .
- **Sub-section (2):** In cases where persons interested in the land have agreed in writing on the matters to be included in the award, Collector may, without making further enquiry, make an **award according to the terms of such agreement**.

#### Section 16

- Collector has to take **possession of the land free from all encumbrances**.

#### Section 17

- **In cases of urgency**, appropriate Government may direct that provisions of Section 5A shall not apply and a declaration may be made under Section 6 at any time after the date of the publication of the notification under Section 4 (1).

The Land Acquisition Division of GNIDA, based on the requirements for land by Planning Division, submits an initial proposal to the Additional District Magistrate (Land Acquisition) {ADM (LA)} for notification under Section 4 of the LAA, 1894 after approval of the CEO, GNIDA. Subsequent to the examination of proposal by ADM (LA), GNIDA deposits 10 *per cent* advance at prevailing land rate as per the demand from ADM (LA). GoUP thereafter issues notification under Section 4 of the LAA, 1894 which is required to be published by GNIDA in two local newspapers. Collector conducts hearing of objections of the landowners as prescribed under Section 5A of LAA, 1894. However, in case of notification under urgency clause of Section 17 of LAA, 1894, the provisions of Section 5A shall not apply. GNIDA, on further demand of 70 *per cent* of the estimated cost along with solatium<sup>1</sup> and 12 *per cent* per annum<sup>2</sup> additional compensation by ADM (LA), deposits the requisite amount. GoUP, then issues declaration under Section 6 of the LAA, 1894 which is also published in two local newspapers. Collector causes public notice, to be given at convenient places on or near the land to be taken, to the interested persons under Section 9 of the LAA, 1894 for taking the possession of the land, after taking orders from the GoUP under Section 7 of the aforesaid Act. Collector then demands the remaining amount towards acquisition of land which is deposited by GNIDA.

Collector makes award under Section 11 (1) of the LAA, 1894 for true area of land and the compensation which in his opinion should be allowed for the land subject to approval of the GoUP. Section 11 (2) of the LAA, 1894 provides that in case of persons interested in the land have agreed in writing on the matters to be included in the award, Collector may, without making further enquiry, make an award according to the terms of such agreement. General Manager (Land Acquisition) of GNIDA is responsible to co-ordinate all activities relating to the acquisition of land.

### ***Resumption of land***

**3.1.2** In accordance with Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, the land of *Gram Sabha* is Government's land left at the disposal of the *Sabha* for various purposes. The State Government may at any time, by general or special order, amend or cancel any declaration, and resume such land. GNIDA sends proposals to the District Collector based on which the Divisional Commissioner issues notification for resumption of land in favour of GNIDA on the payment of amount mentioned in the notification.

### ***Direct Purchase***

**3.1.3** Land is acquired by purchasing the land directly from the landowners based on the rate of compensation approved by the Board of GNIDA and payment is made directly to the landowners. Sale deeds are executed between landowners and GNIDA.

### ***Finalisation of Land Acquisition Rates under different categories***

**3.1.4** Under Section 11(1) of LAA, 1894, the basic rate of land acquisition is decided by the Collector. The rate of award is determined by the Collector after considering executed sale deeds, as found appropriate, during the last

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<sup>1</sup> An amount at 30 *per cent* of the compensation.

<sup>2</sup> From the date of notification under Section 4 to the date of award or date of taking possession, whichever is earlier.



three years prior to the date of final publication of notification under Section 4 of LAA, 1894. Further, an amount (Solatium) at the rate of 30 *per cent* on the above rate along with interest at the rate of 12 *per cent* per annum on the basic rate for the period from the date of publication of notification under Section 4 to the date of award or the date of taking possession of the land, whichever is earlier is also payable to the landowner.

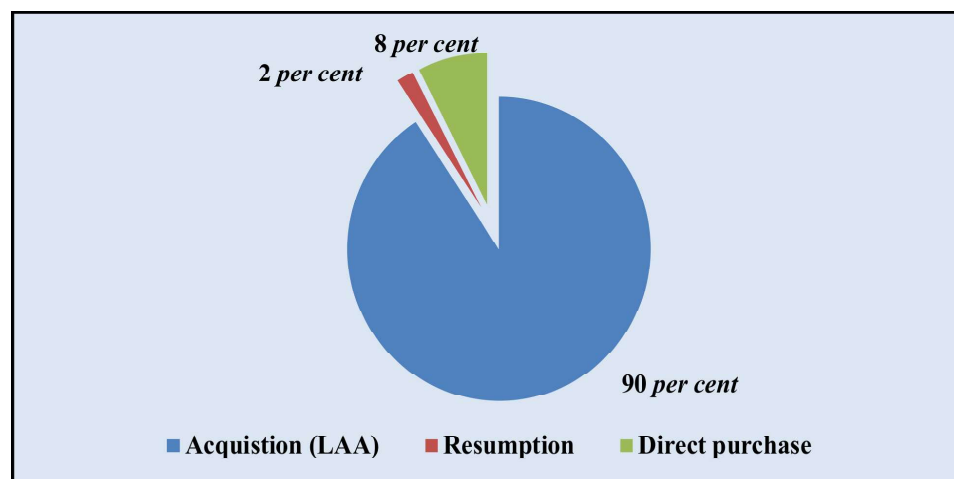
The award under Section 11 (2) of the LAA, 1894 is made by the Collector at the rates agreed to by GNIDA and the landowners. For this, the land rate payable to the landowner is decided annually by the Board of GNIDA under *Karar Niyamavali*, 1997 which is required to be approved by the Commissioner, Meerut Division. These rates were also made applicable<sup>3</sup> for acquisition through direct purchase. These rates are decided every year by the Board of GNIDA generally by increasing the prevailing rate on the basis of increase in the Cost Inflation index (CII). Rate of acquisition in case of *Pustaini*<sup>4</sup> farmer (farmer with ancestral land) is 15 *per cent* higher (on account of Rehabilitation bonus) than the rates decided for *Gair-pustaini* (non-ancestral) farmer.

### Status of land acquisition in GNIDA

**3.2** The GoUP had notified 126 villages in the first phase during September 1989 to February 1994 for inclusion in the area of Greater Noida under jurisdiction of GNIDA. GNIDA approved (March 2001) Master Plan (MP) 2021 for development of 22,255 hectare in 124 villages.

Against this, GNIDA acquired 15,259.65 hectare of land since inception (January 1991) to September 2019. **Chart 3.2** indicates the land acquired through different process, as given below:

**Chart 3.2: Land acquired by GNIDA upto September 2019**



*Source: Information furnished by GNIDA.*

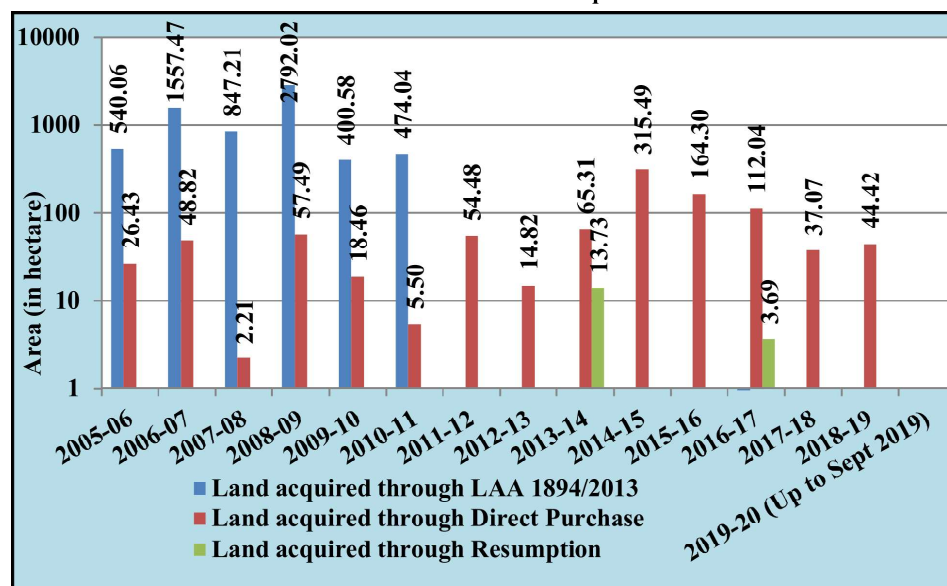
It is evident from the chart above that GNIDA acquired 90 *per cent* (13,808.67 hectare) of the land by acquisition under LAA, 1894 while eight *per cent* was acquired through direct purchase (1,178.21 hectare) and two *per cent* through resumption (272.77 hectare).

<sup>3</sup> 35<sup>th</sup> Board meeting held on 7 April 2000.

<sup>4</sup> Land holder whose name is recorded in the revenue records as landowner prior to the establishment of GNIDA are ancestral and others are non-ancestral.

Out of total acquisition of 7,596.03 hectare during the period April 2005 to September 2019, GNIDA acquired most of the land measuring 6,611.38 hectare (87 *per cent*) during the period 2005-06 to 2010-11 through LAA, 1894. GNIDA resorted to direct purchase from the year 2011-12 onwards. The year-wise status of land acquisition during the period April 2005 to September 2019 is shown in **Chart 3.3**.

Chart 3.3: Year-wise status of land acquisition in hectare



Source: Information furnished by GNIDA.

### Audit Coverage

**3.3** Out of total acquisitions of 7,551.61 hectare in 2,683 cases made by GNIDA during the years 2005-06 to 2017-18, Audit analysed cases of acquisition of 6,257.12 hectare of land in detailed study of sample, which included 38 cases<sup>5</sup> (6,143.22 hectare, 81 *per cent* of total acquisition) of acquisition under the LAA, 1894, all four cases (17.42 hectare) of resumption and 260 cases (96.48 hectare) of direct purchases. The issues/discrepancies observed during audit are detailed in succeeding paragraphs.

### Audit findings

The audit findings, as a result of examination of sampled cases of acquisition of land, are discussed in succeeding paragraphs. These audit findings have been organised as under:

- Acquisition of land beyond what was planned (*Paragraphs 3.4 to 3.4.2*);
- Irregularities in acquisition and payment of compensation under LAA, 1894 (*Paragraphs 3.5 to 3.5.4*);
- Undue enrichment of landowners by purchasing land at higher rate after notification of LAA, 2013 (*Paragraph 3.6*);
- Failure in exercise of due diligence (*Paragraphs 3.7 to 3.7.4*); and
- Ineffective follow-up of acquisitions (*Paragraphs 3.8 to 3.8.4*).

<sup>5</sup> Excluding one case (Nagla Kerawali) out of the sample not furnished to Audit.

### Acquisition of land beyond what was planned

**3.4** Land requirement of acquisition and development by GNIDA has been detailed in the MP 2021. Further, GNIDA did not maintain Management Information System (MIS) showing periodical status of the planned area, land acquired, land developed, land utilised in non-saleable/saleable area and saleable area of land allotted/lying for allotment. Audit noticed various irregularities in acquisition of land done in violation of the Master Plan as discussed below.

#### *Acquisition of land in the villages not covered in the Master Plan-2021*

**3.4.1** Master Plan (MP) is a development plan which *inter alia* provides details regarding various land uses indicating optimum utilisation of land resources and zoning regulations of each land use indicating permissible/prohibited uses. GNIDA has to prepare MP in conformity with Regional Plan (RP) and get it approved by GoUP and National Capital Region Planning Board (NCRPB). MPs are prepared with time horizons of 10/20 years.

Although the villages *Sadapur* and *Badalpur* were not included in the planned area in MP 2021, GNIDA invoked urgency clause of the Land Acquisition Act, 1894 and acquired 353.028 hectare in these villages during 2008-09 to 2010-11 at a cost of ₹ 290.60 crore.

LAA, 1894 provides for land acquisition whenever it appears to the appropriate Government that the land in any locality is needed or is likely to be needed for any public purpose. Thus, existence of an MP for development of the notified area is an essential pre-condition for initiating process of land acquisition for establishing public purpose for land acquisition and development.

Audit noticed that MP 2021 of GNIDA was approved by the Board of GNIDA in March 2001. However, area of 22,255 hectares of land comprising 124 villages<sup>6</sup> planned for development in the MP 2021 did not include the area of 377.848 hectare land in two villages *Sadapur* and *Badalpur* and these were notified by the GoUP in June 2006 for acquisition in Phase-II of MP 2031. Accordingly, these villages were not included in the Map of GNIDA indicating the existing and proposed land use for 2011 and 2021. Location of these villages are indicated in **Map 3.1**.

**Map 3.1: Villages of *Sadapur* and *Badalpur***



Source: Google Map.

Although the villages *Sadapur* and *Badalpur* were not in MP 2021, but, in the acquisition proposal to DM for above land acquisition under Section 4(1)/17, these villages were stated (June 2007) by the ACEO<sup>7</sup> to be developed under

<sup>6</sup> Total 337 Villages have been notified by GoUP upto November 2010.

<sup>7</sup> In the *prapatra sankhya*-1 of the proposal presented to Collector for land acquisition.

the Master Plan. Subsequently, acquisition of land in these two villages which were not covered in MP 2021 were done by GNIDA.

These two villages have been included for development proposed in the MP 2031 which has not been approved by NCRPB and GoUP so far (March 2021).

It may also be mentioned that NCRPB had directed (September 2006) GNIDA to notify the area between railway line and Grand Trunk (GT) road and keep it as an agricultural green belt on the ground that it was outside the notified area and prone to unauthorised construction. The villages *Sadipur* and part of *Badalpur* also fell within the above specified area. GNIDA replied (February 2007) to NCRPB that the area between railway line and GT road was already notified (June 2006) by GoUP in Greater Noida Phase-II (MP 2031) and shall be kept as agricultural green belt while preparing the Master Plan of the area. This was agreed to by the NCRPB. In Para 7.2 of MP 2031 of GNIDA, green buffer/green belt/green wedges is defined in accordance with the provisions of Para 17.4.1 of the Regional Plan 2021 of NCRPB. GNIDA acquired 353.028 hectare land in the above two villages during 2008-09 to 2010-11 against the proposed area 377.848 hectare for development of green buffer, invoking the urgency clause of LAA, 1894. The details of acquisition of these two villages are given in **Table 3.1**:

**Table 3.1: Details of acquisition**

Sl. No	Name of village	Area proposed for acquisition (in hectare)	Area acquired (in hectare)	Date of possession of land	Status of development as green buffer
1	Sadipur	144.003	126.740	16 February 2009 to 30 September 2010	To be developed
2	Badalpur	233.845	226.288	18 July 2008	-do-
<b>Total</b>		<b>377.848</b>	<b>353.028</b>		

*Source: Information furnished by GNIDA.*

As brought out in the above table, 353.028 hectare land of the village *Sadipur* and *Badalpur* has not been developed as green buffer as of March 2021, as discussed in **Paragraph 3.4.2** below, even after lapse of ten to 12 years from the date of possession. This indicated that there was no immediate requirement of above land and its acquisition under urgency clause was misuse of the urgency clause.

Thus, GNIDA acquired land of the above two villages which was beyond the scope of the MP 2021 (and included only in the unapproved MP 2031) besides blocking of huge funds.

During the Exit Conference (January 2021), the State Government and GNIDA accepted the audit observation and assured necessary action in the matter.

#### ***Irregular expenditure on land acquisition and developmental works***

**3.4.2** Para 17.4.1 of the Regional Plan 2021 of NCRPB states that in green buffer area, no activities other than those permitted in the Zoning Regulation of the Regional Plan 2021 are to be permitted. The permitted activities were approach/service roads, agriculture and horticulture, social forestry/plantation including afforestation, fuel stations with amenities like toilets, STD booths, small repair shop, small tea/soft drink and snack bar (with no cooking facility), toll plaza, bus queue shelters, police booth, first aid centres and telephone booth.

The permitted activities in green buffer does not include recreational uses, parks and regional parks as included specifically in case of the activities permitted under other land use zone/sub-zones, viz., urbanisable areas of the Controlled/Development/Regulated zone and the Agriculture (Rural) Zone outside Controlled/Development/Regulated areas.

An inspection of village *Badalpur* was undertaken (24 May 2007) by the then Secretary to the Chief Minister, District Magistrate–Gautam Buddha Nagar (DM), Additional Chief Executive Officer–GNIDA (ACEO) and other officers and it was decided that GNIDA will send the proposal to acquire land of villages *Badalpur* and *Sadapur* to the Additional District Magistrate (Land Acquisition) (ADM (LA)).

Accordingly, GNIDA sent (1 June 2007) proposal for land acquisition for 377.848 hectare area under Sections 4/17 of LAA, 1894 to the ADM (LA) and administrative approval of the Chief Executive Officer (CEO), GNIDA was taken (4 June 2007) stating that the land was needed for green buffer. The details of possession and expenditure incurred are given in **Table 3.2** below:

**Table 3.2: Details of possession and expenditure incurred**

Sl. No.	Name of villages	Area acquired (in hectare)	Date of possession of land	Acquisition cost (₹ in crore)	Status of development works (as on September 2019)
1	Sadapur	126.740	16 February 2009 to 30 September 2010	101.76	Undeveloped as green buffer. GNIDA incurred an expenditure of ₹ 0.19 crore on <i>Barat Ghar</i> which was not permitted in green buffer.
2	Badalpur	226.288	18 July 2008	188.84	Undeveloped as green buffer. GNIDA incurred additional expenditure of ₹ 146.39 crore on development works such as renovation of <i>Barat Ghar</i> , beautification of helipad and Parks not permitted in green buffer.
<b>Total</b>		<b>353.028</b>		<b>290.60</b>	

*Source: Information furnished by GNIDA.*

The observations on the expenditure incurred on acquisition and development are discussed below:

#### ***Expenditure on Land acquisition***

- For the acquisition of 353.028 hectare of land in *Sadapur* and *Badalpur*, GNIDA incurred an expenditure of ₹ 290.60 crore.
- GNIDA was required to remit 10 *per cent* of the compensation and 10 *per cent* as acquisition charges to the ADM (LA) amounting to ₹ 30.05 crore for the acquisition of the above land but the General Manager (Finance) stated (7 June 2007) that there was only ₹ 17.64 crore available with the GNIDA. Hence, a proposal was made to take short term loan of ₹ 16 crore<sup>8</sup> from the Oriental Bank of Commerce against Fixed Deposit to pay for 20 *per cent* acquisition cost for the village *Badalpur*.

Audit noted that there was no urgency for such acquisition as this acquisition and provision for it was not made in the Budget 2007-08 of the GNIDA approved by the Board of GNIDA in its 64<sup>th</sup> meeting held on 25 June 2007. The list of villages where land was to be acquired did not include the villages

**Loan from Commercial Bank taken for land acquisition in *Badalpur*.**

<sup>8</sup> The details of loan were not furnished to Audit.



GNIDA did not develop the land of villages *Sadapur* and *Badalpur* for the envisaged purpose of green buffer even after lapse of 10 to 12 years from their acquisition. Instead, it incurred an expenditure of ₹ 146.58 crore on the activities such as renovation of *Barat Ghar*, beautification of helipad, Dr. Bhim Rao Ambedkar Park and Gautam Buddha Park which were not permitted in green buffer as per the RP 2021 of NCRPB.

*Sadapur* and *Badalpur*. Nonetheless, the land was acquired under urgency clause of LAA, 1894.

#### ***Expenditure on development works***

GNIDA incurred an expenditure of ₹ 183.38 crore on the development works in *Sadapur* (₹ 19.42 crore) and *Badalpur* (₹ 163.96 crore) villages upto November 2019. Out of this expenditure, it incurred expenditure of ₹ 146.58 crore (79.93 per cent) on the activities such as renovation of *Barat Ghar* (₹ 0.19 crore), beautification of helipad (₹ 18.91 crore), Dr. *Bhim Rao Ambedkar* Park (₹ 86.16 crore) and *Gautam Buddha* Park (₹ 41.32 crore) which were not permitted in green buffer in the Regional Plan 2021 of NCRPB. Remaining expenditure of ₹ 36.80 crore (20.07 per cent) was incurred on construction of road, pathway, drains and internal development of *Abadi* plots<sup>9</sup>.

It was further noticed that GNIDA did not incur any expenditure on agriculture, horticulture and social forestry/plantation including afforestation which were actually permitted in the Regional Plan 2021 of NCRPB and were warranted to develop the area as green buffer.

#### ***Other issues***

- Although compensation of ₹ 290.60 crore was paid to 1,532 landowners for acquisition of *Badalpur* and *Sadapur* villages, they were displaced and rendered landless while purpose of acquisition for maintaining it as green buffer was not fulfilled by GNIDA (March 2021).
- The original files of the land acquisition of these villages have been misplaced by the officials of the GNIDA. Photocopied files were furnished to Audit.

Thus, the expenditure of ₹ 437.18 crore on land acquisition (₹ 290.60 crore) and development works (₹ 146.58 crore) in the villages *Sadapur* and *Badalpur* under ‘urgency’ clause were uncalled for as these villages were not in the MP 2021 and the expenditure was incurred on ‘development works’ which did not conform to the activities allowed in the green buffer area.

During the Exit Conference (January 2021), GoUP accepted the audit observation and stated that necessary action will be taken in the matter.

#### **Irregularities in acquisition and payment of compensation under LAA, 1894**

**3.5** The discrepancies observed in respect of land acquisition made under the Land Acquisition Act, 1894 are discussed in subsequent paragraphs.

#### ***Misuse of Urgency Clause for bulk of acquisitions made***

**3.5.1** Section 17 of the erstwhile Land Acquisition Act, 1894 provided the following powers for acquisition:

<sup>9</sup> Plots for allotment to the families affected by the land acquisition which were dependent on the traditional farming and were residing in the respective villages prior to the establishment of GNIDA.

- Section 17(1) of the Act provides that in cases of urgency, whenever the appropriate Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in Section 9, sub-Section (1), take possession of any waste or arable land needed for public purposes. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.
- Section 17(2) of the Act provides that whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or *Ghat* station, or of providing convenient connection with or access to any such station or the appropriate Government considers it necessary to acquire the immediate possession of any land for the purpose of maintaining any structure or any system pertaining to irrigation, water supply, drainage, road communication or electricity, the Collector may, immediately after the publication of the notice mentioned in sub-Section (1) and with the previous sanction of the appropriate Government enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances.
- Section 17(4) of the Act provides that in the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-Section (1) or sub-Section (2) are applicable, the appropriate Government may direct that the provisions of Section 5A shall not apply, and, if it does so direct, a declaration may be made under Section 6 in respect of the land at any time after the publication of the notification under Section 4, sub-Section (1).

Thus, Section 17 empowered the Collector, with the approval of Government, to make an award to acquire the land for public purpose or for railway operations and take possession in cases of urgent requirement of the land. Further, the sub-Section 4 enabled the Collector to dispense with public hearing required under Section 5A.

Audit observed the following:

**(a) Acquisition invariably under Urgency clause on a Standard justification**

Audit noticed that during the period under scrutiny, GNIDA had, in all 38 cases (test-checked in audit) of land acquisition during the period 2005-06 to 2010-11 involving 25 villages and 6,143.22 hectare of land, forwarded its proposals to the ADM (LA) for acquisition of land by invoking urgency clause under Section 17(4) of LAA, 1894 with a standard and routine justification. This justification for using powers under Section 17 is translated and reproduced as under:

*“GNIDA, constituted for planned industrial development of this area under the provisions of the U. P. Industrial Area Development Act, 1976, needs land for planning, development and allotment for specified purpose by carrying out overall development of this area by providing roads, sewerage, electricity, etc., in accordance with the plan approved by the Government. The work is held up due to non-acquisition. Applicants want allotments of that land which is not being done due to non-acquisition of land. The applicants are reputed industrial institutions of the country and/or of foreign country which want to invest in the*

**GNIDA acquired land by invoking urgency clause (Section 17(4) of LAA, 1894) in all the 38 cases of land acquisition test-checked in audit, stating a standard justification for need of land.**

*area of the Uttar Pradesh. It is very essential to provide them the land immediately according to their plan. If this land is not made available to these units according to their requirements, these will establish their units in other States due to which policy of the Government for maximum investments and opportunities of the employments will be adversely affected. Therefore, effort is being made so that any unit may not go from this area of the State to another State; only then the proper industrial development of this area will be possible.*

*Therefore, it is extremely important to acquire this land through GNIDA for planned development. (Details of proposed acquisition). Considering the above, notification for acquisition of selected land under Section 4 read with Section 17 of the LAA is recommended”.*

From perusal of above standard justification for involving urgency clause, it is clear that the grounds given by GNIDA did not fall under the ambit of conditions laid down in Section 17 of the LAA, 1894, which was primarily meant to be invoked for events like change in channel of rivers or other emergencies, for maintenance of railway traffic or for maintaining any structure or system pertaining to irrigation, water supply, drainage, road communication or electricity. Thus, it is evident that the grounds for invocation of urgency clause were neither public purpose nor in accordance with the purposes specified by the Act and were misused.

Moreover, by invocation of the urgency clause, the right to public hearing as provided in Section 5A of LAA, 1894 was waived off and the landowners were forced to sell their land either by way of compulsory acquisition under Section 11 (1) or through the agreement route (*karar*) under Section 11 (2) at the rates offered by GNIDA which were higher over the rate under Section 11 (1) ranging from 15.81 *per cent* to 573.53 *per cent* (**Appendix-3.1**). Agreements with landowners at individual level cannot be equated with public hearing process wherein all affected parties are given a fair chance to raise their objection. The only option left with landowners was to dissent the acquisition through litigation.

Further, various court decisions had set aside the use of urgency clause as follows:

- The Hon’ble Supreme Court of India while examining<sup>10</sup> the issue of above standard justification in the case<sup>11</sup> of *Radhey Shyam* (Dead) through Legal Representatives (LRs) and others vs. State of Uttar Pradesh and others observed<sup>12</sup> in its judgement (15 April 2011), “*the above factors do not furnish legally acceptable justification for the exercise of power by the State Government under Section 17(1) because the acquisition is primarily meant to cater private interest in the name of industrial development of the district. The respondents have justified the invoking of urgency provisions by making assertions, which are usually made in such cases by the executive authorities, i.e., the inflow of funds in the State in the form of investment by private entrepreneurs and availability of larger employment opportunities to the people of the area. However, we do not find any plausible reason to accept*

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<sup>10</sup> Paragraph 54.

<sup>11</sup> Civil Appeal No. 3261 of 2011 relating to acquisition of land by GNIDA in *Makora* village by notification under Section 4 in March 2008 along with invoking urgency clause.

<sup>12</sup> Paragraph 55.



*this tailor-made justification for approving the impugned action which has resulted in depriving the appellants' of their constitutional right to property”.*

The Hon’ble Allahabad High Court in its judgement (19 July 2011) in case<sup>13</sup> of Har Karan Singh vs. State of Uttar Pradesh and Others held<sup>14</sup>, *“the purpose of acquisition of the land was not for the public purpose for which the land was acquired, namely, for planned industrial development, and that the GNIDA was all along planning and had started the process of allotment of land to the private builders immediately after taking possession, the notifications acquiring the land through colourable exercise of power, are liable to be quashed”.* The Hon’ble Allahabad High Court set aside<sup>15</sup> the GoUP notification under Section 4(1) applying Section 17 (1) and notification under Section 6 read with Section 17(4) of LAA, 1894 and all consequential actions taken by the GoUP.

- Further, the Hon’ble Allahabad High Court in its judgement (21 October 2011) in case<sup>16</sup> of Gajraj and others vs. State of Uttar Pradesh and others while discussing the issue<sup>17</sup> on whether invocation of Sections 17 (1) and 17 (4) of the LAA, 1894 and dispensation of inquiry under Section 5A was in accordance with law in the cases under consideration, concluded, *“the notifications issued under Section 4 read with Section 17 (1) and Section 17 (4) were identical with all acquisitions and the materials on record before the State Government including the certificates by the Collector in Prapatra 10 as well as the note of justification submitted by the Authorities were in identical term, hence the invocation of Section 17 (4) has to be held to be vitiated in all the above cases. The dispensation of inquiry being invalid, all the petitioners were entitled for an opportunity to file objection under Section 5A of the Act (LAA, 1894)”.*

- The Hon’ble Allahabad High Court also observed in the above case while discussing on the issue<sup>18</sup> on colourable exercise of power concluded, *“Authority (GNIDA) has acted in colourable exercise of power in its statutory function of acquiring the land as per Section 6 (2) of the Uttar Pradesh Industrial Area Development (UPIAD) Act, 1976. Authority (GNIDA) on the pretext of carrying planned industrial development as it was statutorily obliged to carry, pursued different object and purpose, i.e., by transferring the land to private persons dehors to the industrial development”.*

It is notable that GoUP directed (January 2012<sup>19</sup>) GNIDA that the urgency clause shall not be invoked in the proposals of land acquisition in view of disallowance of acquisition process under urgency clause in various cases by Hon’ble Supreme Court and High Court.

#### **(b) Process and timeline involved**

Audit noticed that industrial development is a time taking process for which GNIDA allows 24 to 48 months to make them functional, which can be extended on payment of charges. Thus, given the processes and timelines set out invoking of urgency clause dispensing with hearing from the farmers was not justified.

<sup>13</sup> Writ Petition No. 17068 of 2009 relating to Patwari village of GNIDA.

<sup>14</sup> Paragraph 35.

<sup>15</sup> Paragraph 36 of the judgement.

<sup>16</sup> Writ Petition No. 37443 of 2011 relating to GNIDA.

<sup>17</sup> Issue No. 5<sup>th</sup> out of 17 issues considered by the Hon’ble Allahabad High Court.

<sup>18</sup> Issue No. 7<sup>th</sup> out of 17 issues considered by the Hon’ble Allahabad High Court.

<sup>19</sup> Vide letter No. 1178/77-3-11-6 GA/10 dated 13 January 2012.

Invoking urgency clause was not justified in view of the fact that establishment of industrial units is a time taking process for which GNIDA allows 24 to 48 months, further extendable on payment of charges.

It is notable that the Hon'ble Supreme Court of India in its judgment (15 April 2011) in case<sup>20</sup> of *Radhey Shyam (Dead) through Legal Representatives (LRs) and others vs. State of Uttar Pradesh and others* laid down the principle<sup>21</sup> that “*extraordinary power conferred upon the State under Section 17(1) read with Section 17(4) of the LAA, 1894, to acquire private property without complying with the mandate of Section 5-A can be invoked only when the purpose of acquisition cannot brook the delay of even few weeks or months. Therefore, before excluding the application of Section 5-A, the concerned authority must be fully satisfied that time of few weeks or months likely to be taken in conducting inquiry under Section 5-A will, in all probability, frustrate the public purpose for which land is proposed to be acquired*”.

It further observed<sup>22</sup> in the above case that “*Even if planned industrial development of the district is treated as public purpose within the meaning of Section 4, there was no urgency which could justify the exercise of power by the State Government under Section 17(1) and 17(4). The objective of industrial development of an area cannot be achieved by pressing some buttons on computer screen. It needs lot of deliberations and planning keeping in view various scientific and technical parameters and environmental concerns. The private entrepreneurs, who are desirous of making investment in the State, take their own time in setting up the industrial units. Usually, the State Government and its agencies/instrumentalities would give them two to three years' to put up their factories, establishments, etc. Therefore, time required for ensuring compliance of the provisions contained in Section 5-A cannot, by any stretch of imagination, be portrayed as delay which will frustrate the purpose of acquisition*”.

Audit further noticed that the officers involved in the land acquisition process, viz., District Collector, Commissioner, Director (Land Acquisition) of Board of Revenue and Principal Secretary of IIDD failed to question the justification for invoking the ‘urgency clause’ *en masse* and dispensing of hearing of the landowners under Section 5A of LAA, 1894.

### **(c) Delays in acquisition despite invoking urgency clause**

On one hand GNIDA claimed urgency in acquisition of land but on the other, incurred inordinate administrative delays in processing the acquisition of land.

Thirty-eight cases of land acquisition in 25 villages involving 6,143.22 hectare of land were test-checked in audit. These 38 cases were covered by 34 initial proposals/notifications under Section 4 and Section 6 of LAA, 1894. These 34 cases later on increased to 38 at the stage of issue of notification for possession under Section 9 due to issuance of four<sup>23</sup> separate notifications. Analysis of these 34 cases with initial proposals/notifications under Section 4 and Section 6 revealed that on one hand GNIDA claimed urgency in acquisition of land but on the other, incurred inordinate administrative delays in processing the acquisition of land. Range of time taken in processing cases of land acquisition is shown in **Table 3.3** below:

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<sup>20</sup> Civil Appeal No. 3261 of 2011.

<sup>21</sup> Paragraph 53.

<sup>22</sup> Paragraph 55.

<sup>23</sup> Two separate notifications under Section 9 for *Sadipur*, one for *Ghanghola* and one for *Junpat*.

Table 3.3: Range of time taken in processing land acquisition

Sl. No.	Stages in acquisition	No. of cases	Time taken (in days)	
			Minimum	Maximum
1	From the date of initiation of the proposal to the date of administrative approval of the CEO	27 <sup>24</sup>	3	960
2	From the date of administrative approval of the CEO to the date of sending proposal to the ADM (LA) for notification under Section 4/17	29 <sup>25</sup>	In five <sup>26</sup> out of 29 cases, the proposals were sent to ADM (LA), 3 to 162 days before its administrative approval by CEO.	165
3	From the date of sending proposal to the ADM (LA) to the actual date of notification under Section 4/17	33 <sup>27</sup>	19	2214
4	From the date of notification under Section 4/17 to the date of Notification under Section 6/17	34	27	384
5	From the date of notification under Section 6/17 to the date of possession	34	21	709
6	Days taken in possession from the date of first proposal to the ADM	33	413	2431

*Source: Information furnished by GNIDA.*

The following observations can be made from the above table.

#### **At the level of GNIDA:**

1. Three days to 960 days were taken in according administrative approval by the CEO on 27 proposals initiated by the Planning Division. The process for according administrative approval on a proposal received by the Land Acquisition Division from the Planning Division involves conducting of survey for working out the area to be acquired after excluding the *Abadi* (inhabited) areas, temple, crematorium, *etc.*, and the area to be acquired through resumption.

Audit noticed that GNIDA has not prescribed any time frame for conducting such survey. It was observed that in 11 of the above 27 cases, where the dates for calculation were available on record, 3 to 30 days were taken in according administrative approval by the CEO on the proposals initiated by the Planning Division. In absence of any time frame prescribed by GNIDA, if 30 days are considered reasonable, on the basis of actual days taken by GNIDA, for conducting the survey, submission of survey report and seeking approval on the proposal, administrative approval on 15<sup>28</sup> out of above 27 proposals were accorded with a delay of 60 days to 930 days.

<sup>24</sup> In remaining seven cases out of 34 cases, the time taken from the date of initiation of the proposal to the date of administrative approval by CEO could not be worked out due to either the date of initiation by the Planning Division (three cases) or the date of administrative approval by the CEO (four cases) not being available on record.

<sup>25</sup> In remaining five cases out of 34 cases, the time taken from the date of administrative approval by CEO to the date of sending the proposal to ADM (LA) could not be worked out due to either the date of administrative approval by the CEO (four cases) or the date/letter of sending the proposal to ADM (LA) (one case: *Kirachpur urf Kailashpur*) not being available on record.

<sup>26</sup> *Sadopur* (three days), *Badalpur* (three days), *Dadha* (85 days), *Haibatpur* (92 days) and *Sakipur* (162 days).

<sup>27</sup> In one case, viz., *Kirachpur urf Kailashpur* (3.48 Hectare), the date/letter of sending the proposal to ADM (LA) was not placed in the file.

<sup>28</sup> Excluding one case with delay of three days.

The reasons for delay in administrative approval as analysed in Audit were incorrect forwarding of the proposal by Planning Division which included already acquired area due to lack of co-ordination between the Planning Division and Land Acquisition Division resulting in revision of the proposal, inaction by the Land Acquisition Division in deciding the mode of acquisition (LAA, 1894 or direct purchase), determining the priority for acquisition and conducting survey.

2. Consequent to the administrative approval by the CEO, the proposal should be sent at the earliest to ADM (LA). Audit noticed that a further period of upto 165 days was taken in sending these proposals to ADM (LA). After allowing a period of five days for the office procedure, 11 cases out of 29 cases were forwarded to ADM (LA) with delay of upto 160 days with no reason on record.

3. In five cases, the proposals were sent to ADM (LA) without the approval of CEO, which were, however, approved by the CEO after a lapse of 3 to 162 days without any reason on record.

**At the level of GoUP:**

It was further observed that at the level of GoUP notifications under Section 4 in respect of 33 land acquisition proposals were issued after 19 to 2,214 days from the date of sending the proposal. Out of this, delay was more than two years in 12 cases. Notifications under Sections 6 and 17 were not immediately issued after issuance of notifications under Sections 4 and 17 to take possession of land after 15 days from the date of issuing notifications under Sections 6 and 17; rather, possessions were taken in 21 to 709 days in all the 34 cases after issuing notifications under Sections 6/17.

The reasons for delay in issue of notifications under Section 4 as analysed in audit were - the land being covered under Urban Land (Ceiling and Regulation) Act, 1976 which required the approval of Revenue Department, revision in acquisition proposals and notification under urgency clause allowed to be lapsed in compliance of the GoUP order 13 January 2012 made in view of the recent judgements of the Hon'ble Allahabad High Court and Supreme Court of India objecting the use of urgency clause dispensing the hearing.

In sum, in 33 cases checked by Audit, time ranging from one year two months to six years eight months from the date of first proposals sent to the District Magistrate till the date of possession of land was taken despite invocation of urgency clause. This establishes that invocation of urgency clause did not help in early completion of the acquisition process.

Further, Audit could not work out how long the land was lying idle/vacant after its acquisition, as GNIDA did not provide (November 2022) details such as *Khasra*-wise date of possession of land, date of start/completion of development work on these land parcels, date of first allotment thereon and superimposed map showing the sectors developed on respective *Khasras*.

In its reply, GNIDA stated (November 2020) that the urgency clause is applied for speedy acquisition of land. The proposal for land acquisition is sent to the State Government for its consent through District Magistrate. The decision on urgency is upto the objective satisfaction of the State Government on which GNIDA has no right.

The reply does not address the fact that all acquisitions were made by invoking urgency clause under the LAA, 1894 which deprives the right of public hearing

and the farmers were forced to sell their land either by way of compulsory acquisition or through agreements. Besides, delay in administrative approval of the proposal by CEO compounded by further delay in its submission to the District Administration indicates unwarranted application of urgency clause.

**(d) Financial impact of delays in finalisation of acquisition proposals to be sent to ADM (LA)**

The award under Section 11 (2) of the LAA, 1894 is made by the Collector at the rates agreed to by GNIDA and the landowners at the time of taking possession, which is decided annually by the Board of GNIDA under *Karar Niyamavali*, 1997. In case of delay in proceedings for the acquisition, land rate payable to the landowners increases due to change in the rate applicable for that year.

Audit analysed impact of the delays in finalisation of acquisition proposals to be sent to ADM (LA) in respect of 26 out of 38 cases, where the declarations of award were placed in the case files, and the implications of the delay are brought out in the **Table 3.4**:

**Table 3.4: Financial Impact of the delays**

Sl. No.	Name of Village	Date of proposal from Planning	Date of first proposal to ADM (LA)	No. of days taken	Delay in days <sup>29</sup>	Area acquired u/s 11(2) (in hectare)	Additional expenditure (₹ in crore)
1.	Bisrakh Jalalpur	15.07.2004	01.08.2006	747	712	412.34	189.16
2.	Ghanghola	09.08.2005	30.04.2008	995	960	204.91	16.33
3.	Gharbara	05.02.2003	17.11.2003	285	250	56.99	0.75
4.	Pali	19.08.2004	03.10.2005	410	375	203.59	94.60
<b>Total</b>						<b>877.83</b>	<b>300.84</b>

*Source: Information furnished by GNIDA.*

**Delays in finalising and sending the proposals of land acquisition to ADM (LA) resulted in additional expenditure of ₹ 300.84 crore.**

It is evident from the above **Table 3.4** that delay on part of GNIDA in finalising the proposals of land acquisition to be sent to the ADM (LA) for acquisition of land measuring 877.83 hectare in four out of above 26 cases, each of which was acquired invoking the urgency clause, led to incurrence of additional expenditure to the tune of ₹ 300.84 crore (*Appendix-3.2*).

Thus, to sum up, GNIDA invariably used urgency clause for acquisition of land citing standard justification in all the cases (prior to January 2012) and dispensed with the hearing of landowners under Section 5(A) of LAA, 1894 which was not justified in view of natural justice and also the process and timelines involved for establishing the projects by the allottees/developers on the allotted plots. Invoking of the urgency clause was objected by the Hon'ble Allahabad High Court and the Hon'ble Supreme Court of India in various cases on the grounds that these justifications were identical, time of two to three years were to be given to the allottees to put up their factories & establishments and the acquisitions were not meant for public purpose. Instead these were primarily meant to cater to private interest in the name of industrial development of the district. Inordinate delays ranging between three and 960 days in processing and finalising the proposals of land acquisitions resulted in additional expenditure amounting to ₹ 300.84 crore.

<sup>29</sup> After allowing 35 days (30 days for conducting the survey, submission of survey report and seeking administrative approval on the proposal with further 5 days for office procedure).



The Government may consider examining the basis on which the GNIDA was permitted to invoke the urgency clause, which allowed dispensing with natural justice and due process on the one hand, while at the same time led to huge additional expenditure on account of delay in processing of land acquisition proposal.

In its reply, GNIDA stated (November 2020) that whenever land is required for land bank or allotment, proposal is sent to Government through Collector. It further stated that the entire cost of land acquisition is recovered from the allottees by including it while determining the allotment/sale price, therefore, there was no financial loss to GNIDA due to delay in forwarding the proposals for land acquisition.

The reply is not acceptable as the issue of incurring additional expenditure due to delay in administrative approval of the acquisition proposal by CEO and its forwarding to the District Administration is separate from the issue of recovery of the entire cost by GNIDA from its allottees. Further, although, GNIDA recovered entire cost of land acquisition from its allottees, it put an additional burden on the end users/allottees making the plots costlier.

**Frequent revisions of land acquisition proposals submitted to ADM (LA) on account of incorrect area in the proposal, inclusion and exclusion of certain area of *Abadi* and exclusion of areas acquired earlier led to additional expenditure of ₹ 145.04 crore.**

### ***Financial impact of frequent revisions in acquisition proposals***

**3.5.2** Though three cases of land acquisitions were processed under the urgency clause of the LAA 1894, the proposals for acquisition of land were frequently revised after the submission of proposal to ADM (LA). The reasons for revisions as analysed in audit were incorrect area in the proposal, inclusion and exclusion of certain area of *Abadi*, exclusion of areas acquired earlier and other reasons. This indicated lack of proper survey and planning of the proposed site and resulted in further delay in acquisition of land. In these three cases, revisions in acquisition proposals resulted in additional expenditure of ₹ 145.04 crore due to payment of compensation at increased rates, as given in

**Table 3.5:**

**Table 3.5: Delay in acquisition due to frequent revisions in the proposals**

Sl. No.	Name of village	Date of sending first proposal to ADM (LA)	No. of revisions in the proposal	Period of revision	Days taken in revision	Date of possession	Area acquired (in hectare)	Additional expenditure due to difference in land rates (₹ in crore)	Reasons for revision in the proposal
1.	Mayacha village	8 February 2005	5	1 April 2005 to 9 April 2007	738	11 April 2007	322.88	140.57	Incorrect area in one <i>Khasra</i> , inclusion and exclusion of certain areas of <i>Abadi</i> , exclusion of area of temple, exclusion of area due to donation of an area by landowner to an education society, etc.
2.	Saini village	11 February 2005	3	28 May 2005 to 7 August 2006	436	30 October 2016	299.66 <sup>30</sup>	3.90	Exclusion of certain areas of <i>Abadi</i> .
3.	Kirachpur <i>urf</i> Kailashpur	11 January 2010	1	19 May 2013	2078	7 September 2016	0.34	0.57	Out of three <sup>31</sup> <i>Khasra</i> included in the proposal, land of two <sup>32</sup> <i>Khasra</i> were already acquired.

<sup>30</sup> Complete area acquired has been considered under Section 11 (2): non-ancestral, since the declaration of award by ADM (LA) was not placed in the file which indicates the bifurcation of area between acquisition under Section 11 (1) and Section 11(2): ancestral and non-ancestral.

<sup>31</sup> *Khasra* No. 376, 455 and 458.

<sup>32</sup> *Khasra* No. 455 and 458.

Sl. No.	Name of village	Date of sending first proposal to ADM (LA)	No. of revisions in the proposal	Period of revision	Days taken in revision	Date of possession	Area acquired (in hectare)	Additional expenditure due to difference in land rates (₹ in crore)	Reasons for revision in the proposal
									Further, notification under Sections 4 and 17 (urgency clause) was allowed to lapse and proposal for re-notification under LAA, 1894 without invoking urgency clause was submitted to ADM (LA) on 11 June 2013.
<b>Total</b>							<b>622.88</b>	<b>145.04</b>	

*Source: Information furnished by GNIDA.*

Thus, it is evident from the above table that due to lack of adequate due diligence on the part of Land Acquisition Division of GNIDA, proposals in three cases were revised from one to five times after their submission to ADM (LA) which resulted in further delay in acquisition of land defeating the very objective of invoking urgency clause of LAA, 1894.

In its reply, GNIDA stated (November 2020) that acquisition is not a mechanical process and it is related to public interest. Hence, the acquisition proposals are required to be revised from time to time.

The reply is not acceptable as the reasons for revisions of the acquisition proposals recorded in the concerned files were essentially due to incorrect area in the proposal, inclusion and exclusion of certain area of *Abadi* and exclusion of area already acquired, *i.e.*, lapses which were avoidable. This reflects that due diligence was not exercised by GNIDA.

#### ***Avoidable payment of additional compensation in cases of direct purchase***

**3.5.3** The invoking of the urgency clause and dominant objective of the Industrial Development Authorities were challenged in the Hon'ble Allahabad High Court. In its judgment<sup>33</sup> dated 21 October 2011, Hon'ble Court held that the Authorities were giving priority to the allotment of Group Housing/Builder plots over those related to the industries. As a result, acquisition of land in villages, wherever it was in progress, was quashed. In case wherever land acquisition process had been completed, the Hon'ble Allahabad High Court directed for payment of additional compensation to the extent of 64.70 *per cent* in addition to the compensation paid to the landowners under 1997 Rules/Award. Moreover, all the petitioners shall be entitled for allotment of developed *Abadi* plot<sup>34</sup> to the extent of 10 *per cent* of their acquired land subject to maximum of 2,500 sqm.

GNIDA was also allowed to take a decision as to whether the benefit of additional compensation be also given to (a) those land holders whose earlier writ petition challenging the notifications have been dismissed upholding the notifications; and (b) those land holders who have not come to the Court, relating to the notifications which are subject matter of challenge in writ petitions mentioned.

<sup>33</sup> Writ Petition C No. 37443 of 2011 *Gajraj and Others vs. State of Uttar Pradesh and Others*.

<sup>34</sup> *Abadi* plots are developed plots given to landowners in addition to monetary compensation.

**GNIDA made irregular payment of additional compensation of ₹ 112.95 crore to the landowners in 428 cases of direct purchase through sale deeds.**

In another case<sup>35</sup> of *Brahm Singh and Others vs. State of Uttar Pradesh and Others* relating to the direct purchase of land by GNIDA, the Hon'ble Allahabad High Court, held<sup>36</sup>, '*The petitioners having executed the sale deed of the lands in dispute they are not entitled for the benefit of the decision of Full Bench passed in the Writ Petition Number 37443 of 2011 (Gajraj and others vs. State of Uttar Pradesh and others) decided on 21 October 2011. The petitioners having voluntarily executed the sale deed, they cannot claim that the compensation is inadequate nor any such claim can be considered at this stage.*'

Audit noticed that GNIDA besides making payment of additional compensation of 64.70 *per cent* to the landowners covered by the case of *Gajraj and Others vs. State of Uttar Pradesh and Others* and the notifications not challenged in this case, made payment of additional compensation of ₹ 112.95 crore (**Appendix-3.3**) to the landowners of 52 villages against land of 228.21 hectare acquired under 428 cases of direct purchase through sale deeds during the period December 2005 to March 2013. Thus, GNIDA made irregular payment of additional compensation and allowed benefits of *Abadi* plots to those landowners from whom land was acquired through direct purchase.

Government and GNIDA accepted the facts in the Exit Conference (January 2021). GNIDA further stated that decision to pay additional compensation in above cases was specifically taken by the Board to assure availability of land for projects at that time. It was stated that at present, no payment towards additional compensation is being made.

The fact remains that GNIDA paid additional compensation to ineligible landowners from whom land was purchased directly through agreements and were not covered under any of the court orders.

#### ***Irregular payment of No Litigation Bonus/Incentive Bonus***

**GNIDA made payment of ₹ 9.61 crore as 'No Litigation Bonus/Incentive Bonus' to 92 farmers/landowners for acquisition through direct purchase which was beyond the scope of the LAA, 1894 and LAA, 2013.**

**3.5.4** Section 23 of the LAA, 1894 provides that compensation in lieu of acquisition of land will include the market value of the land at the date of the publication of the notification under Section 4, sub-Section (1), secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees, severing such land from his other land, *etc.* In addition to the market value of the land, provided as above, the Court shall in every case award an amount calculated at the rate of 12 *per cent* per annum on such market-value for the period commencing on and from the date of the publication of the notification under Section 4, sub-Section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier. Further, according to the LAA, 2013, the total amount payable should be the aggregate of Market Rate (Section 26), Solatium at the rate 100 *per cent* of the compensation (Section 30(1)) and 12 *per cent* of market value of land (Section 30 (3)). Market value of land and Solatium shall be multiplied by the factor of 1 (One) to 2 (Two) based on the distance of project from urban area. There is no provision for 'No Litigation Bonus' under both LAA, 1894 and LAA, 2013.

In the 94<sup>th</sup> Board meeting (11 January 2013), an agenda was put-up before the Board of the GNIDA with regard to purchase of land from landowners through direct purchase method. A Committee was formed under chairmanship of the

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<sup>35</sup> Writ Petition No. 6176 of 2012.

<sup>36</sup> 3 February 2012.



CEO, Noida to examine the proposal of compensation under direct purchase of land. The Committee had recommended that in the year 2013-14, a separate 20 *per cent* payment in the name of 'No litigation bonus/Incentive Bonus' was to be made to landowners so that more and more landowners can get encouraged and sell the land directly to the GNIDA.

The recommendation of the Committee was approved in the 95<sup>th</sup> Board Meeting of GNIDA dated 27 May 2013. On the basis of recommendation of the Committee and its approval by the Board of GNIDA, payment of ₹ 9.61 crore was disbursed by the Land Division as 'No Litigation Bonus/Incentive Bonus' to 92 farmers/landowners in 17 villages for acquisition through process of direct purchase. Thus, the payment of ₹ 9.61 crore in these cases was beyond the scope of the LAA, 1894 and LAA, 2013.

During the Exit Conference (January 2021), GNIDA stated that the payment of 'No Litigation Bonus' was allowed by the Government vide its order dated 29 August 2011.

Reply of GNIDA is not acceptable as the GoUP order dated 29 August 2011 was regarding formation of a committee to consider demands of increased compensation and not for payment of 'No Litigation Bonus'.

The State Government while accepting the facts stated that the issue will be examined in view of the order of GoUP after receipt of the Audit Report.

#### **Undue enrichment of landowners by purchasing land at higher rate after notification of LAA, 2013**

**3.6** The rates for mutual agreement payable under *Karar Niyamawali*, 1997 for acquisition under Section 11 (2) of the LAA, 1894 are decided annually by the Board of GNIDA. These rates were also made applicable (7 April 2000<sup>37</sup>) for the cases of acquisition through direct purchase. The above rate comprises average market value, solatium and interest at the rate of 12 *per cent* per annum<sup>38</sup>. The rates for ancestral landowners were increased by 15 *per cent* towards rehabilitation bonus. The above rates are revised every year on the basis of cost inflation index. In accordance with above, Board of GNIDA, decided (2 June 2014<sup>39</sup>) the rates of ₹ 1,395 and ₹ 1,212 per sqm for ancestral and non-ancestral lands respectively for the year 2014-15.

Meanwhile, the Government of India enacted the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LAA, 2013), with effect from 1 January 2014 which replaced the Land Acquisition Act, 1894. According to LAA, 2013, the total amount payable should be the aggregate of market value of land, *i.e.*, Average Market Rate (Section 26), Solatium at the rate of 100 *per cent* of compensation (Section 30 (1)) and interest at 12 *per cent* of market value of land (Section 30 (3)). Further, the market value of land and Solatium shall be multiplied by the factor 1 (One) to 2 (Two) based on the distance of project from urban area.

Further, section 24 of LAA, 2013 provided that in case the land proceeding was initiated under the LAA, 1894 but award was not made under Section 11 of LAA, 1894, the compensation was to be determined in accordance with provisions of

<sup>37</sup> 35<sup>th</sup> Board meeting.

<sup>38</sup> From the date of notification under Section 4 to the date of award or date of taking possession, whichever is earlier.

<sup>39</sup> 98<sup>th</sup> Board meeting.

LAA, 2013. In this regard, GoUP clarified (14 March 2014) that in case of land acquisition where notification under Section 4 of LAA, 1894 had been issued, the proceedings of acquisition were to be completed under the LAA, 1894.

Therefore, after the promulgation of LAA, 2013, the Board of GNIDA, in its 99<sup>th</sup> meeting held on 12 August 2014, approved the compensation rate of ₹ 2,500 per sqm for direct purchase through mutual agreement. Later on, the Board, in its 100<sup>th</sup> meeting held on 4 February 2015, based on the average market rate of ₹ 982.10 per sqm, arrived at after adjusting the components of solatium and interest included in the existing rate of ₹ 1,395 per sqm for the year 2014-15, approved the compensation rate of ₹ 2,082 per sqm (both for non-ancestral and ancestral), in accordance with the formula given in the LAA, 2013, in respect of the land acquisition under Section 11 (2) of LAA, 1894, as detailed in **Table 3.6**:

**Table 3.6: Calculation of compensation rate**

Sl. No.	Particulars	Rate in ₹ per sqm
1	Average Market Rate	982.00
2	Solatium at the rate 100 <i>per cent</i>	982.00
3	Interest at 12 <i>per cent</i> of Average Market Rate	117.84
<b>Total</b>		<b>2081.84</b>

*Source: Information furnished by GNIDA.*

Audit noticed that although the rates for mutual agreement payable under *Karar Niyamawali*, 1997 for acquisition under Section 11 (2) of the LAA, 1894, as also applicable on the direct purchase, decided annually by GNIDA included the applicable solatium (30 *per cent*) and interest (at the rate of 12 *per cent* per annum), GNIDA, while determining the rate of ₹ 2,500 per sqm for the year 2014-15 in August 2014, failed to consider adjustment of these components in the existing rate (₹ 1,212 per sqm for non-ancestral and ₹ 1,395 per sqm for ancestral) for the year 2014-15. The average market rate after adjusting these components was ₹ 853 per sqm (non-ancestral) and ₹ 982.10 (ancestral) per sqm. Instead, Board of GNIDA decided to fix a single rate of ₹ 2,500 per sqm by considering 100 *per cent* solatium (as per Section 30 of LAA, 2013) on the existing rate which already included solatium.

Audit further noticed that the Land and Finance Divisions of GNIDA, despite approval of the compensation rate of ₹ 2,082 per sqm, continued to purchase the land at ₹ 2,500 per sqm. Consequently, GNIDA committed two-fold error resulting in additional expenditure of ₹ 269.85 crore as discussed below:

- GNIDA fixed the rate of ₹ 2,500 per sqm without working out the basic average market rate after adjusting the amount of solatium and interest already included in the existing rate as mentioned above. This resulted in extra expenditure of ₹ 102.67 crore (**Appendix-3.4**) due to direct purchase of 24,56,244 sqm of land at higher rate from 701 farmers during 1 January 2014 to 4 February 2015.
- Even after approval of the rate of ₹ 2,082 per sqm, GNIDA continued to purchase 39,99,527 sqm of land directly from 1,350 farmers during 5 February 2015 to 18 January 2018 at the rate of ₹ 2,500 per sqm. This further resulted in additional expenditure of ₹ 167.18 crore (**Appendix-3.5**).

Thus, GNIDA had made additional expenditure to the tune of ₹ 269.85 crore in 2,051 cases of land acquisition due to incorrect fixing of land rate due to

**GNIDA failed to consider adjustment for the components of solatium and interest already included while determining the land rates payable to landowners for the year 2014-15 and incurred extra expenditure of ₹ 102.67 crore on direct purchase of land during January 2014 to February 2015.**

lack of due diligence on the part of the Planning and Land Divisions of GNIDA and failure in application of the rates decided subsequently.

In its reply, GNIDA stated (November 2020) that it did not acquire any land under the LAA, 2013. It also stated that acquisition under the aforesaid Act is a labour and time consuming process and it also requires the consent of 70 per cent farmers. Further, GNIDA added that the Board determined the rate for direct purchase of land from farmers having no relation with the rate determined for acquisition under the Act.

The reply is not acceptable as the rate of compensation determined for mutual agreement payable under *Karar Niyamawali*, 1997 for acquisition under Section 11 (2) of the LAA, 1894 was also applicable on the case of direct purchase as decided (7 April 2000) by the Board in its 35<sup>th</sup> meeting.

### Failure in exercise of due diligence

3.7 The General Financial Rules provide that every officer is expected to exercise the same vigilance in respect to expenditure incurred from public money as a person of ordinary prudence would exercise in respect of his own money. However, Audit observed the following:

#### *Higher rate of compensation fixed due to arbitrary rounding off*

3.7.1 The Board of GNIDA in its 83<sup>rd</sup> meeting held on 28 April 2010 decided the annual rate for the year 2010-11 payable to landowners under Section 11 (2) of LAA, 1894 on mutual agreement (*Karar Niyamawali*, 1997) as well as direct purchase at the rate of ₹ 930 per sqm for ancestral and ₹ 810 per sqm for non-ancestral against the computed rates of ₹ 922.85 per sqm and ₹ 802.49 per sqm for ancestral and non-ancestral respectively.

The rates for the subsequent years were fixed by increasing the rates of the previous year on the basis of cost inflation index and rounding off to the next higher five rupees. Accordingly, land acquisition rates for year 2011-12, 2012-13 and 2013-14 were calculated for ancestral and rounded to ₹ 1,050 per sqm (₹ 915 per sqm for non-ancestral), ₹ 1,160 per sqm (₹ 1,010 per sqm for non-ancestral) and ₹ 1,260 per sqm (₹ 1,100 per sqm for non-ancestral) respectively.

The rounding off of the land rate to the higher side without ascertaining its financial implication resulted in loss to GNIDA by ₹ 5.30 crore.

Audit noticed that due to rounding off the amount of land rate of 2010-11, 2011-12, 2012-13 and 2013-14 by GNIDA, the compensation increased by ₹ 7.14 per sqm (Non-ancestral: ₹ 7.51 per sqm), ₹ 11.78 per sqm (Non-ancestral: ₹ 12.20 per sqm), ₹ 13.73 per sqm (Non-ancestral: ₹ 13.24 per sqm) and ₹ 15.90 per sqm (Non-ancestral: ₹ 18.17 per sqm) respectively. This resulted in excess<sup>40</sup> payment of ₹ 1.92 crore (*Appendix-3.6*) in 336 land acquisitions through direct purchase for the period 2010-11 to 2013-14 and ₹ 3.38 crore in 14 cases (*Appendix-3.6*) of land acquisition through ADM (LA) during 2010-11. The justification for such rounding off was not found on records.

Thus, the rounding off of the land rate to the higher side without ascertaining its financial implication resulted in loss to GNIDA by ₹ 5.30 crore in 350 cases of acquisition under LAA, 1894 and direct purchase of land during the period from 2010-11 to 2013-14.

<sup>40</sup> Calculated on the basis of the lower of the differences between ancestral and non-ancestral rates.

The Government may like to have the matter investigated as to how a laid down procedure was revised by the Board, to the disadvantage of GNIDA which led to the additional payment ₹ 5.30 crore of during the period 2010-11 to 2013-14.

In its reply, GNIDA stated (November 2020) that the rates of compensation were determined every year by the Board on the basis of cost inflation index in accordance with the provisions of Section 11 (2) of the Land Acquisition Act, 1894 read with *Karar Niyamawali*.

The reply does not address the issue regarding fixation of higher acquisition rate due to rounding off.

***Avoidable payment of acquisition charges due to lapse of acquisition process***

**GNIDA incurred avoidable expenditure of ₹ 35.81 crore in four cases of land acquisition due to defective planning and incorrect use of urgency clause.**

**3.7.2** The GoUP prescribed (December 1995) for payment of acquisition charges at the rate of 10 *per cent* by the acquiring body/department to the District Magistrate (Land Acquisition). GoUP further provided (December 2005) that in case the acquisition proposal is dropped in mid acquisition process, deduction from acquisition charges will be made by 25 *per cent* if the proposal has been checked and preliminary inspection is completed, 35 *per cent* if the preliminary notification under Section 4 has been issued, 50 *per cent* if acquisition notification under Section 6 has been issued, and 100 *per cent* if notification under Section 9 has been issued and the Award has been declared.

Section 6 of LAA, 1894 provides that the declaration under this Section is required to be made within one year of notification under Section 4. Further, if no Award is made within two years of the notification under Section 6, the entire proceedings for the acquisition of the land shall lapse.

Audit noticed that the Land Division of GNIDA either withdrew the acquisition proposals or allowed the proposals to lapse in various stages of acquisition due to inaccurate surveys, change in planning, poor financial status and Courts' order resulting in avoidable expenditure of ₹ 35.81 crore towards acquisition charges paid to DM (LA) in four acquisition cases, as given in **Table 3.7:**

**Table 3.7: Details of deduction of acquisition charges**

Sl. No.	Purpose of acquisition	No. of villages	Stage at time of cancellation/ withdrawal	Percentage of deduction	Amount deducted/ to be deducted (₹ in crore)	Reason for lapse/withdrawal
1	Construction of 105 m road	11	After notification u/s 4/17	35	8.92	Withdrawal of proposal in view of disallowance of acquisition process under urgency clause in various cases by Hon'ble Supreme Court and High Court.
2	Construction of 105 m road	11	After notification u/s 6/16	50	15.52	Withdrawal of proposal and request for refund due to poor financial position.
3	Planned industrial development	3	Before notification u/s 4/17	25	10.82	Withdrawal of proposal in order to make separate proposal for 60 m road.
4	Construction of 60 m road	3	After notification u/s 4/17	35	0.55	Withdrawal of proposal in view of disallowance of acquisition process under urgency clause in various cases by Hon'ble Supreme Court and High Court.
<b>Total</b>					<b>35.81</b>	

**Source: Information furnished by GNIDA.**

Thus, it is evident from the above table that GNIDA had made avoidable expenditure to the tune of ₹ 35.81 crore in four cases of land acquisition due to defective planning. These cases indicate failure to exercise due diligence on the part of the Planning and Land Divisions of GNIDA.

In its reply, GNIDA stated (November 2020) that due to payment of additional compensation, GNIDA had to bear financial burden of loan of ₹ 5,450.59 crore in the year 2012-13. It stated that the proceedings of land acquisition could not be continued further due to the arising of liability in respect of the order (October 2011) of Hon'ble High Court in case of Gajraj and Others vs. State of Uttar Pradesh and Others, widespread public outrage, law and order and weakened financial position of GNIDA.

The reply is not acceptable as GNIDA failed to plan acquisition of land according to the availability of fund and use of urgency clause judiciously due to which it had to withdraw land acquisition in two cases<sup>41</sup> as the urgency clause was disallowed in various cases by Hon'ble Supreme Court and High Court. Further, in one case<sup>42</sup> it had to withdraw the proposal due to defective planning rendering change in the proposal and in the fourth case<sup>43</sup>, the proposal for land acquisition of the villages involved was forwarded by GNIDA to ADM (LA) during September 2012 to June 2013 when the financial position of GNIDA was already weak and subsequently, it had to withdraw the proposal.

#### ***Blockade of fund due to not reconciling with ADM (LA)***

**3.7.3** The GoUP, in respect of the payment of compensation for acquisition of land, prescribed (May 1990) that the agency, for which the land is being acquired, is required to deposit with the ADM (LA), 10 *per cent* of estimated compensation prior to issue of notification under Section 4 of LAA 1894, further 70 *per cent* prior to issue of notification of acquisition under Section 6 and remaining 20 *per cent* prior to the declaration of the Award. The acquisition charges, at the rate of 10 *per cent* of the compensation, are also to be deposited with the district authorities at the time of submission of above instalments. The amount deposited with the ADM (LA) and the amount adjusted there against towards actual disbursement should be reconciled periodically and the efforts should be made for obtaining refund of excess deposit.

Audit noticed that the Land Division of GNIDA did not carry out reconciliation of the amount deposited with the ADM (LA) for various land acquisitions and its adjustment at periodical intervals due to not receiving Form 11CC<sup>44</sup> and challans of land acquisition expenses from the ADM (LA) since 2013. GNIDA, on the advice of Audit, obtained (February 2018) details from ADM (LA) of the balance amount lying with ADM (LA) at the end of January 2018 against the amount deposited by it for acquisition of land. It was noticed from the above details that deposits of compensation amounting to ₹ 701.71 crore was lying unadjusted as at the end of January 2018 in respect of 121 cases of land acquisition proposals for 10,406.21 hectare whose

**Due to failure in reconciling the fund sent to ADM (LA), an amount of ₹ 701.71 crore of GNIDA was blocked (March 2018) with ADM (LA) in respect of 121 cases during July 1997 to January 2011.**

<sup>41</sup> Sl. No. 1 and 4 of Table 3.8.

<sup>42</sup> Sl. No. 3 of Table 3.8.

<sup>43</sup> Sl. No. 2 of Table 3.8.

<sup>44</sup> Form 11CC is issued by ADM (LA) to GNIDA. This form contains village-wise details of payments made, name of farmer/landowner, farmers name, *khassra* number, area and amount paid.



possession were taken during July 1997 to January 2011. Due to not reconciling of the fund sent to ADM (LA) and resultant no refund of the excess amount from the ADM (LA), an amount of ₹ 701.71 crore was blocked since the respective dates of possession of land (date of notification under Section 6/17 or Section 4/17 in lapsed cases of acquisition) to March 2018. Consequently, GNIDA suffered loss of interest<sup>45</sup> of ₹ 25.31 crore calculated at the rate of eight *per cent* per annum from the date of award<sup>46</sup> (**Appendix-3.7**).

Interestingly, as per Balance Sheet of GNIDA for the year 2017-18, there were outstanding loans amounting to ₹ 5,997.54 crore (as on 31 March 2018) which were taken during the period 2014-15 to 2017-18.

Failure in reconciliation of the fund sent to ADM (LA) reflects dereliction of duty cast upon the concerned officers/staff of Land and Finance Divisions of GNIDA. GNIDA, however, carried out reconciliation (October 2018) for the first time for the period upto March 2018 by appointing a Chartered Accountant according to which the balance amount lying with ADM (LA) at the end of March 2018 was ₹ 708.70 crore (Regular land payments: ₹ 701.38 crore and additional compensation: ₹ 7.32 crore).

During the Exit Conference (January 2021), Audit emphasised the need to institutionalise the process in order to ensure periodical reconciliation. GNIDA accepted that the reconciliation was not done in the past and now it was being done. The State Government accepted the Audit observation and directed GNIDA to ensure periodical verification, preferably every six months.

#### ***Avoidable loss of interest on excess payment of compensation***

**3.7.4** GNIDA pays the compensation only after completing all the requisite formalities. Further, GNIDA is expected to take appropriate action before entering into the agreements on a timely basis before the end of the financial year.

Audit noticed that the Land and Finance Divisions of GNIDA made excess payment of advance compensation of ₹ 81.84 crore, without completion of formalities and without proper scrutiny of the amount to be deposited with ADM (LA). This resulted in avoidable loss of interest amounting to ₹ 7.26 crore in six cases of land acquisition during August 2006 to January 2011 as detailed in **Table 3.8** below:

**Table 3.8: Details of excess payments**

Sl. No.	Name of village	Payable amount (₹ in crore)	Amount paid (₹ in crore)	Excess amount paid (₹ in crore)	Loss of interest (₹ in crore)	Remarks
1.	Mayacha	30.48	30.73	0.25	0.01	Decision was taken to reduce the land area to be acquired; therefore, demand was reduced on <i>pro-rata</i> basis. However, the 10 <i>per cent</i> acquisition charges paid to ADM (LA) was not reduced, which resulted in excess payment to ADM (LA).

<sup>45</sup> Surplus of funds available for a village was used by ADM (LA) for payment towards compensation of another village where required funds were not available. Therefore, audit has worked out net interest after adjusting interest on these funds.

<sup>46</sup> Date of award has been considered for calculation of interest since it was six months to 13 years after the date of possession. In cases where date of award could not be ascertained, interest has not been worked out.

Sl. No.	Name of village	Payable amount (₹ in crore)	Amount paid (₹ in crore)	Excess amount paid (₹ in crore)	Loss of interest (₹ in crore)	Remarks
2.	Ghanghola	91.11	160.80	69.69	5.97	Estimated compensation calculated at the rate of ₹ 85 lakh per hectare instead of ₹ 55 lakh per hectare (DM circle rate of village <i>Ghanghola</i> in the year 2010-11)
3.	Junpat	0.33	3.81	3.48	0.36	Payment was made to ADM (LA) without adjusting advance of ₹ 3.48 crore.
4.	Dabra	2.21	3.31	1.10	0.14	Advance payment was made based on demand at the compensation rate of ₹ 9.00 lakh per hectare instead of prevailing Circle rate of ₹ 6.00 lakh per hectare.
5.	Suthiyana	0.14	0.51	0.37	0.07	Since the relevant <i>Khasra</i> was covered under the Urban Land (Ceiling and Regulation) Act, 1976, it was to be compulsorily acquired at the DM Circle rate. GNIDA, failed to notice incorrect demand raised by ADM (LA) and deposited the amount at the rate applicable for mutual agreement under <i>Karar Niyamawali</i> , 1997 which was higher than the prevailing DM Circle rate.
6.	Khairpur-Gurjar	0	6.95	6.95	0.71	Acquisition proposals were revised number of times due to which advance of ₹ 6.95 crore paid to ADM (LA) was lying unutilised since May 2005 to August 2006.
<b>Total</b>		<b>124.27</b>	<b>206.11</b>	<b>81.84</b>	<b>7.26</b>	

*Source: Information furnished by the GNIDA.*

It is evident from the table above that GNIDA paid excess advance compensation to ADM (LA) of ₹ 81.84 crore and suffered loss of interest of ₹ 7.26 crore on the above amount (at the rate of eight *per cent* per annum upto March 2018) due to lack of due diligence on the part of the Land and Finance Divisions.

In its reply, GNIDA stated (January 2021) that excess compensation was paid due to incorrect acquisition proposals requiring amendments. GNIDA further stated that the amendments in the proposals were done within the powers delegated to the Authority and no loss was caused thereon.

The reply confirms that excess compensation was paid by GNIDA due to inaccurate proposals and frequent revisions. The responsibility of preparation of accurate acquisition proposals lies with GNIDA. The contention of GNIDA that no loss was caused is not acceptable as there is interest loss on blocked amount.

### **Ineffective follow-up of acquisitions**

**3.8** After the acquisition of land is completed, the possession of acquired land is taken by GNIDA for undertaking further development. Thus, effective follow up of acquisition is an important aspect of the development process. Audit noticed that in following cases, the Land Division of GNIDA failed in following up the acquired land.

GNIDA did not devise any system of periodical inspection of various sites in its possession in the notified area due to which there were encroachments of 549.91 hectare of land valued at ₹ 1,924.68 crore.

### Land under encroachments and Court Cases

**3.8.1** Protection of land from unauthorised encroachment is one of the most important functions of GNIDA. The encroachments lead to avoidable litigation, and need to be checked. The land protection activities are carried out by Land Management Division as well as the user departments. It is the responsibility of GNIDA to maintain adequate vigil or if necessary round the clock watch and ward for protection of land so as to ensure that no unauthorised structure comes on that land and to remove the same at the earliest, if any.

Further, Clause 2.3.7 of the System and Work Procedure of GNIDA provides that it shall be the sole responsibility of the concerned Project Manager to ensure that no encroachments take place on the land taken into possession. Independent inspection by the Land Acquisition staff/GNIDA Police shall be carried out fortnightly to report if any encroachment has taken place.

Audit noticed that GNIDA had not devised any system of periodical inspection of various sites in its possession in the notified area. Resultantly, there was occurrence of encroachments of 549.91 hectare of land valuing at ₹ 1,924.68 crore in the notified area of GNIDA. Further, 1,649 court cases also prevented GNIDA from carrying out any development activities in the affected sites. The details of encroachment and the court cases are summarised in **Table 3.9** below:

**Table 3.9: Details of encroachment and court cases**

Sl. No.	Particulars	No. of cases	Area (in hectare)	Rate per sqm (in ₹)	Total land cost at land rate of 2018-19 (₹ in crore)
1.	Encroachment	1075	549.9078	3500	1924.68
2.	Court cases	1649	1352.8574	3500	4735.00
<b>Total</b>		<b>2724</b>	<b>1902.7652</b>		<b>6659.68</b>

*Source: Information furnished by the GNIDA.*

It is evident that GNIDA was unable to develop above land measuring 1,902.76 hectare on account of encroachments and court cases resulting in blockade of encroached land valuing ₹ 6,659.68 crore.

In its reply, GNIDA stated (January 2021) that action is taken by the Project Division of GNIDA from time to time to remove encroachment in co-ordination with other Departments of State Government. It stated that the cases of land under litigation in various courts are pursued for removal of encroachment.

The reply of GNIDA confirms the fact regarding encroachment of land and absence of any system for keeping land acquired by it encumbrance free or for periodical inspection of various sites in its possession in the notified area.

### **Mutation of land purchased through direct purchase not done**

**3.8.2** Mutation is the change of title ownership from existing owner to new owner, when the property is sold or transferred. By mutating a property, the new owner gets the property recorded in his name in the land revenue department.

During the period 2005-06 to 2017-18, GNIDA acquired land measuring 922.4244 hectare through direct purchases from farmers and made 2,598 agreements (*Bainama*) with landowners.



Audit noticed that out of total 2,598 cases, GNIDA could ensure mutation in 2,231 cases only. In remaining 367 cases consisting area of 104.9037 hectare acquired during the period 2005-06 to 2017-18, the ownership continues to vest with the farmers as per land revenue records due to inaction of GNIDA as it did not get the title of acquired land transferred in its favour. It is the responsibility of the Land Division to transfer the title of the acquired land in favour of GNIDA. Not transferring the title of acquired land in GNIDA's favour was fraught with the risk of transfer of these lands purchased by GNIDA to other persons. Hence, GNIDA should initiate action to ensure necessary mutation of all land acquired by it.

In its reply, GNIDA accepted (November 2020) the audit observation and further stated (August 2022) that mutation proceedings have now been completed in 348 out of 367 cases pointed out by Audit. In the remaining 19 cases, the process of mutation is in process, which will be completed soon.

***Failure to account for and dispose assets acquired from acquisition of land***

**3.8.3** GNIDA pays the value of assets, viz., valuable trees, tube wells, structures, etc., existing on the land being acquired. Audit noticed that in 14 out of 26 cases<sup>47</sup> of land acquisition, GNIDA paid ₹ 2.53 crore towards these assets but did not realise its full/scrap value by its disposal. In remaining 12 cases, no payment was made towards the acquisition of assets. The details of cases where payments were made towards acquisition of assets are summarised in **Table 3.10**.

**Table 3.10: Details of assets acquired**

Sl. No.	Name of villages	Date of award under Section 11	Details of assets	Compensation paid for assets (₹ in lakh)
1.	Murshadpur	30 December 2010	Trees, Tube wells, etc.	1.95
2.	Ghanghola	4 May 2012	Trees, Tube wells, etc.	42.92
3.	Pali	10 August 2011	Trees, Tube wells, etc.	10.47
4.	Luksar	27 August 2011	Trees, Tube wells, etc.	35.92
5.	Khanpur	10 August 2011	Trees, Tube wells, etc.	3.98
6.	Fatepur-Rampur	14 September 2011	Trees, Tube wells, etc.	2.84
7.	Mathurapur	25 September 2009	Trees, Tube wells, etc.	11.62
8.	Gharbara	6 September 2011	Trees, Tube wells, etc.	7.72
9.	GhodiBachheda	25 July 2011	Trees, Tube wells, etc.	66.94
10.	Dhada	23 July 2011	Trees, Tube wells, etc.	51.74
11.	Dhada	15 May 2009	Trees, Tube wells, etc.	3.19
12.	Haibatpur	27 July 2011	Trees, Tube wells, etc.	0.07
13.	Dabra	23 July 2011	Trees, Tube wells, etc.	7.30
14.	Sakipur	6 August 2011	Trees, Tube wells, etc.	6.38
<b>Total</b>				<b>253.04</b>

**Source: Information furnished by the GNIDA.**

Further scrutiny revealed that Land and Finance Divisions of GNIDA had not devised any system for accountal of assets at the time of taking possession of the land and its disposal by sale to reduce the cost of land. In absence of accountal of these assets, their disposal could not be ensured in Audit. Chances of mis-appropriation of such assets cannot be ruled out.

<sup>47</sup> Out of 38 cases examined in audit, award letters were placed in the files of 26 cases, containing the details of assets acquired and payment made there against by ADM (LA) on behalf of GNIDA.

In its reply, GNIDA stated (January 2021) that the Project Division of GNIDA disposes off the assets while carrying out the development works on the land.

The reply is factually incorrect as GNIDA did not have any system of accounting and disposal of the assets acquired during acquisition of land. Further, GNIDA could not provide documentary evidence to establish that these assets were disposed off.

### ***Resumption of land***

**3.8.4** The land of *Gram Sabha* is Government's land left at the disposal of the *Sabha* for various purposes. The State Government may at any time, by general or special order, amend or cancel any declaration, and resume such land.

As per the information furnished by the Land Division of GNIDA, 49 proposals were sent to the ADM (LA) during the period from 2005-06 to 2017-18 for resumption of 192.1949 hectare land, out of which only 17.4190 hectare land was resumed against only four proposals for which amount of ₹ 10.82 crore was paid. In case of eight proposals for resumption of 6.4602 hectare, payments of ₹ 9.05 crore (**Appendix-3.8**) were made (December 2012 to July 2016) to the ADM (LA) but resumption could not materialise and resumption order/possession is yet to be passed by the District Administration (March 2021) for the reasons not recorded by GNIDA. In remaining 37 proposals, no action has been taken so far (March 2021) for the reasons not on record. The status of resumption cases is summarised in the **Table 3.11**.

**Table 3.11: Status of resumption cases**

Sl. No.	Particulars	No. of proposals	Area in hectare	Amount Paid (₹ in crore)
1.	No. of proposals in which no action has been taken	37	168.3157	00
2.	No. of proposals in which payments were made but not acquired	8	6.4602	9.05
3.	No. of proposal against which land acquired	4	17.4190	10.82
<b>Total</b>		<b>49</b>	<b>192.1949</b>	<b>19.87</b>

**Source: Information furnished by GNIDA.**

Thus, either the Government land has been encroached or no action was initiated and the revenue of ₹ 9.05 crore of the GNIDA was blocked as resumption of *Gram Sabha* land could not materialise.

In its reply, GNIDA stated (November 2020) that after pursuance, it has achieved success in the release of notification from the Commissioner/ Government. It also stated that in respect of these proposals, GNIDA is required to deposit more than ₹ 500 crore towards the value of land and registration, in absence of which further proceedings of resumption of land are pending.

The reply confirms that the proceedings for resumption of land were pending on account of failure to deposit the required amount by GNIDA with the District Administration.

### **3.9 Conclusion**

**The land acquisition process undertaken by GNIDA primarily up to 2010-11 suffered from gross irregularities on many counts. All the**

acquisitions made under the LAA, 1894 were by invoking the urgency clause of the Act, although there were no grounds of urgency, which led to delays, litigation and payment of enhanced cost at later stage. Inordinate time was taken for processing and developing land acquisition cases indicating that there was no justification in invoking the urgency clause.

GNIDA acquired land beyond what was covered in the Master Plan 2021 under urgency clause but did not develop it as green buffer (March 2021). GNIDA, while making payments of additional compensation, failed to exercise adequate due diligence resulting in substantial avoidable payments.

GNIDA also failed to exercise the required prudence and as a result made excess payments on account of delays of various kinds. Post-acquisition, there was failure to effect mutation of land and check encroachments. Method of resumption of *Gram sabha* land was ineffective.

### 3.10 Recommendations

Recommendation Number	Recommendation
6.	GNIDA needs to ensure abidance with the statutory provisions, as provided for under the Act and exercise due diligence in invoking the urgency clause in carrying out land acquisitions. The State Government has accepted the recommendation.
7.	Post-acquisition, follow up mechanism should be strengthened by GNIDA so that the acquired land is put to productive use at the earliest, mutated without delay and kept unencumbered. The State Government has accepted the recommendation.
8.	GNIDA should consider fixing responsibilities in cases of delay in acquisition process despite invoking of urgency clause, overpayments/ avoidable payments of compensation and blockage of funds.