

Chapter-3

Land acquisition

The details of land acquired for industrial areas and compensation paid during 2006-11 was as shown in **Table-3.1** below:

Table-3.1 : Details of land acquired and compensation paid

Year	Extent of land acquired (in acres and guntas)	Land compensation paid (₹ in crore)
2006-07	4431-01	1171.70
2007-08	5803-31	478.34
2008-09	3752-01	1997.33
2009-10	1548-39	862.27
2010-11	11088-28	2178.02
Total	26624-20	6687.66

(Source: Information furnished by the Board)

3.1 The Board failed to correct regional imbalances in establishment of industrial areas

The Karnataka Industrial Policy 2006-11 and 2009-14 aim at reducing the regional imbalances and ensuring over-all socio-economic development of the State. Streamlining land acquisition process through inclusive development, improved management of industrial areas/estates, creation of quality infrastructure *etc.*, are some of the strategies envisaged in the industrial policies to create enabling environment for robust industrial growth. The taluks of the State have been classified into four zones depending on their backwardness, for the purpose of administering incentives and concessions, and priority is accorded to dispersal of industrial investments in the backward regions of the State so that the fruits of economic development and employment opportunities are shared by all segments of the society in all parts of the State in an equitable manner to the maximum extent possible.

Scrutiny of the industrial areas developed by the Board, particularly during 2006-11, showed that regional imbalances in establishing industrial areas continued to persist and Northern Karnataka accounted for only nine *per cent* of the industrial area acquired by the Board during 2006-11 as shown in **Table- 3.2** below:

Table-3.2 : Land acquired in Northern and Southern Karnataka

Particulars	Extent of land acquired (in acres and guntas)	Proportion to total extent
Since inception		
Northern Karnataka	11324-00	28
Southern Karnataka	29802-00	72
Total	41126-00	100

Particulars	Extent of land acquired (in acres and guntas)	Proportion to total extent
2006-07 to 2010-11		
Northern Karnataka	2378-11	9
Southern Karnataka	24246-09	91
Total	26624-20	100

(Source: Information furnished by the Special DC of the Board)

Of these 26624 acres and 20 guntas of land acquired during 2006-11, 7620 acres and 8 guntas (29 per cent) had been acquired in several industrially developed taluks of Bangalore Urban, Bangalore Rural and Ramanagara districts. The Board did not acquire any land during 2006-11 for establishing industrial areas in 11 districts having 32 backward taluks, 10 more backward taluks and 16 most backward taluks. Though all the four taluks of Chamarajanagar district had been classified either as backward or more backward or most backward, no industrial area had been formed in this district as of March 2011. Six districts⁴ having 30 industrially backward taluks had only one industrial area each with the land spread ranging from only 19 to 155 acres. Thus, the Board, which had established these six industrial areas far back in 1985-2000, did not undertake any activity in these districts thereafter.

The reason for the continued imbalance in the establishment of industrial areas, as observed by audit, was that the Board did not prepare any strategic plan outlining the strategies and other measures required to drive the organisation to achieving the goals envisaged in the industrial policies. The backward regions identified in the industrial policies did not engage the Board's attention while deciding upon locations for setting up industrial areas. The Board also did not conduct any feasibility study or demand survey before deciding upon the location for an industrial area. The extent of land proposed for acquisition was *per se* ad hoc and was not driven by any objective assessment based on factors such as land use patterns, availability of inputs required by the type of industries proposed to be established, connectivity, demand for plots *etc.* It was seen in the test-checked cases that the locations of industrial areas had been decided upon on the basis of recommendations and representations received from elected representatives, local people and the decisions of the CEO. Based on the locations so decided upon, the SLAOs submitted proposals for acquisition which the Board forwarded to Government for issue of preliminary and final notifications. Thus, selection of areas for setting up industrial areas showed lack of due diligence.

Scrutiny of the land acquisition files of SLAO I and II, Bangalore showed that the location and extent of land in respect of five industrial areas as shown in **Table-3.3** were proposed by elected representatives or CEO or local people:

⁴ Chitradurga, Gadag, Koppal, Madikeri, Uttara Kannada and Yadgir

Table-3.3 : Ad hoc selection of industrial areas

Name of the industrial area	Extent of land acquired (in acres and guntas)	Date of final notification
Gowribidanur	239-38	01 March 2007
Malur	452-04	08 March 2007
Hanagawadi	50-00	18 May 2007
Vasanthanarasapura	2051-24	20 August 2010
Kolar Narasapura	685-33	25 August 2007

(Source: Gazette notifications issued by Government)

The proposals for acquisition of lands for six⁵ industrial areas were sent to Government for approval and publication of preliminary notifications even before placing these for approval of the Board.

Thus, the Board's functioning, particularly in setting up industrial areas in the State, was not effective in removing the regional imbalances as envisaged in the industrial policies and was fraught with the risk of promoting industrial development in certain regions on a selective basis.

3.2 The Board did not obtain permission for change in land use

To ensure that the most appropriate and healthy development of towns take place, the towns are divided into a number of zones such as residential, commercial, industrial, parks and open spaces, agricultural, public utilities *etc.* Sections 4A and 4C of the Karnataka Town and Country Planning Act, 1961 (KTCP) Act empower the State Government to declare by notification any area in the State to be a Local Planning Area and constitute, by notification, a Planning Authority having jurisdiction over the Local Planning Area. As of June 2011, the State had 110 Planning Authorities. According to Section 14 of the KTCP Act, 1961, every land use, every change in land use and every development in a planning area should conform to the plan prepared by the planning authority and no change in land use or development should be made except with the permission of the Planning Authority concerned.

According to the guidelines issued (May 1991) by Government regarding land acquisition, the Board was to initiate acquisition proceedings only after prior consultation with the Planning Authority concerned to ensure that land earmarked for non-industrial use was not notified for acquisition. Based on complaints received from the Planning Authorities that the Board was not adhering to the jurisdictional Comprehensive Development Plans (CDPs), Government reiterated (June 2003) its earlier guidelines that the Board should invariably obtain prior consent of the Planning Authorities before going ahead with the land acquisition.

⁵ Kelakote, Hardware Technology Park, Aerospace Components, Electronic City adjacent to II Phase, Electronic City V Phase, Malur

Section 3 of the KIAD Act empowers the Government to declare, by notification, any area in the State to be an industrial area. It was seen in test-checked cases that Government received from the Board, the drafts, both for declaration of an area as industrial area and preliminary notification for acquisition simultaneously. While declaring the area proposed by the Board as industrial area, Government did not ensure whether its guidelines of May 1991 were being followed by the Board. This facilitated acquisition of lands by the Board without verifying the land use patterns as per the jurisdictional CDPs. The Board did not also obtain the sanction of the Planning Authorities to the layout plans of the industrial areas. Instead, the Board itself sanctioned these layout plans though it had not been designated as a Planning Authority under the KTCP Act. Thus, the Board disregarded the provisions in the KTCP Act, 1961 before acquisition of land and this resulted in the Board acquiring lands in restricted and special agricultural zones for setting up industrial areas as discussed below:

3.2.1 The Board acquired land in a restricted zone, developed it and allotted plots to industries

Tippagondanahally Reservoir (TGR), built at the convergence of river Arkavathi and Kumudavathi, is an important source of drinking water to Bangalore and surrounding areas. A study taken up by the Bangalore Metropolitan Region Development Authority (BMRDA) showed alteration of drainage pattern of the TGR catchment on account of unplanned development and industrialisation, resulting in reduced inflow into the TGR and the deterioration of quality of water. To protect the TGR catchment, Government classified (January 2004) it into four zones and directed the Karnataka State Pollution Control Board (KSPCB) not to issue any consent to any new industry, industrial operation, industrial process or an extension/addition thereto in Zone II and III and to allow in Zone IV only new industries listed under GREEN category.

Without prior consultation with the jurisdictional Nelamangala Planning Authority and without obtaining prior Consent for Establishment (CFE) from the KSPCB and prior environmental clearance from the State Level Environment Impact Assessment Authority, the Board acquired 794 acres and 23 guntas of land during March 2007 in the TGR catchment and set up an industrial area at a cost of ₹ 97.52 crore. The Board allotted (May 2008 to January 2011) plots to 439 industries, of which 34 plots comprising 28 acres and 26 guntas were in Zone III and another 42 plots comprising 75 acres and 14 guntas were in Zone IV. These 42 plots in Zone IV had, however, been allotted to industries listed under Red⁶ and Orange categories. KSPCB directed (June 2011) the Board to cancel the allotment of these 76 plots and also stop further developments in the industrial area till CFE and environmental clearance were obtained. CDO stated (August 2011) that the industrial area had been developed based on the approval given by the Board in September 2007. The reply was silent as to why the development works had been taken up without consulting the Planning Authority.

⁶ Red-highly polluting, Orange-moderately polluting and Green-least polluting

Failure to hold prior consultation with the Planning Authority and ascertain the zonal regulations before acquiring and developing land in restricted zones of the TGR catchment resulted in the Board wasting ₹.8.68 crore on acquisition and development of land in Zone-III. The investment of ₹ 22.82 crore similarly made in Zone-IV also proved not prudent as plots in Zone-IV could be allotted only to least polluting industries.

3.2.2 The Board acquired land in special agricultural zone without the permission of the Planning Authority

Special Economic Zones (SEZ) Act was enacted (June 2005) by Government of India (GOI) to provide for establishment, development and management of SEZ with the main objective of promotion of export of goods and services, generation of additional economic activity, and promotion of investment from domestic and foreign sources.

In pursuance of a decision taken (under the chairmanship of the Chief Secretary) during November 2006 to identify 1000 acres of land near Bangalore International Airport (BIA) to develop a SEZ exclusively for aircraft components manufacturing industries, the Board forwarded a proposal to the Commissionerate of Commerce and Industries during December 2006. However, the Board was directed (5 January 2007) to revise and re-submit the proposal, restricting the area of SEZ to 500 acres. The revised proposal was forwarded (10 January 2007) to GOI (Ministry of Commerce and Industries) by State Government, seeking “in-principle” approval for the SEZ.

Earlier, Government had approved (September 2004) the “Interim Master Plan 2021” of the Bangalore International Airport Area Planning Authority (BIAAPA). Based on the proposals of the Board, Government notified⁷ (9 January 2007) 1069 acres and 9 guntas for acquisition for establishing the SEZ though the area had been downsized to 500 acres as per Government instructions of 5 January 2007. The Board had also not consulted BIAAPA before issuing the notification. As 830 acres and 39 guntas out of the land notified had been earmarked as special agricultural zone in the Master Plan of BIAAPA, the Board had to pursue the matter with Government and other authorities like Town Planning Department, BIAAPA, BMRDA and Airport Authority of India for getting change in land use. The Town Planning Department approved the change in land use in January 2009 to bailout the Board which had already disbursed land compensation of ₹ 350 crore in respect of the notified lands.

Meanwhile, the project proposal submitted by Government for the Aerospace SEZ over 500 acres was approved in-principle by GOI during July 2007, subject to submission of proof of land possession/lease hold rights for the identified area within a year. However, the Board was unable to meet this condition as approval to change in land use was given only in January 2009. As a result, in-principle approval given by the GOI during July 2007 lapsed. Subsequently, the Board submitted (September 2010) a revised proposal to GOI seeking approval to set up a SEZ over a reduced area of 252 acres for

⁷ Through a preliminary notification

which it had proof of land possession in three villages (Bhatramarenahally, Kavadasanahalli and Dummanahalli) and GOI approved it during February 2011.

Though the proposal sent to GOI by Government during January 2007 envisaged establishment of the SEZ over only 500 acres, 976 acres and 35¾ guntas were acquired (May 2007 and March 2010) as per the final notification. The CEO stated (July 2011) that the Board had powers to decide the extent of land required for a particular project, keeping in view the availability of the land and the demand for the same. It was further stated that the excess land was being developed as Aerospace Components Industrial Area. The reply was not acceptable as the entire process of acquisition was flawed. Final notification for acquisition was made in excess of requirement projected to GOI, Planning Authority was not consulted before acquisition of land in disregard of Government's guidelines and compensation was paid even before approval to change in land use. Thus, these lapses compelled the Government to effect a major change in the Master Plan of BIAAPA in view of the huge financial implications involved. Having acquired land excessively, the Board had no option but to develop and allot it to entrepreneurs on demand. It was further seen that as of October 2011, only 178 acres (18 *per cent*) had been allotted to 19 units in the Aerospace Components Industrial Area and 34 acres (3 *per cent*) to 4 units in the Aerospace SEZ. Thus, the contention of the CEO that the project was developed considering the demand was not correct.

3.3 Excess acquisition of land for an Integrated Steel and Power Generation Plant

SHLCC approved (January 2010) the establishment of an Integrated Steel and Power Generation Plant as a SUC by a company over 4000 acres of land. Against this, the Board acquired 4865 acres during May 2010 (4156 acres in Kuduthini village and 709 acres in Haraginadoni village of Bellary district). It was seen that the company in their application filed with the Board sought additional 500 acres for forming a labour colony. The Board did not, however, seek the approval of the SHLCC for the additional land nor enter into any agreement with the company specifying the extent of land required.

Out of 4865 acres of land acquired, the company declined (January 2011) to take possession of 709 acres acquired in Haraginadoni village on the ground that these were not required for their project. Consequently, the Board decided (February 2011) to develop a Steel Ancillary Park over 500 acres, besides a township in the remaining area. Thus, Board's failure to obtain the approval of the SHLCC for the additional land sought by the company and the absence of any legal instrument to enforce the taking over of the additional land by the company resulted in acquisition of additional 865 acres of land and the attendant consequence of developing these excess lands at the Board's cost.

Special DC replied (September 2011) that agreements were entered into with the project proponents wherever the Board considered these necessary. The

agreement in the instant case had not been entered into as it was a mega project. Though there was a departure from the process, it was done in the interest of attracting investment. It was further stated that the company had given up 709 acres at the request of other companies and a final decision was pending with the Board. The reply was not acceptable as the Board was to follow a uniform procedure in allotment of land and was not given any freedom to relax it selectively at its discretion. Further, records showed that the company declined to take possession of 709 acres as these were not required for their project. The company did not have the liberty to give up land at its discretion for the sake of others.

It was further observed that against the demand of ₹ 491.97 crore made by the Board during June 2011, the company had deposited only ₹ 267.61 crore towards cost of land inspite of the terms of allotment applicable to the SUCs prescribing that the entire tentative cost of land should be deposited with the Board before the issue of final notification (May 2010). The Board did not also collect the mandatory slum improvement cess amounting to ₹ 4 crore for 4000 acres of land allotted to the company.

3.4 The Board deleted available Government land from acquisition

Though Government initially notified (January 2007) 113 acres and 33 guntas of land (including 42 acres and 36 guntas of Government land) in Singahalli village for acquisition, the entire Government land in three survey numbers were deleted from the final notification (May 2007) on the ground that these were lying in tank bed area. Audit, however, observed from the village map that no tank had existed in the survey numbers which were deleted from the final notification. Tahsildar, Yelahanka also confirmed (June 2011) the audit findings in response to an observation. The Board finally acquired only 45 acres and 28 guntas of private land in the village against 113 acres and 33 guntas of land initially notified. This reduced extent of land acquired evidently met the requirement of the Board as it did not notify subsequently any additional land in those three survey numbers for acquisition. If the available Government land in these three survey numbers of the village had not been deleted from acquisition, it would have almost met the requirement of the Board and acquisition of private land would not have been necessary. SLAO-II stated (July 2010) that Government land had been deleted to ensure compactness of the industrial area to be developed. The reply was not acceptable as the order passed by SLAO-II under Section 28(2) of the KIAD Act for deleting the Government land cited the existence of the tank as the reason for the deletion. As of April 2011, the Board had disbursed compensation of ₹ 15.32 crore for 26 acres and 35 guntas of private land.

3.5 Parallel acquisition of the same land by the Board and Government of India

Government issued preliminary and final notifications for acquisition of 710 acres of land in five⁸ villages for Aerospace Components Industrial Area during January 2007 and May 2007 respectively. The Ministry of Petroleum and Natural Gas, GOI (Ministry) also issued preliminary and final notifications for acquisition of right of user over 36544 square metres (sqm) of land in these villages during March 2007 and August 2007 respectively for laying a pipeline by the Indian Oil Corporation (IOC) to transport aviation turbine fuel to the BIA. Audit observed that 31519 sqm of the right of user acquired by the IOC was overlapping with the land acquired by the Board and compensation had been disbursed by both the Board and the IOC for the same land.

As of October 2011, while IOC disbursed compensation of ₹ 19.90 lakh for 25,910 sqm during December 2007 to October 2008, SLAO-II had disbursed compensation of ₹ 4.36 crore for 31519 sqm during June 2008 to December 2008. During an inspection of the area in March 2009, the DO of the Board noticed (March 2009) that IOC had already laid the pipeline in the acquired land. Except for addressing a letter to IOC in March 2009 for removing the pipeline from the acquired land, the Board had not taken any action in the matter. As a result, the same land remained acquired by both IOC and the Board, while land owners had received compensation for the same land from IOC and the Board.

3.6 The Board did not get the title of acquired land transferred in its favour

During 1996-97 to 2010-11, the Board acquired Government lands measuring 13,662 acres and 6 guntas in 21 districts for establishing industrial areas (12,347 acres and 4 guntas) and SUCs (1315 acres and 2 guntas). After acquisition, the Board was required to get the ownership of these lands duly transferred in its favour. However, the ownership of these lands even after development and allotment continued to vest with the Government as per the revenue records. Special DC stated (August 2011) that Principal Secretary, Revenue Department had been requested (July 2011) to issue instructions to the Tahsildars concerned to transfer the title of the acquired lands in favour of the Board. Non-transfer of the title of Government lands in Board's favour was fraught with the risk of allotment of these lands by Government to other persons or authorities.

⁸ Bhatramarenahalli, Dummanahalli, Jonnahalli, Kavadasanahalli and Unasur

3.7 De-notification of land

As per the KIAD Act, 1966, the land vests absolutely in the State Government, free from all encumbrances, on publication of final declaration under Section 28(4). Possession of land is taken thereafter under Section 28 (8). Compensation is payable only after acquisition is completed and possession of land taken. Section (4) of this Act, however, permits the State Government to exclude any area from any industrial area, at any time by notification. In terms of the judgment delivered by the Karnataka High Court in the case of Thomas Patrao V/s The State of Karnataka, ILR 2005 Kar 4199; 2005(3) KCCR 2190, the State Government, by virtue of its power under Section 21 of the Karnataka General Clauses Act, is competent to cancel the notification issued under Section 28(4) of the KIAD Act and this power can be exercised before taking possession of land. Thus, in terms of this judgment, the State Government has the liberty to cancel the notification issued under Section 28(4), only where possession of land has not been taken.

Under the Land Acquisition Act, 1894 also, the liberty to withdraw from acquisition is available to Government only when it has not taken possession of land. The following box contains excerpts from the judgement of the Karnataka High Court of Smt.Radhamma and others V/s Smt. Lakshamma.K.Murthy, 1995(4), which give a perspective of reversal of the acquisition process under the Land Acquisition Act, 1894.

Box-1

“Act of reconveyance is virtually unheard of in the scheme of law relating to land acquisitions. Acquisition of property for a public purpose is a very serious matter in so far as such property is compulsorily required to be surrendered by a citizen for a modest compensation and the only justification for this is the plea of overwhelming public purpose because the law subjugates personal interest to the public interest. Once that procedure is completed, all rights stand extinguished and the property along with attachment thereon vests completely in the acquiring authority. It is amazing in these circumstances to find Government authorities, on all sorts of personal and extraneous considerations, interfering with the acquisition process and reversing it in a manner that is unheard of under the provisions of the Land Acquisition Act. Quite apart from the loss to the exchequer, since it is presumed that the earlier acquisition was done in public interest, a reversal of that process signifies that the political authority who directs it is subverting public interest by subjugating it to personal interest....”

It was seen that Government had been de-notifying acquired lands under Section 4 of the KIAD Act. During November 2005 to April 2011, the State Government de-notified 563 acres and 16 guntas of land (as shown in **Appendix-1**). Special DC stated (December 2011) that the Board on its part did not generally recommend for de-notification of land after issuing the final notification. Government entertained such requests and examined these based on public, political and law and order considerations. It was further stated that

in certain cases, land had been de-notified for industrial use at the request of the owners subject to their paying development charges to the Board. The reply was not acceptable as it was noticed in test-checked cases that de-notifications had been done by Government in disregard of judgments of courts, resulting in subjugating public interest to private interest. Important cases of de-notifications noticed during test-check are discussed below:

3.7.1 Multiple de-notifications affected the establishment of an industrial area

Government declared (August 2003) an extent of 224 acres and 33 guntas in several survey numbers of Veerasandra and Hebbagodi villages of Anekal Taluk as industrial area to facilitate the establishment of Electronic City Industrial Area, IV Phase. However, Government issued final notification for only 138 acres and 8 guntas after 44 months in May 2007. Government further de-notified (August 2007) 89 acres and 25 guntas on the ground that there was inordinate delay between preliminary and final notifications and the acquired area had already been developed. Thus, a very meagre extent of only 48 acres and 23 guntas was available for setting up the industrial area against the initially proposed area of 224 acres and 33 guntas. Subsequently, the Board paid (October 2007 and February 2008) compensation of ₹ 15.25 crore to four land owners for 21 acres and 28½ guntas in Veerasandra village. However, other land owners filed writ petitions⁹ in the High Court challenging the discriminating attitude of the Government and praying for quashing the acquisition proceedings. While quashing (December 2010) the acquisition proceedings, the Hon'ble High Court was critical of the manner in which the Board embarked upon the acquisition process to acquire an extent of 224 acres and 33 guntas initially and how Government periodically gave up one land after the other from the purview of acquisition, merely to favour the rich, powerful, multi-national companies and a few individuals/industrialists. Special DC stated (December 2011) that the Board had filed an appeal against the orders of the single judge which had been stayed. It was further stated that against 48 acres and 23 guntas finally notified, 32 acres and 25 guntas had already been allotted and the allottees had been holding the land pending disposal of the appeal. Outcome of the appeal filed by the Board was awaited.

3.7.2 Government de-notified 20 acres of land in the middle of Hardware Technology Park

Government issued (April 2008) the final notification for acquisition of 869 acres and 9 guntas of land in three villages of Bangalore North taluk for establishing a Hardware Technology Park. This included 20 acres in Sy.Nos. 124, 125 and 126 of Huvinayakanahalli village. SLAO, Bangalore Urban district took possession of the land notified and handed it over to the Board in July 2008. Meanwhile, the owners of land in these three survey numbers represented (June 2008) to the Chief Minister for deletion of their land from acquisition on the ground that they were planning to set up small and medium scale industries and educational institutions on this land. Government directed

⁹ Writ Petition No 14723 of 2007, 15813 of 2007, 16509 of 2007 and 5382 of 2008 between Petitioners and State of Karnataka

(August 2008) the Board to send notices to the owners again, invite objections and forward the proceedings. The SLAO heard the objections from the owners and recommended (September 2008) to the Special DC of the Board for deletion of these three survey numbers from acquisition. However, the Special DC, in a note submitted (October 2008) to the CEO reported that there was no provision in the KIAD Act to invite objections for a second time and recommended for action against the SLAO for violating the provisions in the Act. In a report sent to Government, the CEO reiterated (October 2008) the opinion of the Special DC and highlighted that de-notification was not to be done as possession of land had been taken.

Government, however, directed (December 2008) the CEO to collect developmental charges from the owners and forward draft notification under Section 4 for deletion of 20 acres from acquisition. When the owners requested (July 2009) the Government for waiver of the developmental charges, the latter sought (July 2009) a report from the CEO on the action taken by the Board in similar cases. Reiterating the earlier stand, the CEO reported (August 2009) that de-notification would not only be against the judgements of the Supreme Court but would affect the compactness of the Hardware Technology Park also, as the land sought to be de-notified was in the middle of the industrial area. It was further reported that the same land could, however, be allotted to the owners after collecting only development charges (₹ 6 crore at the rate of ₹ 30 lakh per acre) if the projects sought to be established by them were cleared by the SHLCC. The Board, however, submitted the draft notification under Section 4 at the direction (January 2010) of the Government which finally de-notified (February 2010) 20 acres on the ground that the owners were planning to establish some industries on this land. Thus, Government overlooked the Board's report and de-notified 20 acres of land in the middle of the Hardware Park to favour the owners.

3.7.3 Government de-notified even plots allotted to industries

The Board acquired (February 2007) 794 acres and 23 guntas of lands in four villages of Nelamangala Taluk of Bangalore Rural district, established Sompura Industrial Area, I Stage on these lands and allotted plots to various industries.

However, Government, on its own, de-notified (July 2010) 4 acres and 6 guntas in this industrial area (Sy. No. 13/2 and 13/3 of Makanakuppe village) even after the Board had allotted plots in these survey numbers to seven industries during February 2009 to September 2010. Reporting that the de-notification would affect the compactness and contiguity of the industrial area as the land in question was located right in the middle of the industrial area, the CEO requested (December 2010) the Government to cancel the de-notification order. As Government did not cancel the de-notification order, the Board had to allot alternative plots to the seven industries elsewhere in the same industrial area. The Board did not also recover from the owners development charges which aggregated ₹ 73.44 lakh on a pro-rata basis.

Special DC stated (August 2011) that Government de-notified the land on its own during July 2010.

3.7.4 De-notification affected the compactness and resulted in non-establishment of an industrial area

Government issued (October 2006) final notification for acquisition of 310 acres and 18 guntas for setting up an industrial area at Ilawala and Maidanahalli villages of Mysore taluk. The land included 89 acres and 15 guntas belonging to the Karnataka Telecom Employees Housing Society (Society) and another 43 acres and 27 guntas belonging to one private party.

Based on the representation of the society, the Government agreed (May 2007) to delete their land from acquisition provided that the Society developed the residential layout so as to seamlessly integrate it with the industrial area *etc.* Further, the Society was to submit the layout plan to facilitate the Board to firm up the layout plan of the industrial area. However, the Society failed to submit the layout plan even as of January 2008. Meanwhile, the private party owning 43 acres and 27 guntas of land obtained a stay order from the High Court directing the Board to maintain *status quo*. Based on representations from the Society and the private party, the Government de-notified 133 acres and 2 guntas belonging to them during July 2009. Thereafter, the private party withdrew the writ petition in October 2009.

Subsequently, the Government decided (July 2010) to de-notify the balance land measuring 177 acres and 16 guntas also, as it did not form a compact block and instructed the Board to submit a proposal to this effect. Based on the Board's proposal, Government de-notified these 177 acres and 16 guntas in November 2010.

It was seen that the SLSWCC had cleared the project proposals of 22 industries requiring 178 acres and 20 guntas in this industrial area. As a result of the de-notifications, the establishment of the industrial area was not possible, affecting the prospects of entrepreneurs seeking to establish industries in the proposed industrial area. Further, the Government's decision to de-notify was not evidently taken after due diligence as it failed to factor in its impact on the compactness of the area and also ignored the clearances given by the SLSWCC.

3.7.5 Government unjustifiably de-notified land before final notification

The preliminary notification issued (December 2006) by the Government for acquisition of 869 acres and 9 guntas of land for establishing a Hardware Technology Park included 15 acres and 6 guntas in Sy. Nos. 120 (8 acres) and 121 (7 acres and 6 guntas) and three acres in Sy. No. 128 of Huvinayakanahally village.

A company represented (October 2005) to the Chief Minister not to acquire its lands in Sy. No. 120 and 121 as it had purchased these and also got these converted for non-agricultural purpose with a plan to establish an industry for

manufacture of some components with the approval of the Ministry of Railways. However, these lands were included in the preliminary notification issued during December 2006. The SLAO rejected the written objection filed (November 2007) by the company on the grounds that (i) though four acres of land in Sy. No. 120 had been got converted for residential purpose, no development had taken place, and (ii) these lands were located right in the middle of the proposed Hardware Technology Park. As per the directions (January 2008) of the Government, the SLAO conducted spot inspection again in March 2008 and confirmed that there was no development on these lands. Government directed (April 2008) the CEO not to include these lands in the final notification as it had been decided to delete these from acquisition. Government subsequently de-notified (April 2008) 18 acres and 6 guntas in these three survey numbers, overlooking the report of the SLAO.

Audit observed that the Record of Rights, Tenancy and Crops Certificates (RTCs) in respect of land in Sy. No. 120 and 121 were in favour of two persons and not in the name of the company which had represented for deletion of land in these two survey numbers. Against 8 acres in Sy.No.120, only 4 acres had been converted for residential use. It was further seen that the Board had acquired 59 acres and 14 guntas of converted land for the Hardware Technology Park in another village and paid an additional compensation of ₹ 2 lakh per acre towards conversion. Thus, part of the land in Sy.No.120 having been converted already could not be a valid reason for Government to de-notify the entire land in Sy.No.120 and 121, in spite of it being located in the middle of the proposed Hardware Technology Park.

As regards three acres of land in Sy. No. 128, the lands had been de-notified by Government on its own in favour of four persons as no representations seeking deletion were available on record and no report had been sent by the Board to Government in this regard. Special DC stated (December 2011) that Government, in its wisdom, deleted the lands from acquisition based on the requests made by the land owners to the Chief Minister.

Thus, de-notification of land in the Hardware Technology Park was evidently not driven by merit.

3.7.6 A series of de-notifications by Government undermined the objective of acquisition

The SHLCC approved (January 2001) the project proposal of Infosys Technologies Limited (Infosys) to set up a new software development facility at Bangalore and directed the Board to acquire 100 acres of land adjacent to Sarjapur Road, Bangalore within 3 months and hand over possession by April 2001. Government issued (December 2001) preliminary notification for acquisition of 126 acres and 6 guntas in Bellandur, Bellandur Amanikhane, Devarabeesanahalli and Kariyammana Agrahara villages of Bangalore South taluk.

Audit observed that neither the Government nor the Board adhered to the time schedule stipulated by the SHLCC for acquisition and handing over of land. The Board acquired only 76 acres and 31 guntas as Government had deleted

(February and May 2004) the remaining land from the final notification. After the deletion, Infosys found the land unsuitable for developing an exclusive campus due to fragmentation of the notified area and presence of irrigation canals, parks *etc.*, in the notified area. The Board resolved (August 2004) to refund the deposit of ₹ 10 crore as demanded by Infosys and utilise the land for development of an industrial area.

After final notification was issued for 76 acres and 31 guntas, several land owners filed writ petitions before the High Court and obtained stay orders against acquisition of 41 acres and 7 guntas. The SLAO was able to take over possession of only 34 acres and 20 guntas of land and handed it over to the Board in November 2004. As decided in the Board meeting of August 2004, the CEO requested (October 2004) the Government to cancel the de-notification order (February and May 2004) to facilitate development of a compact industrial area. Instead of cancelling the earlier de-notification order, Government further de-notified 59 acres and 39 guntas on three occasions (15 acres and 30 guntas in June 2006, 2 acres and 19 guntas in September 2007 and 41 acres and 30 guntas in May 2008). Out of 59 acres and 39 guntas thus de-notified, the Board had already taken over possession of 34 acres and 20 guntas in November 2004. Out of the remaining 16 acres and 32 guntas left with the Board, 12 acres and 20 guntas were allotted (October 2005 to September 2007) to five land owners, whose project proposals had been cleared by the SLSWCC.

Special DC stated (December 2011) that 34 acres and 20 guntas taken over by the Board had been allotted to various companies on condition that these should obtain consent from the land owners before taking possession. Only five companies could obtain consent for 12 acres and 20 guntas and the remaining land had been deleted from acquisition. It was further stated that the above situation had arisen due to serious protests from farmers and non-acceptance of the compensation approved for the land.

The reply was not acceptable as the report (October 2004) of the CEO to Government highlighted that the initial de-notifications of February and May 2004 scattered the remaining land into pieces and gave scope for the rest of the land holders to demand more compensation. Thus, a series of de-notifications by Government before and after taking possession of land defeated the very purpose for which notification for acquisition of land had been issued.

3.7.7 Government showed undue haste in de-notification of land

Government issued (November 2008) preliminary notification for acquisition of 1,093 acres and 10 guntas of land in seven villages of Nelamangala taluk, Bangalore Rural district for establishing Dobbaspeta Industrial Area, IV Stage. Against this, the Government finally acquired (May 2010) 891 acres and 10½ guntas including 5 acres and 1 gunta of land in Sy. No. 22/2 and 22/3 of Chandanahosahally village.

The owners of this piece of land represented (October 2010) to the Minister for Large and Medium Scale Industries for excluding their land from the

acquisition on the ground that certain lands lying adjacent to their property had already been deleted from acquisition and their livelihood was dependent on the agricultural income. Though Government sought (November 2010) a report from the Board, it de-notified (April 2011) 5 acres and 1 gunta in these survey numbers on its own without waiting for the Board's response. Special DC stated (December 2011) that based on the request of the owners to the Minister, decision was taken at Government level to de-notify the land.

3.7.8 De-notification became necessary due to acquisition of wrong land

The Board acquired (May 2002) 104 acres and 5 guntas of land in Halaga and Shindholi villages of Belgaum district for establishing an Agro-tech Park. The Board declined (March 2004) to approve the land compensation of ₹ 5.34 lakh per acre fixed by the Price Advisory Committee and directed the CEO to re-examine the issue. The CEO who conducted (September 2004) inspection of the acquired lands found that

- The lands acquired were different from the ones actually identified for acquisition by the erstwhile CEO in August 2001;
- There was no connectivity to the lands and the existing roads were far away, requiring huge investment for formation of suitable approach roads;
- The lands were, in no way, suitable for establishing the industrial area, and
- Quarrying was being carried out in the locality

The CEO reported (September 2004) that the Board's officials, in collusion with the land owners, had acquired unsuitable land and that the land was worth only between ₹ 10,000 to ₹ 20,000 per acre. The Board, therefore, decided (November 2004) to de-notify the entire 104 acres and 5 guntas of land acquired during May 2002.

The land owners approached the High Court demanding compensation at the rate fixed by the Price Advisory Committee. The High Court, while directing (June 2008) the Board to pay the cost (₹ 45000) of legal proceedings to the petitioners, ordered payment of compensation for the loss suffered by them due to the omission and commission on the part of the Board in not completing acquisition proceedings. Directions were also issued to Government to hold an enquiry through the jurisdictional DC into the claim for the damages made by the petitioners. Thereafter, the Government de-notified the acquired lands in October 2008. Special DC stated (November 2011) that with regard to holding enquiry into the claims for damages, the matter had been pending with DC, Belgaum.

Thus, the Board ended up acquiring unintended and unsuitable land for setting up an Agro-tech Park and Government had to de-notify the acquisition to correct the wrong committed by the Board's officials.

