The Statesman
Be Better Informed

[Editorial]

The Corporatised State~I

; D Bandyopadhyay

TRUE to her character, Mamata Banerjee, the railway minister, stood up against the Land Acquisition (LA) Amendment Bill and the Rehabilitation and Resettlement (R&R) Bill. Her courageous and ethical stand on this issue was resented by the ruling establishment. Predictably, a section of the national print media criticised her position as anti-development and populist. The utter insensivity displayed by this group is at the root of many of our current problems, including what is commonly known as Naxalite extremism.

One could, perhaps, applaud the Government of India for giving teeth to the national R&R policy, 2007, by bringing in the Bill along with the legislation for the comprehensive amendment of the LA Act of 1894. The R&R policy 2007 and the R&R Bill indicate that a section of the establishment is pragmatic enough to realise that in the current scenario of popular awareness and unease, some concessions have to be made before any hard and harsh policy could be put in place. But a larger section among them, committed to total market economy reform measures, is totally averse to any such adjustment and compromise.

The amending LA Bill, instead of being people-friendly, incorporates features which are patently anti-people. Its first and formidable assault is on the definition of "public purpose", reflecting the dominant philosophy of withdrawal of the State from the economic and social welfare domains. The current LA Act in Section 3(f) defines the expression "public purpose" which includes such features as provision of village sites, provision of land for town and rural planning, provision of land for residential purposes to the poor or landless or to persons living in natural calamity prone areas or persons affected by development projects, etc. There was a definite slant for the poor, the landless and people living in the rural areas.

Three aspects

THE impact of Nehruvian welfare was obvious in the definition of "public purpose". But the proposed amendment totally negates the concept of welfare of the poor and downtrodden. It has three aspects: (i) Strategic purposes necessary for the state; (ii) Infrastructure projects where benefits accrue to the general public; and (iii) Any other purpose useful to the general public for which 70 per cent of the land has been purchased by "a person" through negotiation, but the remaining 30 per cent is yet to be acquired. The explanation of "a person" includes "any company or association or body of individuals, whether uncorporated or not."

To take the last point first, a government is not expected to resort to trickery or, chicanery or double-dealing. Unfortunately, this is exactly what the government has done. Having omitted the word "company" from the preamble of the Bill, it brought back not only incorporated companies, but "a person" including association or unregistered body of persons, through a big back door. The law could now be used or abused or misused by any realtor, land speculator, private companies or by any land mafia gang under the cover of any respectable name.

And what is the sanctity of the magic figure of 70 per cent? Why not 80 per cent or 90 per cent or 100 per cent? In fact, it would have been better to allow a person to acquire through negotiated purchase 100 per cent of the land with the government acting as a

"regulator" to protect the small and marginal farmers from being coerced, to part with their lands by the strong arm methods of the purchasers. After all what is the bargaining power of even a big farmer against mega corporate bodies whether national or multinational? They could be intimidated, browbeaten, bullied or frightened or induced to part with their land without the fair process of bargaining. In fact, the present law with Chapter VII for the acquisition of land for companies is more transparent, equitable, non-discriminatory and fair than the proposed amendment.

The proposed expression "public purpose" is not acceptable. One is compelled to comment that the State has skilfully withdrawn from welfare activities. The proposed law could be utilised by the government for strategic reasons or by "a person", which means basically corporate entities. The implications are grave. It would imply that the government wishes to privatise welfare activities. If the private sector were to take up such activities, they would be able to earn a profit. Either they will not take up such activities; or such enterprise will be priced so high that intended beneficiaries will be excluded. "It would seem that the state is entirely fixated on infrastructure, security related concerns and corporate economic growth and is disowning individual oriented development and welfare activities targeted for the poor and weaker sections." (Saxena, KB ~ The Land Acquisition (Amendment) Bill, 2007, Council for Social Development, July 2003, New Delhi, page 29).

A major deficiency of the Bill is that it totally ignores the problems of the Scheduled Tribes, particularly, those living in the scheduled areas. There are many protective laws for the STs and more so for those in the scheduled areas. One could argue that since the original Act did not provide for any special provisions for the STs living in such areas, an amendment to that Act could as well disregard the issue. A look at the map of Central India, where "Naxalism" or "Maoism" is widely prevalent, will reveal that the bulk of the area is covered by Fifth Schedule of the Constitution. Ignoring the problems of the tribals in the proposed amendment would only add fuel to the already raging fire.

Displaced tribals

STATISTICAL data will substantiate the point. According to Walter Fernandes, scholar and social activist, about 60 million Indians were compulsorily evicted from their hearth and home between 1954 and 2004 because of the land acquisition process. They included 20 million members of the Scheduled Tribes. Further, according to government's own admission only 28 per cent of the ousted ST population was rehabilitated.

What happened to the remaining 72 per cent of unrehabilitated tribal people? To put it bluntly, they had become the flotsam and the jetsam of our development process. The displaced tribals constitute 25 per cent of the 80 million tribal population. The map of the area where Maoists are active and the map of the displaced tribal belt broadly coincide. The whole issue needs to be viewed from the internal security angle. The new Bill should incorporate the relevant provision of the Panchayat (Extension and Scheduled Areas) Act 1996 (PESA), the important features of the Supreme Court's "Samtha" judgment (Civil Appeals No 4601-02 of 1997) and the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. In addition, there are various laws for the protection of the Scheduled Tribes in every state. The Bill should try to harmonise the beneficial aspects of these protective laws. Any attempt to bypass these issues will intensify the Maoist movement in the hills and jungles of Central India.

There are several laws for the acquisition of land by different Union ministries and the state governments. The present Bill does not address the incongruities and contradictions that exist among these laws. Either the new amendments should have overriding authority over these Acts or those acts should be amended in conformity with the proposed Bill. It is a difficult task, but it has to be done to avoid future complications.

(To be concluded)

The writer is a retired IAS officer

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No discussions on this item

Other Editorial

The green verge Army, police and parties on alert

Bluff called High-fliers prove 'chicken'

Letters to the Editor

Hawkers at stations The problem is uniquely Bengal