

Consent Award System in Reliance SEZ, Jamnagar

Sector – Industry

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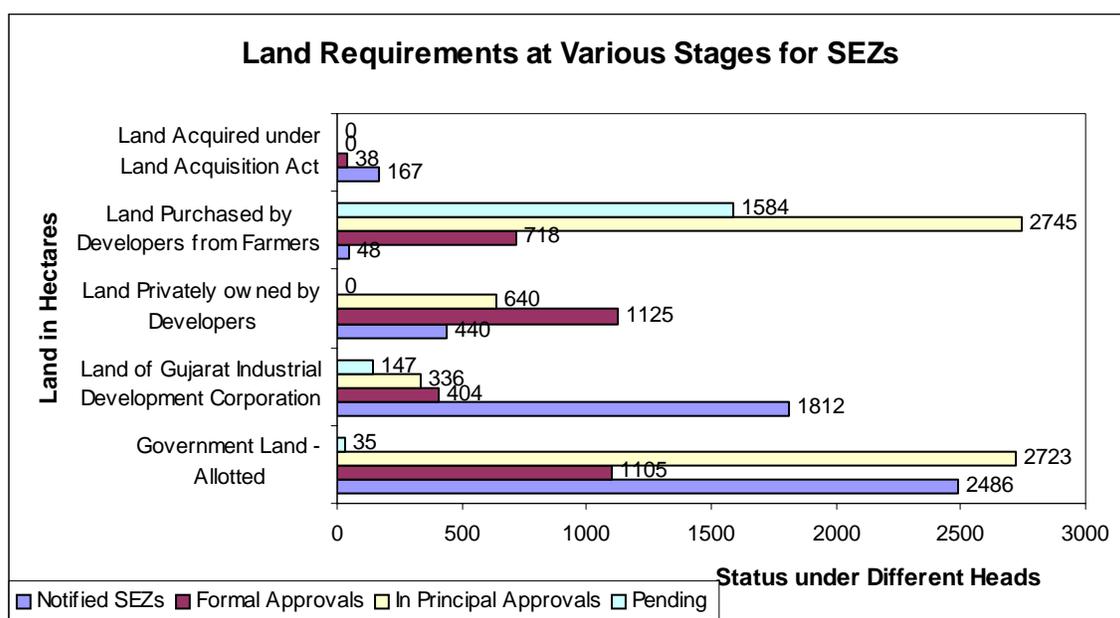
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Background to Special Economic Zones and Land Requirements – Overview

The Department of Commerce gave in Principle approval to RIL for a multi-product SEZ (petrochemicals) on October 21, 2005. The SEZ establishment in the backward rural region of Jamnagar would give impetus to growth of the region is one of the arguments other than economic and location attributes that are advantageous for the investor. RIL started its operations in Moti Khavdi area of Jamnagar District in mid 90s'. Over the years the region has seen a spur of industrial activities due to availability of port linkages and Jamnagar being a backward district in the state requires attention in terms of development – its growth.

The government of Gujarat adopted a practice of not acquiring land of good agricultural quality for setting up special economic zones. Fallow land was acquired for two SEZs viz. Hazira and Jamnagar twelve years back. It is believed that all the SEZs in the state are coming up on poor quality of land or lands which are rainfed or not easily irrigable. If land is bought voluntarily through the process of sale in Gujarat, the state government cannot stop it. However, when it is decided to convert agricultural land for non-agricultural purposes, the state government comes into picture. Sale of agricultural land for non-agricultural purposes requires permission from the State Government. However, if a developer is acquiring huge land for non-agricultural purpose, he has to take prior permission from the State Government.



Source: 83rd Parliamentary Report (Department of Commerce), August 2007

Note: (Notified SEZs)

The allocation of Government land will increase to 3383 hectares after completion of the setting up of the SEZs.

Land acquired under Land Acquisition Act will increase to 3324 hectares, after the SEZs that are notified, complete the process of setting up the entire SEZs.

Almost 31% of the total land indicated by the government for the notified SEZs is through direct purchase of land by developers from farmers.

The department related Parliamentary Standing Committee on Commerce in its 83rd report on 'The Functioning of Special Economic Zones' considered consent¹ of landholders as an important issue where with the exception of land acquisition for national security, the affected parties should give their consent for acquiring any land.

Land Requirements: Multi Product SEZ, Jamnagar

Of the total land area requirement of 4494.50² hectares (28090.625 bighas) for multi-product SEZ by Reliance, the private land accounts to 57.78%, which could be termed as a major requirement other than government lands. As of August 2008, out of the total private land area of 2625 hectares, 1635 hectares has been purchased by RIL through consent of the farmers (62.28%) in the region while entering into an agreement and the rest 37.72 % of land is acquired under regular awards but the people have not accepted the award or started accepting the regular award under protest³.

The policy that effort should be to use wastelands for development of SEZs and not at all touch the multicrop lands has laid more emphasis on the agricultural departments' report prepared by District Agricultural Officer (DAO). A glimpse into the aspects considered by the DAO while giving his report for the land identified for SEZ indicates that:

1. The lands sought to be acquired were contiguous to reliance industries
2. Lands were dry irrigated/non-irrigated land on which it was possible to raise crops with the help of rainy water but the fertility of the lands was ordinary
3. The lands sought to be acquired are adjoining to Reliance Industries Limited whereas on the one side of the lands to be acquired, a railway line passes and therefore, except the lands sought to be acquired, no other lands in the locality suitable for the purpose of acquisition are available.

However there was breakage of contiguity (refer table 1, S.No.2 &3) for which the developer had requested for relaxation of contiguity principle and was ultimately awarded the land required. None of the village sites (gamtal) are to be acquired, agricultural lands are to be acquired which would cause no displacement

The very premise that emphasis should be to use wastelands or single crop agricultural land for SEZs has been adopted in the Jamnagar SEZ – integrated infrastructure project. Erratic rainfall in the region and low returns on agriculture offered a perfect situation for the establishment of the special economic zone. Long presence of Reliance Industries Limited in the region has been seen as an economic push in the region and the company also feels that there are long term relationships developed with the people of the region over the years and the 'state of agriculture' also gives an opportunity to the people to look beyond the static economy to a rising prospect they can derive from their lands⁴.

¹ Observations and Recommendations at a Glance, Page 195-196 (point 19)

² Of which 552 Hectares (1400 acres) has been taken on lease from sister concern.

³ During discussions with the Deputy Collector, Jamnagar

⁴ During discussions with Senior Manager, Corporate Affairs, Jamnagar

Table 1 - Chronological Events of Approvals for Reliance SEZ at Jamnagar

S.No.	Date	Decision
1	17.3.2006	The Board approved the grant of formal approval for a Petroleum and Petrochemicals sector-specific SEZ over an area of 1087 (440 hectares) acres with an in-principle approval for its expansion into a multi-product SEZ as and when the minimum area of 1000 hectares ⁵ is acquired by the developer.
2	28.09.2006	Reliance informed about additional possession of land – 784 hectares and sought formal approval for a Multi product SEZ. However, relaxation of contiguity principle was raised. Accordingly it was decided to refer the matter to the Ministry of Law for their views.
3	02.01.2008	The Board considered the request of M/s Reliance Jamnagar Infrastructure Limited for addition of 1050 ha to the already notified SEZ at Jamnagar, Gujarat. Development Commissioner, Kandla had reported that the Developer is in possession of only 514.25 hectares and there is a breakage of contiguity due to the passing of railway line and cart track road through the part of this additional identified area. Accordingly Board decided to approve the addition of 514.25 hectares of additional land to the already notified area of 1764.14 hectares.

Negotiations - Consent Award

Consent award is a mutual agreement that the interested parties sign after agreeing on the price offered by the developer. However it is the process of decision-making or mechanism laid down which is more important than the consent award itself. Going into the background of the issues of valuation will indicate whether there was enough level grounding on which the consent was awarded or not. As per the Judgment of Special Civil Application (SCA) No. 12943 of 2006, 45 persons filed petitions before the H'ble High Court of Gujarat, 198 hectares of land of these petitioners was in question. The study of the above case indicates that:

The developer went into negotiations with the farmers and indicated the price of two types of land as indicated in the table 2. However the petitioners did not accepted the price offered to them and negotiations failed.

Land Category	Jantri Price	Average Sale Price over last 5 years	Negotiation Rates Offered by Developer	Demand by People
<i>All figures in Rs./Bigha</i>				
Bagayat Land	24,000	17,385 (flat)	65,000	n.a.
Jirayat Land	20,000		53,000	n.a.
	As assessed by the Deputy	As assessed by the Deputy Collector,	Over and above the price for wells, trees, kundis, pipelines,	3,00,000 to 6,40,000

⁵ Minimum area for a multi product SEZ. The upper limit of the area is fixed at 5000 hectares.

	Collector, Jamnagar	Jamnagar	buildings etc.	
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Negotiation is thus the initial process of conferring upon the price offered by the developer to the land owners. If negotiation fails, the LAO has to give a regular award. If negotiation is a success, the consent agreement is signed. In case of Jamnagar SEZ, the final regular award was given in June 2008 whereas the Consent process, which started in October 2006, was completed much before the regular award process.

Formalities in Consent Award

1. Meeting with land losers
2. Convincing land losers to sign consent
3. Obtaining their signatures on consent document, consent awards

The developer approached the landowners whose lands were to be acquired on One-to-One basis for seeking their consent by negotiating the price of land. This method has reduced the time considerably and the process has been completed by October 2006 whereas the regular awards were announced in June 2008.

Consent award has been seen as a tool for reducing delays but nowhere there are mechanisms, which would ensure equitability and transparency in the process. The company followed land by land holder's consent – which means there is no collective bargaining in the process and lack of transparency, creating doubts among the PAPs. The consent award is a matter between the company and the affected person and upon agreement between the two, the agreement has to be signed in presence of Deputy Collector and Mamlatdar. The consent award ceases the provision of section 18 (reference).

The issues of disparity and inequity in the Consent Award and Regular Award:-

- Consent award is not the basis for LAO Award - The amount of compensation paid in the consent award is higher than the compensation worked out in the regular award under the Land Acquisition Act. With no mechanisms developed for negotiations where larger community representation is included, there could be chances of bias with individual landholders.
- Consent award in a way reduces constraints of District Administration from being involved in the process with the limited officers dealing with land acquisition. The burden of proof is on the signing parties in the Consent award and more so even on the landholder having accepted the award.
- No procedures have been laid down in case of consent awards as being practiced in the state of Gujarat for 'Special Economic Zones'. However there is a procedure for arriving at the award under the Land Acquisition Act with several questions over market value of land, compensation etc.