

LAWS AFFECTING SLUM REDEVELOPMENT AND REHABILITATION IN MUMBAI



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ABBREVIATIONS

AHP	Affordable Housing in Partnership	MSRDC	Maharashtra State Road Development Corporation
BEST	Brihanmumbai Electricity Supply and Transport	MUIP	Mumbai Urban Infrastructure Project
BSES	Baseline Socio-Economic Survey	MUTP	Mumbai Urban Transport Project
CBO	Community Based Organisation	NGO	Non Government Organisation
CEO	Chief Executive Officer	NoC	No Objection Certificate
CTS	Chain and Triangulation Survey	OC	Occupancy Certificate
DCPR	Development Control and Promotions Regulation	PAP	Project Affected Person
DCR	Development Control Regulations	PMAY	Pradhan Mantri Awas Yojana
DP	Development Plan	R&R	Rehabilitation and Resettlement
FSI	Floor Space Index	RAP	Resettlement Action Plan
GR	Government Resolution	RTI	Right to Information
GRC	Grievance Redressal Committee	SRA	Slum Rehabilitation Authority
JICA	Japan International Cooperation Agency	SRS	Slum Rehabilitation Scheme
MCGM	Municipal Corporation of Greater Mumbai	TDR	Transfer of Development Rights
MCZMA	Maharashtra Coastal Zone Management Authority		
MHADA	Maharashtra Housing and Area Development Authority		
MMRDA	Mumbai Metropolitan Region Development Authority		
MRVC	Mumbai Railway Vikas Corporation		

INTRODUCTION

The right to shelter and adequate housing is a basic human right that remains a distant dream for 52.5 per cent¹ of Mumbai's slum population. Other than the lack of affordable housing options, the State response to the growing demand has been inadequate. Interventions are needed not just in the creation of housing stock, but also in the improvement of living conditions by extending access to basic amenities and social infrastructure. Land, Housing and Urban Development are State legislative subjects. Maharashtra has formulated several policies over the years to address this issue, through redevelopment and rehabilitation.

However, the applicability of these policies has not been uniform, with the introduction of exclusive eligibility norms. Rather than recognising the need for adequate housing to be a universal right, these policies have divided the slum population into categories of welfare

beneficiaries, based on their years of residence in the city, such that one with a higher number of years may qualify to be a 'protected occupier', whereas others with fewer number of years may be extended the least number of benefits, or perhaps none at all. The applicability of these policies is also not spatially uniform, being subject to distinctive mandates of the various title holding authorities to the lands underlying the slum. This results in differing outcomes for an otherwise common need for housing.

This report seeks to unpack the provisions of the current policies of public authorities that relate to slum redevelopment and rehabilitation in Mumbai. The report is divided into five chapters, with Chapter I laying down the general eligibility criteria that is often the first point of confusion and contention on the ground. Chapters II–V deal with the key policies and schemes.

1/ Census of India 2011

CHAPTER 1: ELIGIBILITY CRITERIA

In the State of Maharashtra there is, ordinarily, a uniform criteria for deciding the eligibility of a beneficiary to qualify for the allotment of a rehabilitation tenement in lieu of their dwelling, which is dealt with in this chapter.

1. DETERMINATION OF ELIGIBILITY:

Whether an inhabitant of a slum is eligible to be allotted a rehabilitation tenement or not in exchange for their current dwelling, is decided based on the documents submitted to prove the existence of their dwelling and its occupation as on 1 January 2000, or if they are a holder of a photo-pass¹. The documents required to do so and the manner in which this has to be verified, has been prescribed under Government Resolution (GR) No. SRP-1001/Case No.125 dated 16 May 2015 issued by the State of Maharashtra. This GR is also applicable to those residents who are participating in a slum redevelopment project and may not have been holding a photo-pass. This verification of the eligibility of each resident is undertaken by the land-owning authority during the certification process of the project's Annexure-II, which must contain all such information and evidence as required by the GR. For the eligibility to be established, the resident must provide at least one proof each (for the dwelling and its occupation) out of the list provided at the statement under the GR. Eligibility is not linked to the ownership of the dwelling unit but its occupation alone². Two kinds of inhabitants are covered under this policy:

- 1) those who have been residing as on 1 January 2000,
- 2) those who have been residing before 1 January 2000, but have either no proof of it or those residing after 1 January 2000.

A category (1) resident will have to provide documents indicating their name and the address of their dwelling along with the application form in Annexure-III format,

whereas a resident falling under category (2) will have to submit the aforesaid along with additional proofs and the application form in Annexure-IV format.

Following the announcement of the Pradhan Mantri Awas Yojana (PMAY) Housing-for-All Scheme by the Central Government, the State of Maharashtra adopted the scheme vide GR dated 9 December 2015, as per which a new category of 'rehabilitation with cost' was introduced. This type of rehabilitation, which involves payment at subsidised rates for availing a rehabilitation tenement in exchange for their dwelling, is available to those who are unable to meet the above cut-off date (i.e., 1 January 2000) but able to prove the existence of their dwelling and its inhabitation by them, on or before 1 January 2011. In the Slum Rehabilitation Scheme (SRS) the cost of tenements for such occupants and the procedure for payment would be decided on a case-to-case basis, by the CEO, Slum Rehabilitation Authority (SRA). Further, the ten-year restriction on transfer of rehabilitation tenements under section 3(e)(1) of the Slum Act, 1971, is not applicable to these tenements. The detailed guidelines were introduced vide GR dated 16 May 2018, which are discussed in Chapter V. The manner and requirements for proving eligibility are the same as discussed hereinbelow.

Therefore, as per the present policy of the State of Maharashtra, there are two separate cut-off dates, (1) 1 January 2000, that avails rehabilitation tenements in exchange for present dwellings at no cost, and (2) 1 Jan 2011, that avails rehabilitation tenements in exchange for present dwellings at subsidised cost.

¹ A photo-pass is issued to a protected occupier as defined under Section 3Y of the Slum Act 1971, in case where the state decides to conduct census and survey of slums.

² This is to the exclusion of any rights of the structure owner, even if whose name may appear in the relevant electoral rolls; See Shivaji Krishna Zunjare v. State of Maharashtra, (2004 SCC OnLine Bom 640); See also Pameshkumar Nandlal Sahu v. High Powered Committee & Ors., W.P. 3075 of 2015, Bombay High Court, Order dated 13 June 2018, where it was held that occupiers of loft/upper storeys would not be considered as separate occupiers, independent from the ground floor structure, and hence not entitled to be issued photo passes in that case.

2. DOCUMENTARY PROOF FOR ELIGIBILITY:

To prove eligibility, the application of a household must contain the following documents:

- 1) Application form as per Annexure III or IV format (along with Annexure V)
- 2) Documents/records bearing an endorsement of self-declaration for self-attestation.
- 3) Pro forma A—Self declaration with photograph
- 4) Pro forma B—Self declaration for self attestation
GR No. SRP-1001/Case No.125 dated 16 May 2015 specifies the list of documents considered as valid proof in its 'Statement' (reproduced below). 'Annexure-One' lists the number of documents required for a category (1) resident and 'Annexure-Two' lists the number of documents required for a category (2) resident.

STATEMENT

(Government Resolution, No.-Zopudho-1001/C.No.125/14/Zopsu-1, dated 13 May, 2015)

Proof of on or before date 1.1.2000 along with name of hutment dweller mentioning hutment number or mention of definite location (e.g. chawl, road etc. residential address)

- 1) Certified abstract of final electoral roll published in year 2000 or before by office of district collector.

Or

- 2) Documents/records/bills of electric connection given by authorized electric company to that hutment

Or

- 3) Enumeration form given by state government under "Identity Card Scheme, 2001 for eligible hutment dwellers" implemented with reference to directive dated 11 July, 2001

Or

- 4) Proof of assessment of property tax of hutment by municipal corporation/city council.

- 5) Non-agricultural permission from revenue department of state government or permission regularizing non-agricultural use and receipt of non-agriculture tax/non-agriculture penalty paid at that time

Or

- 6) Share certificate certified by Assistant Registrar, Cooperation, of slum cooperative housing society registered on or before 1.1.2000.

Or

- 7) (a) Permit for agency (gumasta)/mess or (b) Restaurant license/tax receipt in that context obtained from municipal corporation/municipality/city council on or before 1.1.2000 mentioning hutment number or showing its definite location in respect of hutment being used for professional or industrial nature use or being used besides for residential purposes.

ANNEXURE – ONE (category 1 residents)

(Government Resolution No. Zopudho-1001/Case No.125/14/ZOPSU-1, dated 13 May, 2015)

It is necessary for the hutment dweller to submit the aforesaid documents/records in order to ascertain that the hutment dweller residing in a protected hutment on or before 1.1.2000 is at present residing in it

- 1) Since to determine the hutment as eligible for protection, it is necessary to have proof of its existence on or before 1.1.2000, it is essential to have at least one proof out of those shown in accompanying statement.

And

- 2) In order to prove that the hutment of on- or- before 1.1.2000 is existing there at present and that the hutment dweller is at present actually residing in it from on- or- before 1.1.2000, it is necessary to have at least one proof from accompanying statement showing his name and hutment address or a proof showing exact location of that hutment.

And

- 3) As per Paragraph No. 2 of Government order “Self Declaration” and “Self Declaration for Self Attestation”

ANNEXURE- TWO (category 2 residents)

(Government Resolution No. Zopudho-1001/Case No.125/14/Zopsu-1, Dated 13 May, 2015)

If the hutment dweller presently residing in a hutment eligible for protection from 1.1.2000 or before does not have a proof of residing on 1.1.2000 or before or if he is residing there from a date after 1.1.2000, it is necessary for him to submit the following documents/records.

- 1) In order to make the hutment eligible for protection, since it is necessary to have proof of its existence on or before 1.1.2000, it is necessary to have at least one proof from the accompanying statement.

And

- 2) As a proof of the hutment being in existence from 1.1.2000 or from before that, and the hutment dweller actually residing there at present, it is necessary to have any one proof from the accompanying statement pertaining to recent one year with name and address of hutment or showing definite location of that hutment.

And

- 3) As per Paragraph No. “2” of Government Order “Self Declaration” and “Self Declaration for Self Attestation”

And

4) As additional proofs of hutment dweller presently residing there: -

- a) Certified extract of final electoral roll published by office of District Collector in recent one year after hutment dweller has taken possession of the hutment.

Or

- b) Certified extract given by Head Master/Principal to hutment dweller who has registered his offspring (issue) in government approved school/college with residential address showing definite location of the hutment.

Or

- c) Certificate issued by employer where slum dweller is in service giving residential address showing definite location of hutment.

And

5) As a proof of hutment dweller getting possession of that hutment on the date claimed by him-

- a) The notarized consent letter on stamp paper from earlier hutment dweller.

Or

- b) A mention of address showing names and definite location of that hutment in tenancy agreement documents or rent receipts indicating slum dwellers residing on rental basis.

And

6) In order to register the occupancy transfer of hutment in government records, it will be necessary to pay occupancy transfer charges for protection-eligible residential hutment in Greater Mumbai, Thane, Pune, Pimpri-Chinchwad and Nagpur at the rate of Rs. 40,000/- and for hutment for professional and industrial use or besides that for residential use at the rate of Rs. 60,000/-. Occupancy transfer charges for protection-eligible hutments in other cities respectively for residential or professional, or industrial or besides that for residential use will be assessed at 50 percent.

- a) No occupancy transfer charges will be levied in the event of death of hutment owner, to transfer it in the name of his wife/husband and if both of them have died to transfer the hutment in the name of their son/daughter.
- b) After the hutment owner gets the benefit of slum rehabilitation scheme, such person or his/her wife/husband or their minor children will not be entitled to buy or transfer the hutment.
- c) If the hutment has been sold with mutual consent or has been transferred by a chain in different stages, the occupancy transfer charges will be assessed on the resident residing at present. "Occupancy transfer charges" will be levied only in respect of the present stage without levying occupancy transfer charges for earlier sales or for each stage. Likewise, "occupancy transfer charges" will be levied henceforth for each further transfer.

3. APPEAL:

Once the certified Annexure-II is notified by the SRA or the relevant land-owning authority, every resident who has been found ineligible or whose name has not appeared on it, has the right to file an appeal before the Additional Collector (in case of an in-situ slum redevelopment project), or other competent authority so notified (in case of a relocation due to vital public project being undertaken by a public authority or agency such as Mumbai Metropolitan Region Development Authority[MMRDA]). This appeal has to be made in a petition format. The Government Resolution (GR) No. SRP-1001/Case No.125 dated 16 May 2015 also lays down the procedure for this purpose, which is similar

to the procedure for deciding eligibility³. An appeal from the decision of the Additional Collector lies to the Grievance Redressal Committee and the Apex Grievance Redressal Committee thereafter⁴. A High Powered Committee is also constituted to look into these disputes.

Public documents concerning the SRS, which could include approvals, certified Annexure-II, are likely to be affixed in or outside the office of the local authority. A public notice or a notice that does not need to be served on any particular individual, will be affixed in a conspicuous part of the office of the Competent Authority (such as Additional Collector or CEO).

³/ Para 3 of the Government Resolution No. SRP-1001/Case No.125 dated 16 May 2015

⁴/ Section 35 of the Slum Act, 1971

CHAPTER 2

IN-SITU SLUM REDEVELOPMENT SCHEME

INTRODUCTION

In 1997, the State of Maharashtra introduced the in-situ slum redevelopment scheme for censused slums, pavement dwellers and those whose names and structures appeared in the electoral rolls of 2000¹ or earlier and in actual occupation, situated within the limits of the Municipal Corporation of Greater Mumbai (MCGM). This scheme—Appendix IV of DCR 33(10) — entitles each such household to a rehabilitation tenement measuring 27.88 square metre (sq. m.)² (irrespective of the size of their existing unit) and provision of amenities, at the same location, in exchange for their present dwelling. These rehabilitation tenements are provided by promoters/builders who are incentivised to construct them in exchange for floor space index, which can be utilised towards constructing tenements for sale in open market for recovering costs. These rehabilitation tenements are then handed over ‘free-of-cost’ to the Slum Rehabilitation Authority (SRA), which then allots them to eligible slum residents of the scheme. 51 per cent³ eligible residents can come together to support

and consent to such a project under this scheme to be undertaken through either private developers, land owners, non-governmental organisations (NGOs) (that are registered under the Maharashtra Public Charitable Trusts Act and Societies Registration Act), public authorities such as the Municipal Corporation of Greater Mumbai (MCGM), Mumbai Metropolitan Region Development Authority (MMRDA), Maharashtra Housing and Area Development Authority (MHADA), or by themselves by forming a co-operative housing society. Previously under Appendix IV of the Development Control Regulations for Greater Mumbai, 1991 (DCR),⁴ Regulation 33(10) of the Development Control and Promotion Regulations for Greater Mumbai, 2034, lays down the manner in which such kind of redevelopment must be undertaken. These regulations are a part of the legally sanctioned Development Plan for Greater Mumbai issued under the provisions of the Maharashtra Regional and Town Planning Act, 1966.

APPLICABILITY OF SLUM REHABILITATION SCHEME

For sanction of a redevelopment project under this scheme, it is not mandatory for the parcel of land in question to have a prior declaration as a ‘Slum Area’ under section 4 or prior notification as a ‘Slum Rehabilitation Area’ under section 3C(1) of the Slum Act, 1971.⁵ Regulation 33(10) covers slums and pavement dwellers that fall under the following categories,⁶

- (1) Areas that fulfill conditions under section 4, and have been censused, or declared and notified as slum areas;
- (2) Areas that have been previously declared as Slum Rehabilitation Areas, including under legislations preceding the Slum Act, 1971;
- (3) Areas where slum redevelopment projects have been approved by the CEO, SRA;
- (4) Any area required or proposed for the purposes of construction of temporary or permanent transit camps and so approved by SRA shall also be deemed to be and treated as ‘slum rehabilitation area.’

1/ Government Gazette dated 2 May 2014 amended the date from 1 January 1995 to 1 January 2000.

2/ Amended vide Corrigendum No.TPB-4317/629/CR-118/2017(III)/UD-11 dated 12 November 2018.

3/ Originally 70 per cent under DCR 1991, DCPR 2034 reflects the amendment to 51 per cent vide Government Resolution No.SaGruYo 2018/Pra.Kra.85/14-S dated 4 July 201, Government of Maharashtra.

4/ Introduced by amendment dated 15 October 1997

5/ Pant Nagar Mahatma Phule Co-op Hsg Society Ltd. & Ors v. State of Maharashtra & Ors, (2016) SCC OnLine Bom 1784; Om-Sai Darshan Co-operative Housing Society v. State of Maharashtra, (2007) 1 AIR Bom R 120

6/ Regulation 33(10) II.

PROCEDURE

The key points of the procedure followed in undertaking a project under this scheme are as follows:

1. FORMATION OF A CO-OPERATIVE HOUSING SOCIETY:

To initiate the procedure, residents of a neighbourhood (sought to be redeveloped) must be brought together to form a co-operative housing society to pass a general body resolution expressing willingness to initiate a slum redevelopment project. The project must have the support of at least 51 per cent of the eligible residents without which the Slum Rehabilitation Scheme (SRS) cannot be invoked. The proposed society must choose a name, elect a chief promoter and appoint a managing committee, who will act on behalf of the society. To avoid any disputes in future, keeping records of the meeting through video, minutes, etc. is compulsory.⁷ It is to be presided over by representatives of the SRA.⁸ This is often undertaken after the residents have already prepared the Annexure-II of the neighbourhood that intends to redevelop. The society must eventually appoint a party, who will be undertaking the redevelopment project—the promoter, who can be a private developer, a NGO or undertake it themselves and, execute a development agreement with such a recognised entity for this task.

2. ENQUIRING ABOUT THE PARCEL OF LAND SOUGHT TO BE REDEVELOPED:

In case the residents do not have this information, they must obtain and collect documents of the parcel of land on which the neighbourhood is situated. This can be spread over multiple plots revealing multiple landowners. Such documents include the 7/12 Extract of the Land, Property Rights Card of the plot/plots. These documents can be obtained from the office of the Superintendent of Land Records, Collector, or through Right to Information (RTI) applications. In the scenario where the landowner(s) is/are willing to consent to/undertake the redevelopment, a slum map demarcating each dwelling and measure of the total area must be prepared by an architect appointed for the project. If any dwelling falls on the

boundary of the demarcated area, its residents must also be given the opportunity to participate in the scheme, since a slum area is not limited to a specific plot. The zonal offices of Additional Collector (Encroachment), Slum Rehabilitation Authority (SRA) or the Deputy Collector (Encroachment), SRA, City Survey officer and Superintendent of Land Records or any other notified competent authority must be invited to certify this survey. This certified measurement becomes the basis for calculating the density of the rehabilitation component, free-sale component, commercial/economic activity area (if any), and floor space index (FSI).

3. COLLECTING INFORMATION OF THE MEMBERS AND FILING-UP OF ANNEXURE II:

Details of each enumerated household within the demarcated area have to be collected by a door-to-door survey in the Annexure – II format prescribed by the Slum Rehabilitation Authority (SRA). This task must be undertaken by the office bearers of the proposed society, with due care to collect information such as number of occupants, household head, tenure status (whether the residents are owners or tenants), years of occupation, whether residential or commercial use, or both. This information must be backed with documentation such as shops and establishment (gumasta) license, light bill, Municipal Corporation of Greater Mumbai (MCGM) tax receipt, electoral roll extract, Aadhaar Card, passport, school-leaving certificate, etc. (The 16 May 2015 Government Resolution lists all such documents that are considered valid proof.) The final tabulated list will contain the name of the proposed society, chain and triangulation survey (CTS) number, landowner information and details of each dwelling—assigned number, name of household head (female and male), type of use, consent, whether present on electoral roll extract of 2000 or earlier. Annexure-II has to be read and adopted by the society in a general meeting with all residents. The provision of proper and adequate documentary proof is necessary at this stage because the list is then submitted to the landowning authority for the purpose of verifying the eligibility of each household for the free-of-cost rehabilitation tenement.

7/ SRA Circular No.80 dated 15 February 2008

8/ SRA Circular No.148 dated 2 February 2015

4. VERIFICATION OF ELIGIBLE

RESIDENTS: Annexure-II adopted by the society has to be submitted to the landowning authority. This authority verifies the eligibility of individual households through the information and documents provided, and certifies once the re-verification is completed. In case of a private landowner, Annexure-II is certified by the Collector. The managing committee of the society must ensure that the residents are notified of the certified Annexure-II by affixing it on the notice board of the society or on a conspicuous area for a minimum of 30 days, and also by publishing it on the project website. In case a scheme has already been initiated, the promoter of the scheme is obligated to notify the residents. The Deputy Collector shall keep a copy, notify by way of affixing it in a conspicuous part of his office and monitor this process. Those found to be non-eligible must be informed in writing by the promoter and the managing committee within 30 days of receipt of the certified Annexure-II, with all necessary information including the remedy available before the Additional Collector, Slum Rehabilitation Authority (SRA) (in case of Greater Mumbai), the time frame, the required documentation. The promoter and the committee must assist in filing appeals within the stipulated time period specified in the Letter of Intent (usually 90 days).

5. NAME RESERVATION OF THE CO-OPERATIVE HOUSING SOCIETY:

The society must apply for the reservation of its name to the office of the Assistant Registrar of Societies, Slum Rehabilitation Authority (SRA), preferably once Annexure-II is certified. Annexure-II serves as a verified list of total residents of the demarcated plot who will become the members of the proposed housing society. Based on this list and the general body resolutions initiating the scheme, the Assistant Registrar will have to verify the actual majority and then issue a letter approving the application and reserving the society's name.

6. SCHEME PROPOSAL DOCUMENTS:

A competent developer or registered NGO eventually appointed by the society as the promoter must prepare the redevelopment plan as per DCPR 33(10) as well as

the documents prescribed by the Slum Rehabilitation Authority (SRA), through the appointed architect/ structural engineer. Some of the crucial documents to be submitted to the SRA include the following,

- a. **Annexure-I:** Details of the land, plot area, existing structures and their type of use, plot density, extent and type of reservation, current amenities, floor space index (FSI), number of tenements, rehabilitation and free-sale component area, transferable development rights (TDR).
- b. **Annexure-II:** Details of household and residents appended with the agreements executed between the promoter with each eligible household
- c. **Annexure-IIa:** Details of commercial users appended with the agreements with each commercial unit
- d. **Annexure-III:** Information about the financial capacity and capability of the promoter to execute the scheme
- e. **Annexure-IV:** Ownership documents of the plot
- f. **NOCs and clearances from Municipal Corporation of Greater Mumbai (MCGM) and State departments.**

The application must fulfill all essential requirements to be considered as a valid application. It is only after a pre-scrutiny of the proposal documents and on payment of scrutiny fee by the promoter that the SRA will accept the application for proposal. Thereafter, details of the scheme are added to the SRA database and a file number is allotted. Subsequent to this, the aforesaid Annexures are forwarded to the relevant departments and/or other competent authorities that scrutinise and certify them for grant of approvals. Once a scheme proposal is accepted, no other applications are accepted during its scrutiny.

7. APPROVALS: A valid application must be approved by the SRA within 60 days from the date

of submission of the scheme proposal. The following approvals are simultaneously granted:

- (1) Letter of Intent conveying approval to the scheme,
- (2) Commencement Certificate under section 44 and 45 of the Maharashtra Regional and Town Planning Act,
- (3) Layout approval,
- (4) Intimation of Approval of building-wise plan

The last three of these pertain to the rehabilitation building, which must be constructed first. The approvals for subsequent rehabilitation and free-sale components are granted separately and proportionately. The scrutiny procedure is the same as that under the Maharashtra Regional and Town Planning Act, 1966. Each approval must be uploaded to a website and published in Marathi and English language newspapers. After the grant of the approvals, the promoter has to display at a prominent location at the site details such as the name, address and contact number of the developer, name of architect, consultant, structural engineer, approval number, date of approvals. In case the land owner is a government agency such as Mumbai Metropolitan Region Development Authority (MMRDA), Maharashtra Housing and Area Development Authority (MHADA) or public authority such as Municipal Corporation of Greater Mumbai (MCGM), Collector, Maharashtra Coastal Zone Management Authority (MCZMA), an NOC must be obtained on the basis of the Letter of Intent. The land owning authority is mandated to grant this within a period of 30 days from the receipt of the application.

8. PAYMENT OF MAINTENANCE DEPOSIT AND INFRASTRUCTURE DEVELOPMENT CHARGES TO THE SRA:

The promoter must deposit an amount of INR 40,000 per rehabilitation tenement and infrastructure charges at the rate of 2 per cent of ready reckoner rate per square metre for the built-up area of the rehabilitation and free-sale components⁹. This is separate from the development charges of the Municipal Corporation of Greater Mumbai (MCGM). These amounts can be paid in instalments in

accordance with a time-schedule notified by the Slum Rehabilitation Authority (SRA) or further relaxations if allowed as per agreement, however prior to the completion of construction of the rehabilitation building. While the entire deposit amount of INR 40,000 per tenement and infrastructure charges per square metre are held by the SRA, 90 per cent of the infrastructure charges are transferred to the MCGM. The infrastructure charges are used towards provision and improvement of basic amenities in slum rehabilitation areas. The deposit amount held with the SRA is transferred to each tenement holder through the registered housing society of the residents after the allotment of permanent tenements.

9. TRANSIT ACCOMMODATION OR RENT:

Provision for alternative accommodation has to be made for each household before any works are undertaken. But this allotment may also stagger depending on the manner in which the redevelopment is sought to be executed, as approved by the Slum Rehabilitation Authority (SRA). The land on which the transit accommodation is provided is deemed a Slum Rehabilitation Area¹⁰. In case of a vacant plot of unreserved land nearby to the site, floor space index (FSI) of up to 4 is allowable for provision of temporary transit tenements. It is the responsibility of the promoter to provide and maintain transit accommodation with adequate amenities till the final possession of rehabilitation tenements. This can be provided in a multi-storied building, at the site itself or in areas close to the site of the slum redevelopment project as per the outcome of consultation with the residents. The building(s) can be erected on nearby vacant lands belonging to public authorities for which an NOC of that authority must be obtained by the developer. Such lands are also deemed as slum rehabilitation areas. The tenement must be of at least 156 square feet (sq. ft.)¹¹ in size and is required to be made of prefabricated light detachable material, the safety of which has to be certified by a licensed structural engineer. These tenements are allotted by a draw of lots, however it can

9| Clause 9 of Regulation 33(10)

10| Clause 2.4 of Regulation 33(10)

11| Added in the 2034 DCPR

be allotted only to those who are eligible or held to be so at a later stage. This list has to be submitted to the SRA prior to the relocation. The slums can be demolished only once the entire relocation process of all residents has been concluded. The relocating residents must sign a declaration of intent to be rehabilitated and submit it at the SRA through their society.

Transit Rent: In case of lack of availability of a site for erecting transit tenement buildings, SRA can be approached for renting of project affected persons (PAP) tenements in the vicinity, which are subject to availability. This could compel residents to relocate to far off places. There must be a proper consultation among the residents, society and promoter before choosing this direction.

10. REHABILITATION TENEMENTS:

Rehabilitation tenements must be constructed for all the households falling in the project area, irrespective of their eligibility and participation status at the certified Annexure-II. Each eligible household is entitled to a minimum of 27.88 sq. m. or 300.1 sq. ft. tenement, regardless of the size of their present dwelling. However, non-residential and commercial premises are entitled to a maximum of 225 sq. ft.¹². In case of both residential as well as commercial use by the household/occupant, the carpet area will be a maximum of 27.88 sq. m.¹³ Depending on the number of households, the builder must also provide in the rehabilitation component, *anganwadi/balwadi* centres, society office, health centre, community hall/gymnasium, skill development centre, women entrepreneurship centre, *yuva kendra*/library, existing religious structures, and other social infrastructure such as dispensary, school run by trusts or public authority and commercial areas and offices of NGOs, public authority, if applicable. The habitability of the rehabilitation tenements, which includes the amount of light, fresh air, open areas, is detailed in Clause 6¹⁴. While the scheme carries no provision for consultation with the residents with respect to these aspects, it should not preclude the residents from examining them with the appointed architect and raising these questions. The quality and workmanship of the construction work

has to be monitored and certified by the appointed architect/structural engineer, periodic reports for which are to be submitted to the Engineering wing of the Slum Rehabilitation Authority (SRA) at various stages of construction. Once the rehabilitation building is completed, the developer must apply for a completion certification. Each rehabilitation tenement and the building structure are inspected by the SRA, as per the layout approvals and terms and conditions stipulated at the intimation of approval. Following this, the building is granted an occupation certification. It is only after the grant of Occupation Certificate that the residents can relocate into the tenements. These are handed over to the SRA by the promoter free-of-cost. SRA must notify the residents of the date of possession in advance.

11. FLOOR SPACE INDEX AND TRANSFERABLE DEVELOPMENT RIGHTS:

The number of rehabilitation tenements that will come up on each floor, building(s), the area dedicated to the rehabilitation component vis-a-vis the free-sale component out of the total plot, is determined on the basis of the existing housing density as well as the stipulated built up area ratio. The maximum permissible floor space index (FSI) allowed on a plot of land for a slum rehabilitation project is 4, unless the existing tenement density cannot be more than 500 per hectare, in which case maximum permissible FSI will be 3¹⁵. Common passages of more than 2 metre width and amenities such as *anganwadis*, gymnasium, library, community halls, skill development centre, women entrepreneurship centre, *yuva kendra*/library, existing religious structures, and other social infrastructure, etc. are not to be counted towards this FSI calculation. The balance FSI, which is the difference between the sanctioned FSI and allowable consumption of FSI on the plot, is converted into transferable development rights (TDR) that can be utilised by the developer at any other location within Municipal Corporation of Greater Mumbai (MCGM) limits. Also, in cases where full permissible FSI cannot be employed at the same site of a slum rehabilitation project due to building norms restrictions, uneconomical conditions, non-buildable plot reservations, etc. the

¹² Clause 5.3 of Regulation 33(10); *Madhukar Shankar Parsekar v. State of Maharashtra*, (2007) 1 AIR Bom R 29

¹³ Clause 5.2 of Regulation 33(10)

¹⁴ Under Appendix IV of Regulation 33(10), DCR 1991, these features were to be provided in terms of the Building Control Norms.

¹⁵ Clause 3.8 of Regulation 33(10)

remaining FSI can be converted to TDR and utilised at another site.

12. ALLOTMENT OF REHABILITATION TENEMENTS:

During the construction, the society must undertake the allotment of the tenements through a draw of lots in the presence of the Assistant Registrar of Societies. Each individually numbered dwelling unit is entitled to one rehabilitation tenement. Households with persons with disability or female *pramukh* (heads) are given first preference in the allotment, prior to the draw for the remaining. This allotment must also include those declared eligible at a later stage as a result of appeals. The remaining additional tenements are surrendered to the Slum Rehabilitation Authority (SRA) which may accommodate households from other schemes (*ex-situ*) and project affected persons. The allotment list so prepared by the managing committee/promoter, has to be submitted to the SRA for its database. The allotment is done by way of issuing new photo-passes and possession letters in joint name of the *kutumb pramukh* (head of the household) and their spouse at the time of granting possession of the rehabilitation tenement. Further, the allottees cannot transfer (sell, lease, gift, exchange, etc.) the tenements for a period of 10 years from the date of allotment,¹⁶ even after which permission of SRA may be required. The promoter is mandated to maintain the building and infrastructure facilities, such as adequate access to utilities, till the completion of the entire project and handover to the society once land title is transferred to the name of society. However, this is apart from the repairs and rectification required in the duration of the defects liability period.

13. TRANSFER OF LAND TITLE IN THE RECORD OF RIGHTS:

On completion of the redevelopment project, in case of land owned by public authority, the land underlying the rehabilitation building must be leased out to the registered society of the rehabilitated residents for a period of 30 years, renewable thereafter, with an annual rent of INR 1,001 per 4,000 sq. m. of land¹⁷. The promoter is also required to compensate the land-owning authority by paying a premium at 25 per cent of the ready reckoner. Further,

the area must be denotified as 'slum rehabilitation area', wherever applicable. The City Survey office, Slum Rehabilitation Authority (SRA) is mandated to assist in the lease and change in the record of rights. The promoter must make an application for lease to the landowning authority on behalf of the society, during the construction phase. Once the lease has been granted, a change in record of rights in the property card of the land must be applied for by the promoter on behalf of the society. In case of private ownership, the land title must be transferred to the society by the private developer or owner. The promoter must make an application with payment of prescribed fees to the City Survey Officer or Superintendent of Land Records to correct the City Survey sheet and property card entry of the plot. The new property card will include details such as the area of the plot, built-up area of the buildings situated on it, floor space area and ratio, transferable development rights (TDR).

14. MAINTENANCE AND PAYMENT OF TAXES:

Once the land title has been transferred to the society, the society will be responsible for maintaining common infrastructure within its premises such as internal roads, open spaces, household waste collection, and payment of municipal taxes, electricity bill for common facilities, water charges, etc. The society is authorised to charge service fee from its members for this purpose and any other dues of competent authorities.

¹⁶ Section 3E of the Slum Act, 1971

¹⁷ Clause 1.11 of Regulation 33(10)

PARTICIPATION IN THE SCHEME

1. CONSENT OF MEMBERS: The decision of the co-operative housing society of slum residents to join a redevelopment scheme reflected in its general body resolution is not sufficient to establish consent. Consent is ascertained through the execution of individual registered irrevocable agreements by the promoter with the head of each participating household¹⁸. But a participating household cannot withdraw their consent in their individual capacity. Agreements with each household comprising at least 51 per cent of the total households of the demarcated neighbourhood have to be submitted to the Slum Rehabilitation Authority (SRA), for the scheme to be considered valid for approval.¹⁹ The lack of consent of sufficient number of households is not allowed to be remedied any later²⁰. In cases where the promoter has already obtained a Letter of Intent, the Commencement Certificate cannot be granted until the submission of the agreements of at least 51 per cent consenting residents, the stamp and registration fees for which are payable by the promoter. This agreement with photographs of husband and wife affixed, records the consent of each household and also contains certain mandatory provisions for safeguarding the interest of the relocating residents, which are as follows:

- a. Details and description of the entire plot undergoing redevelopment
- b. Details of the resident's use, occupation and possession of a dwelling
- c. Entitlement of the occupants to a 300.1 sq. ft. residential tenement or a 225 sq. ft. of commercial/economic activity/non-resident tenement
- d. Amenities to be provided in the tenements
- e. Transit accommodation and its maintenance, or transit rent to be provided
- f. Time within which rehabilitation tenement shall be completed

g. No cost towards construction to be borne by the residents

h. Defects liability period

Section 3E of the Slum Act, 1971 also places a 10-year restriction on the sale or transfer of rehabilitation tenements except to legal heirs, which is also required to be recorded in the agreement. Once 51 per cent of the total residents have consented to join the scheme, the scheme provides no alternatives for the remaining residents as such but to participate or vacate their dwelling. If the society still approves this scheme, the promoter is mandated to incorporate the non-consenting members in all its arrangements and outcomes that it plans for the consent members.

2. NON-PARTICIPATING SLUM

RESIDENTS: The scheme under 33(10) necessitates non-participating residents to either consent or vacate. The eligibility of such a resident is also determined at the certified Annexure-II. Non-participating eligible members are also entitled to permanent tenements. It is mandatory for the promoter and the society to extend the same benefits as participating residents, that includes a chance of participation and membership throughout the different stages of the project²¹. The transit tenements are also constructed accounting for these residents and allotted by the society in the draw if they abstain. However, these benefits are offered only until the grant of the construction commencement certificate for the rehabilitation building. After which, the non-participating resident could be compelled to choose between joining the scheme or vacating their dwelling. The Slum Act authorises the promoter or the society to file a complaint against non-participating residents for refusing to relocate, with the Additional Collector (Encroachment), Slum Rehabilitation Authority (SRA), empowered to initiate eviction action under section 33 and 38 (obstructing the redevelopment project) of the Slum Act, 1971. An evicted resident, who is rendered

¹⁸ *Susme Builders Pvt. Ltd. v. Chief Executive Officer, Slum Rehabilitation Authority and ors.* (2018) 2 SCC 230

¹⁹ *Clause 1.15 of Regulation 33(10)*

²⁰ *Atesham Ahmed Khan v. Lakadawala Developers Pvt. Ltd.,* (2011) 3 Mah LJ 604

²¹ *Clause 1.16 of Regulation 33(10)*

homeless, is allotted a pitch of about 3m x 3.5m by the SRA at any location within city limits as per availability, the construction upon which is to be borne by the evicted resident.

3. MEMBERSHIP IN THE CO-OPERATIVE HOUSING SOCIETY:

A resident acquires membership in the capacity of a holder of a tenement on ownership basis. Therefore, only residents deemed to be eligible for permanent tenements can become members of the proposed co-operative

housing society. An eligible resident becomes a member on payment of the subscription share fees and deposit for the formation of the society. A resident is required to clear pending municipal dues. The share fee can be collected once the society's bank account is opened in a co-operative bank on receiving a permission letter from the assistant registrar. All participating residents must become members of the proposed housing society. It is compulsory for non-residential occupiers/owners to become members if they stand to benefit from the common amenities of the redeveloped society. A member receives a share certificate in return of the subscription.

ROLE OF THE SLUM REHABILITATION AUTHORITY

The Slum Rehabilitation Authority (SRA) has been constituted as an independent autonomous corporate entity by the Government of Maharashtra. The Slum Act, 1971 describes its role as that of surveying and reviewing existing slum policy, formulating schemes for rehabilitation and implementing them with the objective of rehabilitation of slums²². It has been delineated as a planning authority with powers relating to building regulations and development plans modifications granted under the Maharashtra Regional and Town Planning Act, 1966²³ and the Mumbai Municipal Corporation Act, 1888²⁴. The SRA can declare any area that meets the parameters of a slum under section 4 of the Slum Act, 1971 as a slum rehabilitation area. All such areas, including those deemed or where schemes are being proposed and implemented, fall under the jurisdiction of the SRA. Certain provisions of Slum Act, 1971 have been extended to the redevelopment scheme under Appendix IV of DCR 33(10),²⁵ which authorize the SRA to intervene as a quasi-judicial body.

For the purpose of the in-situ scheme under Appendix-IV, its functions, as already set out in the sections above, broadly include the following:

- Land management (identification, demarcation amalgamation and subdivision of plots, altering

Development Plan [DP] reservation, etc.)

- Approval of schemes, building permissions and supervision
- Consent and eligibility verification (certification, adjudication of appeals, etc.)
- Registration of co-operative housing societies
- Relocation and evictions
- General administration

Apart from these, it is mandated to play an adjudicatory role. The Chief Executive Officer (CEO) of the SRA can exercise its adjudicatory powers in the following scenarios²⁶:

1. Contravention of the approved plans by promoter/developer
2. Contravention of restrictions or conditions in the approvals
3. Contravention of stipulated time schedule
4. Contravention of development agreement between developer and slum-dwellers
5. Eviction of non-participating residents²⁷

22/ Section 3A(3) of the Slum Act, 1971

23/ Notification No.TPV/4396/492/CR-105/UD-11 dated 13 September 1996 issued by the Government of Maharashtra

24/ Section 354AAA of the Mumbai Municipal Corporation Act, 1888

25/ Section 3D of the Slum Act, 1971

26/ Section 3D(b)(iii) of the Slum Act, 1971

27/ Section 3D(e)(i-a) of the Slum Act, 1971

6. Eviction of occupants of tenements without allotment or Occupancy Certificate (OC)

In case of (1) to (4), the CEO is empowered to entrust the redevelopment project to another recognised developer or agency²⁸, order demolition of the contravening construction or completed building²⁹, and punish with imprisonment of up to 3 months or fine of one thousand rupees, or with both³⁰. The new agency so appointed is liable to pay to the outgoing developer any expenditure incurred towards obtaining approvals and permissions by way of a deposit. Particularly, in case of (4), even if the dispute may be arising out of development agreement, i.e., between the developer and one slum resident, such as relating to transit accommodation, delay or non-payment of transit rent and likewise, the SRA has the power to take action under section 13(2), or even section 3A(3)(c) & (d)³¹. Eligibility of slum residents, allotment of transit accommodation or permanent tenements are part of the

key objective of the scheme of rehabilitation and are also critical to the discharge of the SRA's functions as a public authority.

In case of (5) and (6), the CEO, on representation of the society or the promoter or suo motu, can direct eviction. The power to evict can be exercised only in areas where schemes have been approved. However, a declaration under section 4, which expressly recognises an area as a Slum Rehabilitation Area, is not required for recourse under Section 33 and 38 of the Slum Act, 1971³².

In all of the cases, the CEO shall grant a reasonable opportunity of being heard, within a period of 30 days of such an order being passed. An aggrieved person can file an appeal against any such order or decision made thereon, before the Grievance Redressal Committee, SRA. However, that does not assure a stay on the operation of the order of the CEO.

RIGHTS OF SLUM RESIDENTS

Occupants of censused slums and other informal dwellings whose names and independently enumerated structures appeared in electoral rolls of 2000 or earlier, situated within the Greater Mumbai (limits of applicability of DC regulations), are qualified to take part in slum redevelopment through the in-situ rehabilitation scheme under Appendix IV, DCR 33(10). Apart from the entitlements mentioned in the aforesaid sections, the key available rights are as follows:

1. FREE-OF-COST IN-SITU

REHABILITATION TENEMENT: The scheme guarantees each eligible slum household or pavement dweller, a free-of-cost rehabilitation tenement measuring 269 sq. ft. in exchange for their presently-occupied individually-enumerated dwelling, at the same location as far as possible.

a. This also applies to:

- i. Households that do not join the project willingly (minority, non-participating or non-

consenting members), which can only be extinguished if the household refuses to participate till the final stage or by action of CEO under Section 33 of the Slum Act, 1971;

- ii. Households held eligible at a later stage by the Additional Collector or Grievance redressal authority or other competent/appellate authority;

- b. Households headed by female members and households having members who are persons with disabilities are given first preference during the allotment of permanent tenements.

2. PROTECTION FROM EVICTION AND DISTRESS WARRANTS:

Slum residents undertaking the Slum Rehabilitation Scheme (SRS) project are deemed protected occupiers. With the commencement of the Slum Act, 1971, evictions of all occupants of dwellings that were holders of photo-passes

28/ Section 3D(b)(iii)

29/ Section 3D(e)(v) of the Slum Act, 1971

30/ Section 37(2)

31/ *Susme Builders Pvt. Ltd. v. Chief Executive Officer, Slum Rehabilitation Authority and ors.* (2018) 2 SCC 230

32/ *Amba Chawl Wadi Rahiwasi Seva Sangh v. Municipal Corporation of Greater Mumbai*, 2005(3) ALL MR 889

(protected occupiers³³), were made impermissible, except in accordance with a scheme prepared by the State Government or by action of the Competent Authority³⁴. This protection was also extended to occupants whose names and structures appeared in electoral rolls of 2000 or earlier. Furthermore, eviction of such occupants cannot be resorted to even by way of filing a suit or proceedings, without first obtaining an order from the competent authority³⁵. Those slum residents or occupants of informal dwelling units that may not have been previously recognised as 'protected occupiers' under the Slum Act, 1971, or do not possess photo-passes, but have been found eligible for the 33(10) redevelopment scheme, are deemed as protected occupiers³⁶. Moreover, an area where a scheme has been approved is deemed as a Slum Rehabilitation Area³⁷. Therefore, such occupants are entitled to the same security against eviction as available under the Slum Act, 1971.

3. GRIEVANCE REDRESSAL:

There are no direct remedies available to individual households under the provisions of the DCR 33(10) for violation of terms of development agreement or the conditions stipulated in the approval, for instance, finding on eligibility, non-payment of transit rent, non-maintenance of transit tenements, delay in constructing tenements, etc. The task of monitoring compliance by the promoter to the scheme inherently lies with the Slum Rehabilitation Authority (SRA). The Slum Act, 1971, provides the means for resolution of such disputes, as per which, the Appellate Authority (not below the rank of Additional Collector) is the grievance redressal authority at the first instance. The CEO of the SRA is also empowered to take action against the promoter in this regard under sections 13(2) or 3A(3)(c) & (d) of the Slum Act, 1971. The CEO shall issue notice to the developer, and give an opportunity

to be heard to both parties before passing any order. An appeal against the decision of the CEO or the Appellate Authority can be filed before the Grievance Redressal Committee (GRC) and to the Apex GRC in case of further appeal³⁸. The managing committee of the society also has the power to look into concerns, for instance, in a scenario where the slum residents seek to change the developer, the society can pass a resolution (51 per cent majority) terminating the agreement with the developer and then file a representation with this resolution before the CEO, who would then appoint a new developer. Any new developer and its proposal would have to go through the approval procedure and scrutiny of the SRA. Further, a suit is barred under the provisions of section 42 of the Slum Act, 1971. In light of the lack of alternative remedies, the jurisdiction of the High Court can also be invoked through Writ Petitions under Article 226. These are particularly maintainable against actions or omissions or orders of public authorities (such as the SRA in this case). However, subsequent to the directions of the Bombay High Court in W.P. No. 1326 of 2007³⁹, another appellant remedial authority, the high power committee, was established to look into such complaints and grievances⁴⁰. The high power committee has been empowered to look into a wide variety of matters, including those concerning individual households.

33/ Section 3X(c) of the Slum Act, 1971

34/ Section 3Z of the Slum Act, 1971

35/ Section 22 of the Slum Act, 1971

36/ Clause 1.a of Regulation 33(10)

37/ Clause 2.3 of Regulation 33(10), DCR 1991

38/ Section 35(1A)(b) of the Slum Act, 1971

39/ Order dated 1 November 2007, W.P. 1326 of 2007, Bombay High Court.

40/ See also Government Resolution No. Yachika-2007/ Prakra 361/ Zopasu -1 dated 15 November 2007 passed by the Government of Maharashtra.

CHAPTER 3

PROJECT AFFECTED PERSON SCHEME

INTRODUCTION

The provision under Clause 3.11 of Regulation 33(10) is commonly referred to as the project affected persons (PAP) scheme that essentially permits involuntary relocation of protected slum residents. This clause sanctions an exception to the key components of the slum redevelopment scheme under Appendix-IV of DCR 33(10), viz., (1) rehabilitation in the same location as far as possible and (2) consensual redevelopment/rehabilitation of each household. It was introduced as a part of the Slum Rehabilitation Scheme (SRS) (Appendix-IV) to cater to cases where public authorities intended to execute vital public projects on lands belonging to them and hence wanted to 'free' the land from a cluster of slums, or where in-situ SRS was not possible due to site constraints or uninhabitability of land. Under this scheme, a developer who surrenders tenements 'free-of-cost' to the Slum Rehabilitation Authority (SRA) or the land owner of an unencumbered plot who surrenders their plot, for relocation of such slum residents, is compensated with transferable

development rights (TDR) in place of extra floor space index (as under 33[10]) that can be used anywhere within Greater Mumbai limits. In 2002,¹ the TDR benefit of this provision was extended to public authorities or state agencies as well. Therefore, there is no need for a free-sale component to be constructed along with the tenements for project affected persons, although the clause does not prohibit construction of the free-sale component. In 2002,² the TDR benefit of this provision was extended to public authorities or state agencies as well. However, neither prior identification of allottees of such tenements nor the execution of a vital public project are a precondition for the developer invoking this scheme. These preconditions would be applicable only to public authorities. However, in case of failure to identify, the procedure under this clause permits the tasks of construction and involuntary relocation of households to be completely separate. This results in the creation of rehabilitation and resettlement (R&R) colonies in peripheral areas of the city.

APPLICABILITY

This clause comes into operation in cases where, (1) land is reserved for non-buildable reservations, and protected occupants residing on such land cannot be rehabilitated in-situ due to its requirement for a vital public project, and (2) developer/owner surrenders tenements/land for rehabilitation of project affected persons. Rehabilitation

of adivasi inhabitants of forests, Sanjay Gandhi National Park and Aarey Colony, was added as another ground by the government of Maharashtra for invoking this clause in the new Development Control and Promotions Regulation (DCPR) of Mumbai.³

PROCEDURE

1. CONDITIONS FOR APPROVAL OF PROJECT

Where the slum rehabilitation project is initiated by the

land-owning public authority, the proposal must comply with certain conditions enlisted under the regulation, that are:

1| Notification No. DCR/1095/1209/CR 273/95/UD 11 dated 30 November 2002

2| Notification No. DCR/1095/1209/CR 273/95/UD 11 dated 30 November 2002

3| Proviso to Clause 3.11 of Regulation 33(10), DCPR 2034

- (1) The project proposal must be approved by the SRA;
- (2) Project affected persons (PAPs) must be identified within 270 days from the grant of Letter of Intent;
- (3) In case of failure to identify within such time, the tenements must be offered to:
 - (a) Slum residents occupying government lands located within 2 kms of site of this rehabilitation project, or
 - (b) Slum residents occupying government lands

2. IDENTIFICATION OF ELIGIBLE SLUM RESIDENTS:

The eligibility policy prescribed under the Government Resolution dated 16 May 2015 (dealt with in Chapter II) is applicable to all planning authorities (with the exception of the Mumbai Urban Transport Project [MUTP] rehabilitation and resettlement [R&R] policy), therefore, the public authority initiating the relocation project has to adhere to it. It is responsible for collecting information of the inhabitants of the required land through a door-to-door survey and independently enumerating each surveyed dwelling. (NGOs have been engaged in the past by authorities to undertake this task.) There is no mandate on the authorities to meaningfully engage with the slum residents in this exercise unlike the recognised norms for involuntary relocation. The list of inhabitants drawn in the format of Annexure-II is then verified by the land-owning authority. The certified list is notified in the office of the public authority as well as affixed at a conspicuous place in the neighbourhood. This identification and certification has to be concluded within 270 days of the approval of the project. It is the obligation of the Slum Rehabilitation Authority (SRA) to oversee this procedure. Those who have been found ineligible or whose names have not appeared on the certified list, have the right to file an appeal before the Additional Collector, or other competent authority (where specified by the public authority initiating the project), and further, with higher authority. The same process as

located anywhere in Greater Mumbai;

- (4) The objective of the relocation (in any of the cases) must be to release an entire plot of land owned by government or public authority and not for relocation of individual households alone.

The 1991 Development Control Regulation (DCR) allowed occupants of private lands to be relocated to such vacant PAP tenements on payment of cost of the tenements by the land-owner. This provision has been removed from the new Development Control and Promotions Regulation (DCPR). On approval of the project, the land sought to be released is not declared as a Slum Rehabilitation Area.⁴

discussed in the chapter on eligibility, is applicable here as well. Annexure-II also contains details of the vital public project, the implementing authority and applicable rehabilitation policy.

3. REHABILITATION TENEMENTS: Each eligible household is entitled to one free-of-cost tenement of minimum 269 sq. ft. inclusive of amenities. They are entitled to the same benefits as given under the Slum Rehabilitation Scheme (SRS) in terms of minimum size and amenities, welfare hall, *balwadi*, society office and religious structures and other social infrastructure⁵, as described in the preceding chapter. Apart from basic utilities such as running water connections, power supply, waste disposal and sewage treatment mechanisms, consideration must also be given to fire safety equipment, medical clinics, public transport linkage, and schools and hospitals in the vicinity, part of the mandate of the planning authorities.

4. ALLOTMENT OF THE PERMANENT TENEMENTS: Ordinarily, project affected person (PAP)_ tenements are in the custody of the Slum Rehabilitation Authority (SRA) or estate department, Municipal Corporation of Greater Mumbai (MCGM), since they are surrendered (free of cost) by the developers for award of compensatory transferable

4| Proviso to section 3C(1) of the Slum Act, 1971

5| Clause 8 of Regulation 33(10)

development rights (TDR) under clause 3.11. The manner of handing-over of tenements from SRA to the public authorities for relocating their PAPs is not specified under this clause. Further, there are also cases where the public authority itself undertakes the task of constructing PAP tenements on its lands. In case of the MCGM, as per an undated circular of the estate department, until the handing over by allotment, PAP tenements would remain under the custody of the MCGM, which would also entail payment of maintenance, society charges, electricity, etc⁶. On completion of the identification of beneficiaries, the public authority allots tenements by handing-over keys through drawing of lots and an allotment letter. It is mandatory to ensure all eligible slum households are present during this process. Even those who do not participate are allotted tenements. Those held eligible at a later stage are also entitled to a permanent tenement. Once allotted, it is illegal to transfer these tenements to any person for a period of 10 years from the time of allotment, breach of which can result in cancellation of allotment by SRA. The meeting must be presided over by the competent officer of the SRA since it is their welfare mandate. Thereafter, the residents would be notified of the time within which they would be required to relocate to their allotted tenements.

5. TRANSFER OF LAND TITLE IN THE RECORD OF RIGHTS: The new occupants of the

PARTICIPATION

- The approval of a project affected person (PAP) rehabilitation project is exempted from meeting the criteria of obtaining consent of 51 per cent eligible slum residents⁷.
- There are no agreements between the developer or public authority and slum residents who are sought to be relocated because of the project. The only means for slum residents to establish their claim for a tenement is through the enumeration of their dwelling

project affected persons (PAP) tenement complexes must form and register their co-operative housing society, to whom the land is then leased out by the public authority for a period of 30 years, renewable thereafter. The Slum Rehabilitation Authority (SRA) and other planning authorities are equipped to assist in the registration. The land owning authority may be entitled to an annual rent of INR 1,001 per 4,000 sq. m. of land, stipulated under clause 1.11. However, the society has no obligation to compensate by paying a premium charged as per clause 9.2. On granting the lease, change in record of rights must be affected in the land records and property card of the land by the land records department in the SRA and the authority responsible for the tenements.

6. MAINTENANCE DEPOSIT AND INFRASTRUCTURE CHARGES:

The developer must pay a maintenance deposit against each tenement and infrastructure development charges in the same formula as the Slum Rehabilitation Scheme (SRS). Each permanent allottee is entitled to this maintenance deposit paid by the developer to the Slum Rehabilitation Authority (SRA) for use towards maintaining common infrastructure, electricity, payment of municipal taxes, etc. through their housing society.

and their household in the certified Annexure-II.

- Non-participating eligible slum residents or those who do not comply with the terms of the rehabilitation project, forfeit their entitlement to relocation⁸ and would eventually face eviction.
- The slum residents sought to be relocated are not entitled to any consultation in the matter of choosing the location of their resettlement.

6] Circular No.AC/Estates/21055 [undated], guideline circular for taking over and allotment of PAP tenements; Estate department, Municipal Corporation of Greater Mumbai, available at <http://www.peatindia.org/PAP-Ten-Allotment-Takover-Circular.pdf>, last accessed on 8 March 2021.

7] Proviso to clause 1.15 of Regulation 33(10)

8] Proviso to section 3Z(2) of Slum Act, 1971

ROLE OF PUBLIC AUTHORITIES

Project affected person (PAP) schemes involve several authorities. The Slum Rehabilitation Authority (SRA) is the approving authority and has been empowered as the overarching authority for slum rehabilitation. As per Clause 3.11, however, the project authority is in-charge of identifying households that need to be relocated (including verifying their eligibility for permanent tenements). Meanwhile, the authority responsible for the

permanent tenements may be separate. The land-owning authority may also be different. Further, the provision and maintenance of basic utilities to the PAP colony is under the Municipal Corporation. However, following a Municipal Corporation of Greater Mumbai (MCGM) circular,⁹ the maintenance of PAP tenements until their allotment rests with the MCGM.

RIGHTS OF SLUM RESIDENTS

1. ALLOTMENT OF PERMANENT

TENEMENT: Protected occupiers or occupants of censused slums and other informal dwellings whose names and independently enumerated structures appeared in electoral rolls of 2000 or earlier, situated within the Greater Mumbai, are entitled to receive a rehabilitation tenement measuring 269 sq. ft. inclusive of basic amenities in exchange for their existing dwelling unit regardless of its size. This benefit is also extended to those held eligible at a later stage and those who do not participate in the allotment process, unless they forfeit their claim.

2. APPEAL: Households found to be ineligible have the right to file an appeal as per the rehabilitation

policy of the Government of Maharashtra found in the Government Resolution dated 16 May 2015. Similarly, a right to further appeal is also found under section 35 of the Slum Act, 1971.

3. GRIEVANCE REDRESSAL:

Relocated households are entitled to raise grievances regarding the living conditions and habitability of their tenements and project affected person (PAP) colonies with the ward officer. Public authorities undertaking the relocation of PAPs also often have their own grievance redressal cells that can be approached. Usually these mechanisms are however kept available only for the duration of the project.

⁹/ Ibid at 51

CHAPTER 4

MUMBAI URBAN TRANSPORT PROJECT REHABILITATION AND RESETTLEMENT POLICY

INTRODUCTION

The Rehabilitation and Resettlement (R&R) policy was notified by the Government of Maharashtra in March 1997 as a part of the Mumbai Urban Transport Project (MUTP), and subsequently amended in 2000. The MUTP was a complex urban transport systems development program for the Mumbai Metropolitan Region covering multiple components, rail transport, road-based transport, resettlement and rehabilitation. As the implementation of this program was to result in significant physical displacement of families, disruption of livelihoods and business activities, it called for a massive rehabilitation exercise that had to be based on the operational directive (then 4.30 - involuntary resettlement) of the World Bank, the financier of the project. Consequently, on 12 March 1997, the Government of Maharashtra issued a special policy for this program. This project involved several planning authorities—Mumbai Metropolitan Region Development Authority (MMRDA), Municipal Corporation of Greater Mumbai (MCGM), Mumbai Railway Vikas Corporation Ltd (MRVC Ltd), Maharashtra State Road Development Corporation (MSRDC), Brihanmumbai Electricity Supply and Transport (BEST)—and the Mumbai Metropolitan Region Development Authority (MMRDA) was appointed to oversee the resettlement

and rehabilitation component of the project. Unlike rehabilitation schemes thus far, this policy is based on the principles of minimising relocation and granting additional compensatory benefits to the displaced on socio-economic grounds. These grounds are ascertained from a detailed documentation and enumeration exercise conducted while drawing a baseline. The date of this elaborate baseline survey serves as the cut-off date for such affected persons, who have to relocate as a result of the project but are not legally recognised occupants of the underlying land, to qualify for rehabilitation as per this policy. The policy is guided by the objectives of (1) minimising the need for resettlement, (2) providing compensation before relocation, assistance during transition, improving or restoring former living standards, income earning capacity and production levels, and paying particular attention to the needs of the poor resettlers. It also seeks (3) to grant legally recognised home-ownership, (4) develop plans, relocate and rehabilitate through meaningful consultation and participation and retaining existing community networks. The policy continues to be employed by the MMRDA for its projects.

APPLICABILITY

This policy is applicable to all those being involuntarily displaced by projects implemented under the Mumbai Urban Transport Project (MUTP), as well as sub-projects and those undertaken in subsequent phases. Therefore, it was also extended to Mumbai Urban Infrastructure Project (MUIP) by a government resolution in 2005¹. It has recently been applied to other projects of parastatal agencies besides the ongoing metro projects. It categorises project affected structures based on

land-title, land-use and type of structure. Further, affected economic activities and families are termed as project affected persons (PAPs), which has been defined to include, (a) households (all male/female family members, relatives staying in a house), (b) business units including its workers and owners, (c) resident or non-resident landowners (farmers, etc.), (d) non-resident lessees, (f) resident lessees, tenants or sub-tenants, (g) squatters (non-resident structure owners, resident

1| Government Resolution No.PARYAYI 2005/C.No.107/ZOPN-2 dated 14 November 2005

structure owners, tenants), (h) pavement dwellers. This policy also accounts for those that may be affected by the relocation of the directly affected PAPs due to their

socio-economic community links, denoted as indirectly affected PAPs.

ELIGIBILITY

1. CRITERIA: The eligibility criteria for project affected persons (PAPs) to avail the benefit under this policy is different for those recognised as legitimate occupants and those as illegitimate. All legitimate occupants of land and buildings affected by the Mumbai Urban Transport Project (MUTP) are entitled to take the benefit of the rehabilitation and resettlement (R&R) policy, up until the time of the actual resettlement. Whereas PAPs not recognised as legitimate occupants, are eligible only if enumerated during the baseline survey. The date of completion of the baseline survey, which is a detailed enumeration and socio-economic data collection exercise, serves as the cut-off date. This survey would have to be updated if there is a gap of more than one year between the survey and the preparation of the resettlement plan. No new residents after the cut-off date are allowed to claim the benefit, except legal heirs, new members in the household by way of birth or marriage. PAPs that do not participate in the resettlement plan will not be entitled to the benefit and have to vacate their occupied space on their own. This compilation of information is required to be shared back with the community to give them an opportunity to provide feedback and raise any concerns. The residents must be informed of their entitlements and remedies available to them throughout this process.

2. INDIRECTLY AFFECTED PAPs:

Households sharing social and economic linkages with the project affected persons (PAPs) sought to be displaced also qualify for resettlement and rehabilitation under the policy when those linkages are substantially affected. The linkages will be considered as substantially affected when the households of the entire affected community:

- (a) Belong to the same place of origin, or,
- (b) Share common infrastructure facilities—schools, dispensaries, *balwadis*—that will have to be demolished, and providing them to the remaining households is not feasible, or,
- (c) Remaining number of households are too few to stay as a community.

3. APPEAL: Any concerns regarding the information at the baseline survey will have to be raised before a senior officer designated by the rehabilitation and resettlement (R&R) agency that decides complaints in consultations with concerned NGOs within a stipulated time period, giving their decision in writing. A further appeal against this decision will lie before a Grievance Redressal Committee (GRC) appointed by the same agency, that is usually composed of its own officials and representatives of NGOs. The GRC ordinarily stays active only through the duration of the project.

PROCEDURE

1. BASELINE SOCIO-ECONOMIC SURVEY

(BSes): The agency in charge of the R&R must undertake a door-to-door socio-economic survey of the area required for the implementation of the project. The survey is undertaken through NGOs and community based organisations (CBOs) that are familiar with the communities residing in the required area. The baseline survey must result in a detailed compilation of social and

economic information of all project affected structures, households, lands, shops and business activities. This survey would also reveal information about community networks, livelihoods, access to urban environmental infrastructure services, etc. to be used for calculating compensations for rehabilitation purposes and formulating site specific resettlement implementation plans with the help of local leadership. It must be

ensured that each surveyed structure is independently enumerated and visually documented by the NGO/ agency. Those enumerated on the survey list are deemed eligible for the resettlement and rehabilitation under this policy. Each structure may be verified through aerial photographs and visual documentation where feasible. This comprehensive data collected at the planning stage of the project will also help in exploring other alternatives to minimise its social impacts.

2. RESETTLEMENT ACTION PLAN (RAP)

- a. The BSES is followed by the preparation of a resettlement action plan, which is the general document that lays out the legal framework, entitlements, mechanism, time frame and the estimated cost of resettlement and rehabilitation in coordination with the civil works of the infrastructure project. It must provide for the following aspects:
 - Organisational responsibilities;
 - Community participation and integration with the host populations;
 - Socio-economic survey;
 - Legal framework;
 - Alternative sites and selection;
 - Valuation of compensation for lost assets;
 - Land tenure, acquisition and transfer;
 - Access to training, employment and credit;
 - Shelter, infrastructure and social services;
 - Environmental protection and management;
 - Implementation schedule, monitoring and evaluation.
- b. **Resettlement Implementation Plan:** These are site-specific implementation plans prepared with the active participation of the affected community, that particularly look into selection of sites for relocation, their environmental services

assessment, consultation with host community, formation of cooperative societies to allow transfer of land titles, development of layout and designs of dwellings and updating of BSES, if required.

- c. **Selection of Resettlement Site:** The resettlement location would be selected in consultation with the affected community. The site would be selected on the basis of its access to employment opportunities, infrastructure and social services and comparison of the existing living conditions with future living conditions. Environmental assessment of the site, a part of the community environmental management plan, would also determine the resettlement site.
- d. **Relocation to Transit Tenements:** This option can be resorted to only under emergency circumstances and only if the affected community agrees to relocate to transit prior to permanent tenements. In such a case, it has to be ensured that the accommodation, basic amenities and schedule (including date of relocation to permanent sites) have been discussed with and agreed to by the project affected households. Further, it must be ensured that permanent housing must be available at maximum before the end of the third year. The feasibility of these schedules would be verified by the World Bank.

3. LAND ACQUISITION:

Land acquisition for resettlement sites from private landowners would require compensation in terms of the Land Acquisition Act, 1894 (Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013) or alternatively, through transferable development rights mechanism under the Development Control Regulations (DCR). In case of publicly owned lands, the land reservation of the site chosen for relocation would have to be modified, if required, by the Urban Development Department in accordance with the provisions of the Monopolies and Restrictive Trade Practices (MRTP) Act, 1966.²

² Government Resolution No.PARYAYI 2005/C.No.107/ZOPN-2 dated 14 November 2005

4. RESETTLEMENT:

The policy provides for two kinds of resettlement options to be explored with the affected community.

- a. **Township option:** This option is a sites and services project (i.e., allotment of a plot with access to services) that would have to be developed by the rehabilitation and resettlement (R&R) agency itself cross subsidising the cost by selling some land to non-project affected persons (PAPs) and for commercial activities. It requires a plot of 25 sq. m. to be allocated a year prior to the relocation, with linkages to amenities such as water supply at 90 lpcd, footpath, toilet, water tap, community facilities like primary school, dispensary, playground, fair price shop and site for religious places.

- b. Allotment of 20.91 sq. m.³ tenements under slum redevelopment/public housing/housing for the dishoused as per Development Plan. This option also requires linkages to amenities, provision of recreational open space, *balwadis*, water supply, sanitation, footpaths and streets in terms of the Development Control Regulations (DCR).

The policy imports from the Slum Rehabilitation Scheme (SRS), the embargo on transfer/sale of tenements for a period of 10 years from time of allotment. Resettlement of all PAPs into permanent tenements or transit tenements (in case of emergency relocation) should be completed before commencement of civil works of the project. Compensation for relocation and economic losses is also a part of the resettlement exercise.

PARTICIPATION

A large part of the implementation of the resettlement and rehabilitation (R&R) component under the Mumbai Urban Transport Project (MUTP) R&R policy rests on meaningful consultation and consensus building at various stages of the project. The key means for ensuring participation are as follows:

- **Participation and Dissemination of Information:** The preparation of the Baseline Socio-Economic Survey (BSES) that is endorsed by the affected community and the Resettlement Action Plan (RAP) must be undertaken through close participation of the affected population including project affected persons (PAPs), the general public in the area, non-government organisations (NGOs), community based organisations (CBOs) through community meetings and other mediums, whose views would have to be incorporated into the final RAP. Preparation of site-specific Resettlement Implementation Plans (RIPs) that

deals with resettlement options, alternative locations, site layouts, detailed designs of the tenements and formation of cooperative housing societies should be undertaken. Dissemination of information relating to the Draft RAP, information on the rehabilitation and resettlement (R&R) policy, environmental management plan through seminars, newspapers, TV, radio, technical and academic journals, throughout the stages of the project is therefore an important part of compliance to the policy.

- **Selection of Resettlement Site:** Clause 7 of the policy especially calls for consultation with the affected community regarding selection of the resettlement location. Since this is a part of the preparation of the Resettlement Action Plan (RAP), this would anyway warrant active participation

3| Government Resolution No.PARYAYI 2005/C.No.107/ZOPN-2 dated 14 November 2005

RIGHTS AND ENTITLEMENTS

Some of the key entitlements available under this policy are as follows:

1. **Compensation for Economic Losses:** The policy calls for efforts to relocate affected households to nearby sites to avoid cutting access to their existing source of employment and income. Relocation to far-off sites may result in added cost of travel or a permanent loss of livelihood altogether. Clause 12 provides for compensation in such scenarios:
 - a. If relocation results in an increase in travel distance to the workplace: a worker is entitled to lump sum compensation not exceeding 12 quarterly season tickets for the excess distance. However, this will have to be proved based on actual extra expenditure.
 - b. Permanent loss of source of livelihood: In case a worker loses their source of income due to displacement, compensation equivalent to one year's income at the rates determined by the rehabilitation and resettlement (R&R) implementing agency. These rates are determined by a committee comprising the representatives of the agency and NGO assisting the agency in investing the annual incomes of such persons.
 - c. Rehabilitation package: Apart from the above mentioned compensation, persons that have permanently lost their source of livelihoods due to the relocation must be provided with information and training through employment exchanges. The appointed NGO must assist in creation of a community operated fund linked to a community savings program that can be controlled and monitored by the community to provide seed capital and loans.
 - d. Additional package: Vulnerable households, for instance, households headed by women, handicapped persons or senior citizens are entitled to additional assistance such as preference in sanctioning loans from a community operated fund and other measures conceived under the Resettlement Action Plan (RAP).
2. All project affected persons (PAPs) are entitled to the **cost of relocation and free transport arrangements** to the resettlement site.
3. **Monetary supplement to squatters:** Those choosing township options are entitled to the replacement cost of their shelter; it is not available to those opting for fully-built tenements. Disbursement of the sum would be in instalments proportionate to the progress of construction on serviced sites.
4. **Resettlement** of the project affected persons (PAPs) have to be completed **before commencement of civil works** of the project as per clause 16 of the policy.
5. **Indirectly affected PAPs:** Such PAPs can also claim for resettlement and rehabilitation along with the PAPs with whom they share social and economic community linkages, however, the proportion of the indirectly affected PAPs should not exceed 20 per cent of the directly affected PAPs. In case they do not wish to be relocated, the implementing agency must make efforts to restore at least the same shared facilities.
6. **Host Community:** The policy recognises two kinds of host communities—one residing at the rehabilitation and resettlement (R&R) colony or the site of relocation, and second, those living in the vicinity of the site. The first kind are deemed as eligible for benefits under this policy, whereas for the second the augmentation of infrastructure facilities and services in the area must be undertaken as part of the Resettlement Action Plan.
7. **Meaningful Participation:** Close and active participation with the affected community is a

crucial component for compliance to this policy.

8. **Grievance Redressal:** The policy requires the appointment of a senior officer at the local level and a Grievance Redressal Committee as the

appellate authority, to consider complaints and grievances of project affected persons (PAPs). The policy does not itself specify any format or time frame for decisions, instead they vary as per project.

CHAPTER 5

OTHER SCHEMES AND POLICIES

PERMANENT TRANSIT CAMP TENEMENTS UNDER REGULATION 33(11)

Under the new Development Control and Promotion Regulations, 2034, the regulatory provisions concerning permanent transit camp tenement for the Slum Rehabilitation Scheme (SRS) are found under Regulation 33(11), which were under 33(14) in DCR 1991. This regulation primarily enables developers to avail floor space index (FSI) in lieu of constructing free-of-cost transit tenements to be used by the Slum Rehabilitation Authority (SRA), even on plots where there may not

be an existing slum. The total FSI granted on such a plot can be as high as 4. The carpet area of each tenement, i.e., 300 sq. ft., and the basic amenities to be provided at these transit camps are the same as that provided in 33(10) schemes, which includes *anganwadi*, community hall/gymnasium, skill development centre, etc.¹ This is also one of the means by which permanent transit tenements are generated for use by the SRA for relocating slum residents undergoing SRS.

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This scheme of the Central Government is sought to be implemented between 2015–2022 under four ‘verticals’, one of which pertains to in-situ slum redevelopment, which is similar to the existing scheme under 33(10). The State of Maharashtra adopted this policy vide Government Resolution (GR) dated 9 December 2015 and introduced a new category under slum redevelopment, i.e., rehabilitation with cost, for those households not meeting the eligibility criteria prescribed by the GR dated 16 May 2015 (essentially, the cut-off date of 1 January 2000) but have been in existence and inhabitation on or before 1 Jan 2011. The determination of the eligibility of such households is the same as discussed in Chapter I. Every household is mandated to submit documents and self-declaration form to the competent authority, and those found ineligible would have to do so again, particularly where their dwelling has been demolished as part of a redevelopment project². The policy additionally spells out cases that will be considered ineligible:

- (1) Households where any other family member has already been declared eligible as per previous policy;
- (2) Occupants having separate names but residing in the same dwelling;
- (3) Households not having proof of being an independent dwelling unit.

The cost to be incurred by households seeking rehabilitation under this category is not fixed and has been left to the discretion of the CEO, Slum Rehabilitation Authority (SRA), to be determined project-wise. The criteria for the carpet area of the tenement and the amenities to be provided are as per the Pradhan Mantri Awas Yojana (PMAY) prescriptions. Moreover, the 10-year transfer restriction as per section 3(e)(1) of the Slums Act, 1971 has been made inapplicable to tenements availed under this category.

¹ Clause [C] of Regulation 33(11), DCPR, 2034

² Clause 4 of the GR dated May 16, 2018 of the Urban Development Department, Government of Maharashtra.

JICA GUIDELINES FOR ENVIRONMENTAL AND SOCIAL CONSIDERATION, 2010

The Japan International Cooperation Agency (JICA) guidelines are formulated on the principles of democratic governance through meaningful stakeholder participation, information disclosure, decision-making transparency, accountability, efficiency and respect for human rights. These guidelines are applicable to any projects where grant or loan aid and technical cooperation are provided by JICA. The guidelines require project proponents to undertake baseline surveys, predict and evaluate adverse and likely impacts of projects on the local society and environment and formulate mitigation measures. Through the duration of the project, JICA examines that the guideline conditions are being met by a continuous monitoring process from screening, scoping and categorisation of the project, based on its immediate and long-term impacts, to the mitigative measures provided by the project proponent. Impacts to be assessed by the project proponent include migration of population, involuntary resettlement, local economy, utilization of land and local resources, and suggest the incorporation of internationally recognised standards of human rights of vulnerable social groups, gender, children, persons with disabilities, minorities, and also take into account equality of benefits and losses, local conflict of interest and occupational safety of workers³. The guidelines enlist detailed requirements with respect to consultation with local stakeholders. Stakeholders include affected individuals or groups as well as illegal dwellers.⁴ Compliance and monitoring is sought by examining periodical reports, for conformity to local and central domestic laws and policies, and that no significant deviation from World Bank's safeguard policies and internationally recognised benchmark standards occurs in the implementation of the project. Where problems arise in the implementation, the guidelines require discussions with local stakeholders to resolve them. In case of failure to comply with the guidelines or any other adverse impacts of the project, the agency can change the agreement including suspension of grant/loan aid and technical assistance. The results of this process are

to be made available to local stakeholders, to allow public and third-party scrutiny. Forums and procedures for resolving grievance and problems also have to be set up. Constituting an independent body in accordance with objection procedures is also another means of ensuring compliance to guidelines.

Involuntary Resettlement: The guidelines spell out conditions where avoidance of involuntary resettlement and loss of means of livelihood avoidance is proved to be unfeasible.⁵ Effective measures to minimise impact and compensate for losses have to be formulated, in agreement with the people likely to be affected by the project. In case of large-scale involuntary resettlement, a Resettlement Action Plan has to be prepared in accordance with World Bank Safeguard Policy, OP 4.12, Annex A.—eligibility criteria, compensation matrix, consultations in form, manner and language understandable to affected people, etc., similar to that adopted under the Mumbai Urban Transport Project (MUTP) rehabilitation and resettlement (R&R) policy. Key mitigative measures listed in the guidelines are as follows:

- Sufficient prior compensation (i.e., full replacement cost) in a timely manner;
- Improved standard of living, income opportunities and production levels, or at least restoration to pre-project levels;
- Provision of land and monetary compensation for losses;
- Appropriate participation and measures to prevent loss of livelihood;
- Supporting means for an alternative sustainable livelihood;
- Payment of expenses for relocation and re-establishment at resettlement site;

3| Clause 2.3 Impacts to be Assessed, Japan International Cooperation Agency (JICA) Guidelines for Environmental and Social Considerations, 2010 ('JICA Guidelines'), available at <https://www.jica.go.jp/english/our_work/social_environmental/guideline/pdf/guideline100326.pdf>, last accessed March 7, 2021.

4| 12. Clause 1.3 Definitions, JICA Guidelines.

5| Clause 7, Appendix 1 Environmental and Social Considerations Required for Intended Projects, JICA Guidelines.

- Setting up appropriate and accessible grievance redressal mechanisms for affected people and their communities.

These guidelines were most recently made applicable

to the Metro projects, particularly Metro line-3⁶, being undertaken by the Mumbai Metropolitan Region Development Authority (MMRDA) in the Mumbai Metropolitan Region.^z

6] Government Resolution No.MRD-3311/Pra.Kra.149/NoVi-7 dated 3 March 2014, Urban Development Department, Government of Maharashtra, available at <<https://www.mmrcl.com/sites/default/files/GR%20-%20GoM%20approval%20for%20ML3%20corridor.-3%20March%202014%20-English%20version%283%29.pdf>>, last accessed on 7 March 2021.

