

**GOVERNMENT OF INDIA
ROAD TRANSPORT AND HIGHWAYS
LOK SABHA**

UNSTARRED QUESTION NO:67

ANSWERED ON:05.08.2013

RESCHEDULING OF PREMIUM BY HIGHWAY DEVELOPERS .

Adhalrao Patil Shri Shivaji;Adsul Shri Anandrao Vithoba;Dharmshi Shri Babar Gajanan;Venugopal Shri P.;Yadav Shri Dharmendra;Yaskhi Shri Madhu Goud

Will the Minister of ROAD TRANSPORT AND HIGHWAYS be pleased to state:

- (a) whether the National Highways Authority of India (NHAI) has been raising concern over the likely loss of premium to the tune of Rs. 98,000 crore in the next 20 years in case around 25 projects are cancelled;
- (b) if so, the facts in this regard;
- (c) whether the Ministry of Road Transport and Highways has sought opinion from the Law Department on this issue;
- (d) if so, the response of the Law Department thereto and the number of projects for which rescheduling has been proposed; and
- (e) whether the highway developers are running away from the projects which they had bagged a year ago and if so, the steps being taken by the Government to resolve the issues and reschedule premium quoted by developers?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF ROAD TRANSPORT AND HIGHWAYS (SHRI SARVEY SATHYANARAYANA)

(a) and (b) Response of private sector to Build-Operate-Transfer (BOT) projects in road sector was overwhelming till 2011-12 and many projects were awarded even on premium. There has now been a general slowdown due to lack of equity with the concessionaires, unavailability of debt with the financial institutions and some of stringent stipulations introduced by the Ministry of Environment and Forests by linking the Environment Clearances with Forest Clearance. Imposition of provision of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 had also created additional problems leading to further slowing down the pace of the road projects. Some of the concessionaires represented before the National Highways Authority of India (NHAI) for reschedulement of the premium payable to the NHAI in such a way that Net Present Value (NPV) of the premium offered to NHAI remains the same.

(c) and (d) Government sought legal advice on the issue as the same has wider implications for road sector. Ministry of Law had advised "when the agreement has been made, signed by both the parties, it is not advisable for renegotiation of the contract which is neither desirable or permitted in the normal course and to make change in at the belated stage. It may open pandora box to the other equally situated person who have agreement with the NHAI. Further, making changes now in favour of the concessionaire may affect other parties who did not participated in the tenders due to this Clause". On the request of NHAI, the matter again referred for legal advice. Ministry of Law has now advised that "the proposal has financial implications and as such, views of Ministry of Finance are needed to be taken into account, while finalising its proposal with respect to restructuring of the premium to be paid by the concessionaire to NHAI". The issue has been referred by the Ministry of Road Transport & Highways to the Ministry of Finance in accordance with the advice of the Ministry of Law.

(e) As a result of the efforts made by the Government, Environment Clearances has now once again been delinked with the Forest Clearance and Ministry of Environment & Forests has also directed all the State Governments not to invoke provision of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in case of linear road projects. Government has also authorised lenders to facilitate harmonious substitution of concessionaire in the national highway projects that have achieved the Commercial Operation Date (COD) subject to satisfaction about the credentials of the substituting entity and they should have adequate experience of operating and maintaining the completed road projects. In case of an on-going project, where COD has not been achieved due to failure of the concessionaire to raise equity, such substitution has also been allowed subject to the substituting consortium/entity having the requisite financial and technical qualifications to bid for a project of the same size and willing to take over all the obligations under the project as per concession agreement. Under such substitution NHAI is to be fully discharged of any claims by the earlier consortium or the Special Purpose Vehicle (SPV) for any delays or any other action till the transfer of management of SPV to new consortium/entity. The steps taken by the government are expected to boost the sector by creating a conducive atmosphere for bidders/ concessionaires.