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ILLUSTRATION: BINAY SINHA

GOPAL KRISHNA AGARWAL, a chartered accountant and a member of the Bharatiya Janata Party (BJP) national executive, was the chief of its erstwhile economic policy cell. Now a member of the party's committee on the land Bill, he tells **Archis Mohan** how pushing amendments through an Ordinance made the people doubt the Narendra Modi government's intentions. Edited excerpts:

Farmers' woes, land acquisition objectives separate

How do you view opposition to amendments to the Land Act of 2013, including from the within the Sangh Parivar?

The debate in the public domain is on perceptions. Facts are missing. The BJP has been accused of doing things it has not. Much is being said in comparison to the Act. That legislation is now being considered sacrosanct. But a deeper analysis will show up the shortcomings in the Act.

What are these misconceptions?

The first is about the Narendra Modi government having removed the consent clause. Even in the Act, consent was not required for government acquisition for public purpose. Section 2 of the Act had defined 12 categories of public purpose in which consent was not required. Consent was required for government acquiring land for the private sector and for the government acquiring land for public-

private partnership projects. The BJP has removed consent only for public-private partnership projects, where the land remains with the government and only for those projects that fulfill the public purpose. Schedule 4 of the Act has 13 clauses under which the government acquired almost 80-90 per cent of land that were exempt from the consent clause.

There is also confusion about whose consent. People think that the Act sought consent from the landowner. Actually, the Act sought consent from project-affected families, which was quite vague. Identifying project-affected families and whether at all they have a stake on the land being acquired was complicating the process.

Another issue is regarding the removal of the social impact assessment. It was removed because of its drawn-out consultative process, which is prone to litigation.

Why delete consent for public-private partnership projects?

We have formed the government on the promise of economic development. Development needs investment. There are only three avenues for this: foreign investment, private investment, and government spending. Our government is trying to create an enabling environment, but it is for the foreign investor to decide whether to invest in India. Private investment will not come unless there is strong demand, while the government's coffers are empty. Public-private partnership is the route through which investments can come in for infrastructure projects.

What about objections to the removal of the clause that required the government to return land to owners if not used for five years?

There is some confusion here, too. Two sections deal with land going back to the owner if not utilised. In Section 24 (2), the latest amendments have not made major changes. They have only excluded the period of litigation from the calculation of the period of five years in the clause. Section 101 addresses the issue of projects with gestation periods of more than five years, like defence or nuclear projects. For these, the time period will be decided at the beginning of the project.

Your allies like the Shiromani Akali Dal have advised you to look at the Punjab land law, which has social impact assessment as a key feature...

Meetings with state governments in June 2014, and later among secretaries of the ministries responsible for implementing the Act, identified social impact assessment as the biggest hurdle in implementation of the 2013 law. There are different formulations on social impact assessment and every state has its own bill. The states are free to have their own version of the Act provided the compensation, resettlement and rehabilitation are in accordance with this Act. We have tried to address the concerns by providing for jobs in a project for family members affected by land acquisition, not allowing acquisition of land in excess

of what is required — all this needs to be assessed by an independent authority. This authority will hear the grievances of farmers at the district level. These issues will be addressed at the time of framing rules.

There is ample unutilised land with special economic zones. The Bharatiya Mazdoor Sangh has pointed out that there are over 80,000 hectares of land with sick public sector undertakings. Why acquire from farmers when these can be used?

The amendments have talked about setting up a bank of non-irrigated land and a tribunal. Projects will be required to first utilise land from the bank. But land is being acquired for infrastructure development and industrial corridors along highways and railway lines. The government cannot, under this Act, acquire large tracts of land to give to industrial houses. That concern is not valid. The Act does not talk about industrial clusters, whereas special economic zones are quite a different concept.



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Where is the evidence that land acquisition under the 2013 Act failed?

Yes, we do not have any data as such. The objections are from the study of the Act and opinions of stakeholders. We have to understand that this Act's objective is not only to settle all the issues of farmers. Everybody agrees that our agriculture faces issues that are very

complicated. These issues are not going to be tackled through the Land Acquisition Act.

We have to delink many of the farmer's problems from the objectives of the Act. Here the objective is simply acquiring of land for infrastructure development and for government projects. Other problems of farmers will be tackled through reforms in the agricultural sector. Second, the land bill has various stakeholders. Farmers and landowners are one. Each stakeholder can have his demand, but the government has to take a consolidated view and take care of most of the concerns of all the people.

But where was the need to bring in an Ordinance?

I think this is one of the issues where perception has overtaken reality. There were 13 clauses in Schedule 4 outside the purview of the 2013 Act, which meant that if any land was acquired under these clauses, compensation to the landowner was to be paid under the 1894 law. Additionally, the 2013 Act had mandated that within one year the government should bring these 13 clauses under the purview of the Act. The last date for that inclusion was December 31, 2014. Therefore, either an Ordinance or a notification was required before December 2014.

In the meanwhile, the consultative process with the state governments came up with a consensus that more amendments were required. Clubbing of the amendments in the Ordinance was not a compulsion, but it was thought to be procedurally easier. We could have delinked the two. I think we could have done that. Clubbing the two led people to doubt our intentions.