



Centre's Power for Land Acquisition for Highway: SC

Why in News

Recently, the [Supreme Court \(SC\)](#) has upheld notifications issued under the **National Highways Act, 1956**, for acquisition of land for construction of the **Chennai-Krishnagiri-Salem national highway**.

- The verdict came on a batch of appeals filed by the Centre and the National Highways Authority of India (NHAI) and few landowners and others. These **pleas were filed against the Madras High Court's judgement**, holding as **"illegal and bad in law"** the notifications issued.

Key Points

▪ Chennai-Krishnagiri-Salem National Highway:

- It is a **part of the first phase of the 'Bharatmala Pariyojna' project**.
 - **Bharatmala Pariyojna Project** stretches across 24,800 km and has an estimated outlay of Rs. 5.35 lakh crore. It seeks to **improve the efficiency of freight and passenger movement** across the country by bridging critical infrastructure gaps.
- It is a **277.3-km-long eight-lane greenfield project** which aims to **cut travel time** between the two cities Chennai and Salem by half to about two hours and 15 minutes.
 - A **greenfield project** is one which is not constrained by prior work. It is **constructed on unused land** where there is no need to remodel or demolish an existing structure.
- The Project **has faced opposition** from locals, including farmers, over **fears of losing their land**, besides environmentalists, who are **against felling of trees. It runs through reserve forest and water bodies**.

▪ Supreme Court's Judgement:

- **Centre's Powers:**
 - There is **nothing in the Constitution which constricts the power of Parliament** to make a law for declaring any stretch/section within the State (not being a road or an existing highway) to be a national highway.
 - Provisions in the Constitution unambiguously indicate that the **legislative as well as executive power** regarding all matters concerning and connected with a highway to be designated as a national highway, **vests in Parliament**, and the laws to be made by it in that regard.
 - The **Central government is free** to construct/build a new national highway keeping in mind the obligations it has to discharge under **Part IV of the Constitution** (Directive Principles of State Policy) for securing a social order and promotion of welfare of the people in the concerned region.
- **Importance of National Highways:**
 - National highways are the **arteries of India's economy**. By its very nomenclature, a national highway is to **link the entire country and provide**

access to all in every remote corner of the country for interaction and to promote commerce and trade, employment and education, including health related services.

- This approach **enhances and furthers the federal structure**.
- The availability of a highway in any part of the State paves way for **sustainable development** and for overall enhancement of **human well-being**.
- **Other Aspects Related to the Project:**
 - The **Madras High Court had been wrong to quash the acquisition proceedings** on the ground that **no prior environmental clearance** was taken.
 - The SC said that the **notification is only an expression of interest to acquire the designated land**, and no prior environmental clearance was needed before issuing it.
 - **Prior environmental clearance** under the [Environment \(Protection\) Act](#) and Rules of 1986 is **required to be taken before commencement of the “actual construction or building work” of the national highway** by the executing agency (NHAI).
 - On complaints about “alterations” in the highway route, the court said **changes to the extent of 15% was permissible in a project of such a macro scale**.
 - **Unforeseen concerns** like land availability factors related to congestion, reduction of distance, operational efficiency attract such alteration.

National Highways

- The **major roads** in India are the **national and state highways**. **National Highways (NH)** are built, financed and maintained by the **Central government** whereas **State Highways (SH)** are developed by the **respective States’ public works department**.
- **Constitutional Provisions:**
 - Highways declared by or under law made by Parliament to be national highways - **Union List under Seventh Schedule**.
 - **Article 257 (2):** The **executive power of the Union** shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance.
 - Provided that nothing in this clause shall be taken as restricting the **power of Parliament to declare highways or waterways to be national highways or national waterways** or the power of the Union with respect to the highways or waterways so declared.
- The **Ministry of Road Transport and Highways** is primarily responsible for development and maintenance of NHs.
 - The Ministry has taken up detailed review of NHs network with a view to develop the road connectivity to **Border areas**, development of **Coastal roads** including road connectivity for Non-Major ports, improvement in the efficiency of **National Corridors**, development of **Economic Corridors**, Inter Corridors and Feeder Routes along with integration with **Sagarmala**, etc., under **Bharatmala Pariyojana**.
- NHs in the country **are notified under the National Highways Act, 1956**.
- [National Highways Authority of India](#) (NHAI) was set up by an act of the Parliament, **NHAI Act, 1988**, for the development, maintenance and management of national highways and for matters connected therewith or incidental thereto.
- **Land for development of National Highways** and associated purposes is acquired under **Section 3 of the NHs Act, 1956** and **compensation** is determined in accordance with the First Schedule of the **Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013**.
- [BhoomiRashi portal](#) was launched in **2018**, to fully **digitize and automate the entire process of land acquisition**.

- The aim of the **Green Highways (Plantation, Transplantation, Beautification & Maintenance) Policy, 2015** is to **promote greening of Highway corridors** with participation of the community, farmers, private sector, NGOs, and government institutions.

[Source: IE](#)

PDF Refernece URL: <https://www.drishtias.com/printpdf/centre-s-power-for-land-acquisition-for-highway-sc>

