

Bill No. LIII of 2022

THE PROTECTION OF THE STATE RESOURCES BILL, 2022

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BILL

to provide for protecting the interests of the State when State land is given for free or for a price or by alienation, for public purposes or otherwise to the Central Government, and that such land shall not be handed over to a third party without the concurrence of the donor State and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Protection of the State Resources Act, 2022.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(i) “land” means the soil and any buildings, parts of buildings, or similar structures, anything permanently attached to the soil, rights under the land, rights above the land to such a height as is necessary for the ordinary use and enjoyment of the land and the
10 structures upon it and easements.

(ii) “donor State” refers to the Government of the State or Union Territory which has provided land for the setting up of a Central Public Sector Undertakings, for free, by alienation or for a price.

Applicability.	3. The provisions of the Act shall be applicable in all cases where the partial or full control of a Central Public Sector Undertaking situated on the land provided by the donor State is transferred to a third party other than the Government of India or the donor State.	5
Concurrence of donor State.	4. The land handed over to the Central Government by the State or Union Territory for free or for a price or by alienation, for public purposes or otherwise, shall not be handed over to a third party without the express concurrence of the donor State, failing which, it shall be void <i>ab initio</i> .	10
Right to participate in bidding by the donor State.	5. If any land has been provided for setting up a Central Public Sector Undertaking and in case the Central Public Sector Undertaking is in the process of privatization, the donor State shall have the right to participate in the bidding process for acquiring the full or partial control of the Central Public Sector Undertaking, as the case may be: Provided that if the donor State is participating in the bidding process, the price of the land provided by the donor State, shall be added to the bidding amount offered by the donor State.	15
Compensation.	6. If the majority stake in the Central Public Sector Undertaking is handed over to a third party other than the donor State, by bidding or otherwise, the Central Government shall provide compensation to the donor State for the cost of the land it has given free or for a price or by alienation, and the rate of compensation shall be decided by the donor State as per the prevailing market rates and other relevant factors.	20
Jurisdiction of High Court.	7. A donor State may move to the respective High Court for protecting the right to fair compensation and right to participate in the bidding as provided by the Act.	
Act to have overriding effects.	8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.	25

STATEMENT OF OBJECTS AND REASONS

Ever since the neoliberal reforms were undertaken in the country, increasing pace of privatization has seen a number of Public Sector Undertakings in the country going for sale. The process of disinvestment involves selling of the assets of the Public Sector Undertakings to the bidders who are private players.

Many of the Public Sector Undertakings have been the result of the whole hearted support and cooperation of the respective States in which they are functioning. The States of India have always reacted enthusiastically to the prospect of having a Central Public Sector Undertakings established in their respective States.

As a result, the States have willingly shared their resources for the establishment of these Public Sector Undertakings and the primary contribution has been in the form of land. States have offered huge chunks of land for the setting up public sector institutions, factories, plants and laboratories, etc. under the ownership of Government of India.

These contributions were made in the good faith, by virtue of the presence of these Public Sector Undertakings, the people of the State will have avenues to secure employment. Such prospects are not made when the privatization of Central Public Sector Undertakings takes place.

There are instances in which the State which has allotted its precious land to the Central Public Sector Undertakings, is unable to participate in the bidding process. The terms and conditions are set in such a way that makes State Governments ineligible to participate in auction. This practice needs to be immediately addressed.

If the Central Government finds it impossible to run the Public Sector Undertakings effectively, then the state government should be given an opportunity to take up that Public Sector Undertakings or set up new industrial units in such lands. There have been several other objections posed by various States. Thus a law is necessary for protecting the interests of the State when Public Sector Undertakings are privatized.

In some cases, the land has been sold at a very nominal price with the good faith that the institution will serve the cause of the State. But when the institution is handed over to a third party, that implicit promise remains unfulfilled. Hence the States need legal protection even if the land has been sold to the Central Government for the said purpose.

Hence, this Bill.

DR. V. SIVADASAN

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides compensation to the donor State for the cost of the land by the Central Government for the purpose of the Act. The Bill, therefore, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However, at this juncture, it is difficult to estimate the amount required as it would depend upon the number of Public Sector Undertaking going for sale.

RAJYA SABHA

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(Dr. V. Sivadasan, M.P.)