Public Private Partnership in Road Infrastructure in India

The prioritisation of the infrastructure development in the Road Sector by the Government intends to accelerate the economic growth of the country, which could be ascertained through various initiatives taken for enhancing investments in the roadway projects through public private partnership. However, there still persists certain key issues which need to be addressed, such as the restructuring of PPP in sectors causing impediment in the completion of such projects.

The concerns pertaining to completion of infrastructure projects in timely manner indulged lack of clarity in the determination of tariff and encroachment of people on government lands hindering the hassle free handling of land to the developers free from encumbrances. Apart from these issues, obtaining approvals for PPP projects in India requires clearances from multiple Government departments causing added delays in the cost of developing the PPP. Thereby, there was a need for building an interface for interaction and coordination between various departments which would have expedite the process of obtaining such clearances and prevent undue delays.

The Parliament reviewing these concerns, enacted the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (LARR Act) redressing the imbalance of power between the State machinery and the land losers. The Act further introduced a compensation formula in accordance with the market value of the land and mandated rehabilitation and resettlement of the land losers. The Central Government while effectuating the provisions of LARR Act exempted five categories of projects from consent and Social Impact Assessment (SIA) requirements which included defence, rural infrastructure, affordable housing, industrial corridors and infrastructure projects (including PPPs). This Act created a culture of justification, as opposed to the culture of authoritarian in the State's acquisition of land.

The Road Transport and Highways Minister, NitinGadkari stated that efforts were being made to improve and strengthen the country's highways network by focusing on the completion of projects including the 'in-principle' declared national highways. However, it was pointed out in the press release that the said developments of national highways were affected owing to the land acquisition problems in some states. The issue pertaining to the loans provided by Banks for financing the infrastructure projects was raised as the developers exhausted the loan amounts resulting into declaration of such proceeds as Non-Performing Assets. The Reserve Bank of India (RBI) has in its report identified infrastructure as a sector that could wipe out entire profits of banks recorded in previous financial years. This lead to the recent guidelines by the RBI for early recognition of stressed assets, wherein private banks were advised to focus on retail and corporate lending and to remain 'conservative' to lending to the infrastructure projects. These issues arose for the reason of the State Government policies, as it doesn't provide level playing field thereby increasing the cost of production, escalation in prices, delay in implementation and lack of clarity on the procedures.

The National Highway Authority of India (NHAI) has made an effort to alleviate issues related to PPP projects by introducing the Hybrid Annuity Model (HAM) which has triggered new investment flows in India's highway sector. Under HAM 40% of the project cost is borne by the Government whereas the other 60% is funded by the developer. By this model the government has ensured improved right of way risk allocation, as delays in project completion is relatively lower for HAM projects because of the upfront availability of the majority (at least 80 per cent) of right of way in the project as the government is providing funding during the construction phase.

It has also approved the Toll Operate Transfer (TOT) model in toll operations which involves 30 year leasing of toll collection and operation duties of highway projects, currently operated by the NHAI for more than 2 years to investors including foreign funds, in consideration of an upfront payment paid by the investor to NHAI. The initiatives taken by the government for developing the road infrastructure by allowing 100 per cent FDI through automatic route in the roads and also up to 100 per cent FDI for the support services to road sector adds as an impetus for investment under PPP.

The NHAI has been considerably working in the area for providing growth in the highway sector which has lead into increased participation of developers in PPP projects. But issues relating to access funding by the developers is a key concern with the banks which are constrained by sector specific exposure limits and stressed assets in the infrastructure portfolios. A legal framework is required to regulate the funding by these developers and addressing the risk of increased risks of loans turning into Non-performing Assets (NPAs) eventually disincentivising banks from lending for such projects.

The eventuality for the economic growth of the country through infrastructure development could be assured when the required approvals and formalities for the projects would be subject to the responsibility of a single authority, removing the burden of going through an entangling administrative process. The emphasis shall also be laid on the designated courts to expeditiously resolve the disputes between the parties to such development projects especially PPP models within the prescribed time frame, in order to reduce the delays and the cost escalations. The pragmatic approach for determining the appropriate implementation of these frameworks would require strict enforcement of procedures implicating adherence to the prescribed norms. ■


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