

**Lessons from Leveraging Land:
A Case of Bangalore Mysore Infrastructure Corridor**

**G. Raghuram
Satyam Shivam Sundaram**

W.P. No.2009-02-04
February 2009

The main objective of the working paper series of the IIMA is to help faculty members, research staff and doctoral students to speedily share their research findings with professional colleagues and test their research findings at the pre-publication stage. IIMA is committed to maintain academic freedom. The opinion(s), view(s) and conclusion(s) expressed in the working paper are those of the authors and not that of IIMA.



**INDIAN INSTITUTE OF MANAGEMENT
AHMEDABAD-380 015
INDIA**

Lessons from Leveraging Land: A Case of Bangalore Mysore Infrastructure Corridor

G. Raghuram*
Satyam Shivam Sundaram**

Abstract

Bangalore Mysore Infrastructure Corridor pioneered the idea of leveraging land for revenue generation to make a project viable. The project was conceived as early as 1988. It had the twin objectives of (i) connecting Bangalore and Mysore (two rapidly growing cities in Karnataka) with an expressway and (ii) developing the infrastructure around the periphery of Bangalore city and the expressway. The project generated many controversies centred around land acquisition including the quantum of land, number of places for land acquisition, number of families affected, and the compensation package. These issues were further escalated due to frequent changes in political leadership in the state. This paper discusses the events which have spanned over two decades and brings out the key learnings in leveraging land as a revenue generation instrument.

* Professor, Indian Institute of Management, Ahmedabad, Email: graghu@iimahd.ernet.in

** Doctoral Student, Indian Institute of Management, Ahmedabad, Email: sss@iimahd.ernet.in

1. Introduction

The Bangalore Mysore Infrastructure Corridor (BMIC) was envisaged, as early as 1988, with the twin objectives of (i) connecting Bangalore and Mysore (two rapidly growing cities in Karnataka) with an expressway and (ii) developing the infrastructure around the periphery of Bangalore city and around the expressway. The project pioneered the idea of leveraging land for achieving financial viability. However, not much has gone well for the project since then. Land has been at the core of all the controversies over the last two decades. In this paper, we discuss the events related to this project and bring out the key learnings.

2. Brief Summary of Events

A tender was invited by the state government of Karnataka (hereafter referred to as 'the government') on September 28, 1988 for the development of BMIC. Many private parties purchased the bid document, but only one consortium consisting of Pune based Kalyani Group, Pennsylvania (USA) based SAB Engineering, and Boston (USA) based Vanasse Hangen Brustlin (VHB) submitted the bid. The bid was accompanied with conditions. Two of them were that the government should (i) take the land acquisition responsibility and (ii) share land acquisition and construction costs. The government did not accept the conditions. They also decided that this project would be developed under the Build-Own-Operate-Transfer (BOOT) mode.

Around the same time, the government approached the Asian Development Bank (ADB) for funds. The ADB studied the proposal and found that the project was financially unviable. However, they agreed to finance the project, if the government shared 20% of the construction cost along with the land acquisition cost. The ADB also wanted the government to take the responsibility of acquiring land. This proposal was not accepted by the government.

Other plans were explored by the government. (A map showing the various plans is given in Exhibit 1.) One of them was to widen the existing State Highway (SH) 17 between Bangalore and Mysore and convert it to an expressway. Another plan was to develop SH 86, a slightly longer but parallel route to SH 17. ADB, based on its study, declined to offer any financial support to these projects, as they envisaged large scale resettlement and rehabilitation (R&R) due to ribbon developments along the road. Towards the objective of connectivity between Bangalore and Mysore, ADB preferred a plan of doubling the existing railway line since land acquisition would not be an issue here.

In 1994, L&T ECC expressed interest in developing the Bangalore Mysore expressway project on Build-Operate-Transfer (BOT) basis. However, this did not result in any further action.

As a part of a larger sister city development agreement, a memorandum of understanding (MoU) was signed on February 20, 1995 in the presence of Chief Minister of Karnataka, Mr H D Deve Gowda and the Governor of Massachusetts, USA Mr William Weld. This MoU was between the government and the consortium led by Kalyani group, which represented the USA interests. According to the terms of MoU, the consortium had to conduct preliminary investigations and surveys for the expressway project and submit a project report. A high level committee (HLC) was constituted under the chairmanship of the Minister of Public Works Department (PWD) to review the progress. The report recommended that the township development concept was essential to make the project viable. It also recommended the themes, locations, and size of the seven townships (Exhibit 2).

After further negotiations with the consortium, the number of townships was reduced to five (and acreage to 4,285). These townships were expected to house over 500,000 people and support a variety of activities including corporate, commercial, farming and marketing, industrial, and tourism. The government then administratively cleared the project on November 6, 1995, for

execution by the consortium. The expected project cost, including construction and land acquisition, was over Rs 20 billion, to be borne by the consortium. While the government would use its powers to notify the land, the operational aspects of land acquisition and settlements were the responsibility of the consortium.

A government order (GO) numbered PWD 32 CSR 95 was passed on November 20, 1995, authorizing acquisition of 18,313 acres of land, under Karnataka Industrial Areas Development Board (KIADB) Act, for the development of a four lane (convertible to six lanes) expressway (including peripheral road, link road and attendant facilities in and around Bangalore) and five townships between Bangalore and Mysore. The project lease period was decided as 30 years from the date of completion, after which it was to revert back to the government.

The land requirement aspects of the project were not received favorably, especially by those who had to give up their land. An NGO called Environmental Support Group (ESG) took active interest in examining the implications of the project. They estimated that the project was likely to dislocate over 1,500 farming families due to direct displacement and up to 200,000 persons indirectly (www.esgindia.org).

The consortium registered a special purpose vehicle (SPV) called Nandi Infrastructure Corridor Enterprises Ltd (NICE), on January 16, 1996, under the Companies Act, 1956, for the development and implementation of the project. On September 9, 1996, the consortium entered into a 'Consent and Acknowledgement Agreement' under which they assigned their rights obtained through the GO (November 20, 1995) and the MoU, in favor of NICE. (On May 31, 1996, Mr J H Patel took over as the Chief Minister from Mr Deve Gowda on the latter becoming the Prime Minister.)

In April 1997, the 'Framework Agreement' (FA) was signed between NICE and KIADB. As per this agreement, the government notified 20,193 acres of land for acquisition under the KIADB Act, as detailed in Table 1. Farmers were asked to choose from the three options: (i) fair compensation at market price and a job per family, (ii) fair compensation and a subsidized housing, or (iii) an equivalent land and either a small compensation for moving and hardship or a job.

Table 1: Land Use Details as per FA *Acres*

Land Type	Waste	Forest	Rain fed agricultural	Irrigated agricultural	Garden	Total
Government	4,460	168				4,628
Private	290		13,092	1,946	237	15,565
Total	4,750	168	13,092	1,946	237	20,193

Source: <http://www.indiatogether.org/campaigns/bmic/>

On October 14, 1998, the KIADB formally awarded the project to NICE on BOOT basis. The project was to be completed in three phases. (A map showing the project details is given in Exhibit 3.)

The Phase I of the project consisted of (i) 41 km of peripheral road (75 m width) connecting NH 7 and Hosur road (near Electronic City) to NH 4 and Tumkur road (near Peenya Industrial Area), (ii) 9.1 km of link road and 12 km of expressway connecting the first township, (iii) Corporate Centre near Bidadi, and (iv) Commercial Centre near Bidadi.

The Phase 2 of the project consisted of (i) Farming and Marketing Centre near Ramnagaram, (ii) Industrial Centre near Ramanagaram, and (iii) 24 km of expressway.

The Phase 3 consisted of (i) Eco-Tourism Centre near Srirangapatnam, (ii) the remaining portion of expressway, and (iii) the elevated section of the link road.

The taluk wise land requirement for the project, as per the project award document (signed jointly by NICE and KIADB), is given in table 2. The land requirement had been stated as 23,846 acres as against the FA's 20,193 acres.

Table 2: Land Requirement as per Project Award Document

Sr No	Taluk	Area (acres)	Sr No	Taluk	Area (acres)
1	Bangalore North	855	5	Maddur	481
2	Bangalore South	5,089	6	Mandya	667
3	Ramnagaram	8,170	7	Srirangapatnam	4,839
4	Channapatna	3,572	8	Mysore	173
Total					23,846

Source: Project Award Document, 1998

The project also included construction of toll plazas, provisioning of petrol bunks, truck terminals, bus terminals, public amenities, trauma care, hazard management centre, traffic control, storage facilities for the goods, and power generation and distribution centres. It was envisaged that the right of way of the expressway would carry telecommunication cables (fiber optic cables), power, and gas lines. The project also included construction of 400 MW Power Plant, two thousand million cubic meter (TMC) Water Supply pipeline and Sewerage Treatment plant over the three phases.

In October 1999, the Janata Dal government under Mr J H Patel lost the elections to the Congress. Mr S M Krishna became the Chief Minister.

NICE applied for clearances from various government agencies. The clearance from Karnataka State Pollution Control Board (KSPCB) required public hearings. The first public hearing was held on March 9, 2000 in Bangalore and subsequent hearings were to be conducted at Mandya and Mysore. These hearings were postponed due to lack of information among the public regarding the project. Conceding to the request of various organizations, the Deputy Commissioner, Bangalore Urban District promised to release necessary documents in the public domain. Hearings were then conducted on 30th June in Mysore, 3rd July in Mandya, and 5th July in Bangalore. On August 1, 2000, the KSPCB issued a 'No Objection Certificate' to the project contingent on several conditions. On August 8, 2001, the Ministry of Environment and Forests (MoEF) gave a clearance to the road/expressway component of the project, subject to meeting the specified conditions (Exhibit 4).

In the mean time, the government conceived the Karnataka State Highway Improvement Project (K-SHIP) for improving 2,300 km of highways at a cost of Rs 20,300 million. This did not include any work on SH 17 or SH 86 in view of the BMIC. K-SHIP was proposed to the World Bank for funding, which was granted on May 24, 2001.

During the same period, the government gave NICE an option of buying out 3,919 acres of land (leased for commercial purposes) at the 1999-00 proposed value, provided it did so within ten years from the date of financial closure of the project ie, by March 2003 (<http://www.esgindia.org/campaigns/bmic/press/A%20controversial%20project.htm>). The stated reason was to facilitate the financial closure of the project.

On June 17, 2002, ESG made a representation to the MoEF, raising questions regarding the compliance to the general and specific conditions stated by MoEF in their clearance granted in August 2001. These were mainly targeted at seeking information regarding the level of compliance.

In July, 2002, the government decided to include the widening of the SH 17 from two to four lanes as part of K-SHIP. The Chief Minister also assured prompt action from the government for

doubling the railway track between Bangalore and Mysore. These events threatened the viability of the expressway.

An agreement related to toll franchise and land lease was signed between NICE and the government in August 2002. On August 16, 2002, NICE achieved financial closure for the road component. The project cost was estimated to be Rs 8,400 million, with the promoters investing Rs 3,600 million, and the balance being raised from banks and financial institutions. A consortium of banks led by ICICI had agreed to finance the project. However, environmental activists and other citizen groups opposing the project complained to the Reserve Bank of India (RBI) regarding violation of certain guidelines by these banks. The alleged violation was with regard to mortgaging of project land for financing. (The legal counsel was that this was permissible.) There was no visible action taken by the RBI. During this period, many Public Interest Litigations (PILs) were filed against the project on various grounds.

In spite of the apparent 'hurdles', NICE carried on the project activities. It sold approximately eight acres of land, after (land) development, at a price of Rs 3.75 million/acre to the Indian Machine Tool Manufacturers Association for establishing a Convention Centre [Sale Deed Agreement, 2003]. The land was received by NICE at Rs 1 million/acre.

In response to one of the PILs, a single bench of the High Court of Karnataka, in December 2003, quashed the land acquisition for the townships while upholding the land acquisition for the expressway. NICE and the government appealed to a division bench of the High Court.

In January 2004, a report published in Frontline, alleged violation of laws by various politicians and bureaucrats towards personal gain from the deviations in the BMIC (Exhibit 5).

On February 12, 2004, the former Prime Minister and former Chief Minister of Karnataka, Mr H D Deve Gowda submitted a memorandum to the Governor Mr T N Chaturvedi regarding BMIC. The memorandum alleged that the government followed illegal and corrupt practices, and that the project execution should be stopped pending investigations and court cases.

Amidst the controversies, construction work on BMIC started in March 2004. The work commenced at seven places. Some of the initial activities included earth excavation work for constructing interchange facility at Sompura, construction work of peripheral road from Hosur road passing through the B M Kaval forest area, and construction of 4 km stretch at Sompura (commencement point for expressway). The first phase of the project, a stretch of 62 km (including peripheral and link road), was expected to be completed by August 2005. The second phase was to be completed by August 2006, while the third phase was to be completed by August 2007.

Mr Deve Gowda submitted another memorandum on April 1, 2004. It provided details of the discrepancies in the land requirement as stated in the MoU and the various notifications. The land requirement had increased from 20,193 acres to 29,140 acres. The memorandum also alleged that there were discrepancies in the land use notification and the project was being modified keeping the vested interests of some ministers and politicians. The memorandum also pointed out deviations in the alignment from the City Development Plan (CDP) near Gottigere, and affecting a lake. The memorandum noted that in spite of strong protests from the farmers and court stay order, the construction near Gottigere had commenced, blocking the inflow of water into the lake. Since these discrepancies were in Mr Gowda's parliamentary constituency and belonged to poor and dalit farmers, he was concerned. It also pointed out that the elections had been announced and the code of conduct was in place since February 29, 2004. Similar irregularities were pointed out in the article of Frontline in January 2004 (Exhibit 5).

As a response to the memorandum, the Governor asked for the project details from the Chief Secretary. In response to the information sought by the Governor, the Special Deputy

Commissioner, KIADB informed that the land acquired as of 2004 was 29,258 acres. However, the earlier identified excess land (2,728 acres) had been denotified. The letter also stated that the land acquisition was based on the requirement indicated by the promoter company and not on the basis of any technical drawing/maps approved by the government (Exhibit 6).

In May 2004, the state elections were held. The Congress and the Janata Dal(S), (a subset of the same party which earlier had Mr Deve Gowda and Mr J H Patel as Chief Ministers), formed a coalition government. Under the coalition arrangements, Mr Dharam Singh was elected as the Chief Minister. Mr S M Krishna who was spearheading the elections for Congress (and also the previous government) was appointed as the Governor of Maharashtra.

In a change of stand, the new government decided to review the project. In November 2004, the government constituted a committee chaired by Mr K C Reddy to inquire into the excess land allocation. Mr Reddy was the same person who had given a go ahead to the project earlier, as a part of the HLC. The committee submitted its interim report in a month stating that 2,450 acres of excess land was allocated. The report was accepted by the government. Consequently, it withdrew the application as a co-appellant before the division bench started hearing the arguments.

Two legislators, Mr J C Madhuswamy and Mr Srirama Reddy, filed a PIL in the High Court with a plea to scrap the project as it was surrounded with many controversies. At the same time, many PILs were filed requesting court intervention in completing the project at the earliest possible.

On April 11, 2005, the division bench of the Karnataka High Court dismissed the PILs filed by the legislators and directed the state government and its instrumentalities, including the KIADB, to execute the project as originally conceived. The court also quashed the GOs of November 4, 2004 and December 17, 2004 constituting a review committee and an expert committee to monitor the progress of the project. The reports of the committees and the action taken thereof were also quashed. During the hearings, the court also decided to initiate contempt of court proceedings against the Chief Secretary and the Under Secretary of the state for withholding information regarding the project during the hearing.

Towards the end of January 2006, the coalition government disbanded. Instead, a new coalition of the Janata Dal(S) and the BJP formed the government headed by Mr H D Kumaraswamy of the Janata Dal(S). He was the son of Mr Deve Gowda. Mr Kumaraswamy's elder brother, Mr H D Revanna took over as the PWD Minister. This coalition had a power sharing agreement, in which the BJP would get the Chief Ministership after half of the remaining tenure, ie in October 2007.

The High Court order was challenged in the Supreme Court by the government and the ESG. On April 20, 2006, the Supreme Court ruled in favor of the project and commented that the government action was malafide as the same officer who had awarded the project could not have found excess land at a later date. There were evidences of due diligence from the government side while awarding the project when the number of townships had been reduced to five from seven.

On June 19, 2006, the government issued specific orders to the PWD to provide land to NICE for completing the project. The land allocation was expected to be strictly in accordance with the FA as upheld by the Supreme Court. According to the Hindu newspaper, "it is obvious that the Government has undertaken this exercise to thwart any contempt of court proceedings against it" (<http://www.hindu.com/2006/06/19/stories/2006061904080600.htm>).

On July 14, 2006, the first stretch of the first phase was opened. However, even on the inauguration day, further controversies arose. It was mentioned in the FA that NICE had to intimate the PWD to inspect the road before it could be thrown open for motorists, which it had not. A notice was sent to NICE by the PWD stating that the road should not be opened for traffic without clear approval of the government.

On October 2, 2006, KSPCB withdrew consent for the BMIC project after it found that the road alignment had been altered in alleged violation of the conditional environmental clearance granted by the MoEF in August 2001.

In November, 2006, the Supreme Court dismissed a review petition (against the project promoters by the government) of its earlier order.

The city's Electronic City Industries Association filed a petition in the Supreme Court seeking its intervention on the alignment of the expressway near Gottigere lake in Bangalore. The petition was driven by the environmental concerns. The court had to give a judgment on whether construction of a bridge should be allowed across the lake or adjacent forest land be used for the connecting the Bangalore end of the expressway. On January 27, 2007, the Supreme Court issued notices to the state government and NICE. While, the Court allowed NICE to go ahead and complete the first phase of the project, it barred NICE from carrying out any construction along the Gottigere lake. The government decided not to hand over the land in this area stating that the matter was under active consideration of the court.

NICE filed an appeal with KSPCB against its order that withdrew the 'No Objection Certificate'. In response to this, the Karnataka State Environment Authority (KSEA) inspected the 47 km peripheral road. On July 8, 2007, the KSEA, in their report, conveyed five instances of deviation in alignment.

In the mean time, on August 5, 2007, Global Infrastructure Consortium (GIC) put forward a proposal indicating that it would accept the terms and conditions of the FA of April 3, 1997 and would like to take up the project under the Swiss Challenge method. They were also ready to pay the cost of existing infrastructure as evaluated by an independent agency while taking over the project.

On August 30, 2007, it was decided that a global tender should be called for fresh bidding of the project. A notification was issued by the PWD on September 17, 2007 inviting competitive proposals from entities or consortiums in this regard. NICE filed a petition in the Supreme Court against the government notification of inviting fresh bids. NICE argued that they had already invested Rs 12 billion in the project and had made further commitments to third parties running into few billions. They also argued that this government action amounted to contempt of court since it was against the specific direction issued in April 2006 by the Supreme Court asking the parties to complete the project as soon as possible. On September 28, 2007, the Supreme Court stayed the government notification. However, the court agreed with the government that it was within its right to cancel the contract provided irregularities or breach of contract was established.

In October 2007, when the time of handing over the Chief Ministership to BJP came, the Janata Dal(S) unwillingly did it. The new government headed by Mr Y S Yeddyurappa lasted for only one week (November 12, 2007 to November 19, 2007). President's rule was imposed thereafter. During President's rule, the government functioned under an Executive Committee led by the Governor Mr Rameshwar Thakur.

On January 24, 2008, the High Court directed the Bangalore Water Supply and Sewerage Board (BWSSB) to shift the water and sewage pipelines in four locations across Bangalore city so that NICE could complete the peripheral road which was part of the project. On March 26, 2008, the Supreme Court issued a contempt notice to top bureaucrats of Karnataka, for not abiding by its order to implement the BMIC.

On April 25, 2008, the Executive Committee, led by Governor Mr Rameshwar Thakur, overturned the decision (to withdraw the project from NICE and invite fresh bids in a global tender to implement the project) of the previous government headed by Mr H D Kumaraswamy.

On May 9, 2008, the decision of Executive Committee was stayed by the Election Commission on the grounds of violation of model code of conduct, in view of the impending elections.

Elections were held in May 2008. The BJP was voted to power with a majority and formed the new government with Mr Y S Yeddyurappa as the Chief Minister.

The new government ratified the Governor's earlier order of canceling the global tender. The Supreme Court also ruled against the Election Commission directive.

On October 8, 2008, the government decided to release 102 acres of land for completing the link and the periphery road. The Home Minister Mr V S Acharya also assured that the land will be given as per the Supreme Court and the High Court guidelines. However, he also said, "At Gottigere, the court is yet to decide whether construction of a bridge is allowed across the tank (lake) or to make use of adjacent forest land for road construction".

As of October 8, 2008, the main hurdles for the expressway component of the project were

- (i) on the 9.1 km of link road, some stretches were yet to get government clearance for construction:
 - a. km 0 to 0.6 near Byatarayanapura and Divitigeramanahally,
 - b. km 2.6 to 2.9 near Hosakerehalli, and
 - c. km 7.8 to 8.3 near Hemmigeppura village,
- (ii) on the 41 km peripheral road from NH-7 (Hosur road) to NH 4 (Tumkur road), land was yet to be handed over for the construction of
 - a. road, ramps and slip roads to provide entry and exit to peripheral road from km 8 to 9 on Bannerghatta Road junction, near Gottigere,
 - b. ramps and slip road to provide entry and exit to peripheral road from km 15.4 to 16 near Kanakapura Road junction of Thalaghattapura,
 - c. some land near U M Kaval village required to relocate extra high tension electric power line to facilitate construction of peripheral road and construction of ramps and slip road Between km 23.4 and 24.2 near Mysore road junction,
 - d. clearance for construction of bridge across Mysore-Bangalore road and some land near Kengeri for construction of ramps and slip road to provide entry and exit to peripheral road,
 - e. ramps and slip road from km 33.6 and 33.8 near Magadi road junction near Hosahally Gollarapalya

(Source:

http://timesofindia.indiatimes.com/Cities/Bangalore/No_more_roadblocks_to_BMIC_/rssarticle/show/3571788.cms)

3. Discussion and Key Learnings

Need for clarity and conviction in the context of a novel project structuring:

The idea of leveraging land was a novel one. However, it lacked clarity and conviction from the government side. The scope/definition of the project was itself questioned. Many believed that government could not acquire land for townships which was physically separated from the expressway under the name of public interest. PILs were filed with by those who believed in this view. A single judge bench of the High Court agreed with the view and ruled against the project quashing the 40% of the total land acquired (for townships). However, the division bench set aside the order of the single bench. Finally, the Supreme Court cleared all doubts with its verdict that the project was an integrated infrastructure corridor and not just an expressway where land parcels were given for real estate development in order to boost the returns. A clarity in the government communication regarding the scope/definition (whether integrated infrastructure corridor or expressway project) would have reduced the number of litigations.

The public hearings experienced disorder and violence as some stakeholders (farmers, environmental support group, different citizen groups etc) were not convinced about the benefits of the project. As stated earlier, the government had to postpone the scheduled public hearings in Mandya and Mysore due to lack of information among public. Some citizen groups claimed that, in spite of their best efforts, information regarding the project was not shared in the subsequent hearings as well.

The lack of clarity over the scope and effort to keep all the stakeholders involved led to legal battles and delayed the project. It also led to heavy politicization of the project and created further impediments.

Purpose and basis for quantum of land

The notice for land acquisition was served under the KIADB Act and the purpose was stated as industrial use. Some farmers contested that the notice was vague in its message as the exact use was not stated. However, the Supreme Court decided that it was difficult for the government to state the purpose for each land parcel for such vast land acquisition.

The quantum of land was also not clear. The GO of 1995 identified 18,313 acres as the land requirement for the project. In 1997, the FA specified 20,193 acres of land while the formal award of the contract to NICE in 1998 specified 23,846 acres. By 2004, KIADB had notified 29,258 acres for land acquisition. The discrepancy in land requirement created both political and legal obstructions for the project.

One of the possible reasons for the varying requirement was that the land acquisition was planned based on the communication sent by NICE and not on the approved drawings/maps of the project (Exhibit 6). Another reason could be collusion of vested interests. The decision to notify or denotify a plot could have been taken depending on the personal gain that could be made by the politicians and the administrators (Exhibit 5). This rent seeking was facilitated by the absence of any detailed project report which gave the decision makers absolute discretion.

Protection against political risk

Changes in government (political risk) have affected this project. According to various newspaper reports as well as the Supreme Court observations, approvals and facilitating activities slowed down whenever JD(S) was a part of the government. Even the governments' stand in various courts kept changing, depending on the party who was heading it. The government went to the extent of reviewing the project and scrapping the same. This happened in spite of earlier rulings of the Supreme Court that reversal of stand should not be taken by governments every time there was a political change, while ruling in the State of Uttar Pradesh and Another v Johri Mal (Indlaw SC 423: 2004, AIR (SCW) 3888) and in State of Haryana v State of Punjab and Another (Indlaw SC 40: 2002).

Based on the description provided by Frontline (Exhibit 5), one can establish that government's stand had been changing depending on the political party heading the government and the opportunity for rent seeking due to lack of ground work on the project. Political risks were high as lack of detailed study provided enough scope for administrative discretion in the name of 'public good'.

Need for transparency and open competitive bidding

Some of the controversies can be attributed to lack of transparency regarding the agreements signed between KIADB and NICE. The agreement barred either of them from revealing the exact details of the project including the details of the land acquired. The land requirement varied from 18,313 to 29,258 acres over the years of project implementation without providing any basis. It

appears that the alignment was also modified. Lack of information was not helpful in curbing either PILs or demonstrations on the ground by the activists against the project. In fact, it made them believe that there was something wrong in the project.

The project was awarded on negotiation basis when another player (L&T ECC) had also shown interest in the project if the same was envisaged on BOT basis. Competitive bidding would have established trust in the public and political circles.

Environmental concerns

Environmentalists believed that 2,968 acres of the Badamanavarthi Kaval forest in Bangalore Urban District, and 4,075 acres of the Handigundi and Chikkamanagude forests in Bangalore Rural District would be destroyed as a part of the project. These were one of the few remaining natural forests of the Bangalore region. Many environmentalists claimed that rare species of flora and fauna were expected to be affected. The executive summary report provided by NICE, which was the only document in public domain, did not mention anything about this. Contamination of water (in lakes in the vicinity) was another challenge that the project was facing.

Use of critical resources

NICE had entered into an agreement with BWSSB for use of more than 150 MLD of water which was 1/4th of the amount of the water supplied to Bangalore city. Thus, the project was expected to adversely affect supply of water to the city. To add to this, there were ongoing disputes on the Cauvery river water between Tamil Nadu and Karnataka. BMIC was expected to receive 85 MLD of waste water free for non potable use, depriving farmers who used it for various agricultural purposes. This was also a region with extensive irrigation network based on the River Cauvery basin.

In January 2008, BWSSB decided not to permit NICE to shift water and sewerage lines in four locations as it could have affected water supply and sanitation in the city. Shifting of pipeline was essential for the completion of the alignment in the prevalent form. In spite of repeated request from NICE, the pipelines were not shifted stating technical opinion. On January 24, 2008, the High Court of Karnataka directed the BWSSB to shift the water and sewage pipelines in four locations so that NICE could complete the peripheral road, which was part of the BMIC project.

Since some lakes, including a few which were water sources, were getting affected by the project, desilting of other lakes in the vicinity were to be carried out. However, there was no information in the public domain about the schedule or the financial requirements.

Conflict of interest due to staffing of top positions

Many of the government staff joined NICE after their retirement eg, Mr Ramesh (Secretary, PWD), who signed the deal on behalf of the government, joined NICE soon after his retirement. In fact, at least half a dozen high ranking bureaucrats who were associated with the FA were employed with NICE at a later stage.

Mr K C Reddy, one of the members of the HLC (which had found the project suitable), was later appointed as the chairman of the committee which investigated the allegation of excess land grant by the government.

Absorption of economic loss due to controversies

This project has been delayed substantially and the economic costs of such delays are very high. In most cases, the cost gets transferred to the tax payers and users of the facility in the long run. The fairness of this can be questioned.

4. Concluding Remarks

The project pioneered the idea of leveraging land for infrastructure projects. Lack of clarity, conviction, and transparency led to excessive delay in the project. Further, the project developer had been selected based on interest rather than open competitive bidding. Frequent PILs were filed by different groups due to lack of transparency related to use of critical resources including land and water, and detailed project design.

The various events behind the project point at how governments can take unilateral and inconsistent decisions with major consequences and yet get away. Projects need to be protected from this.

Judicial interventions led to delay in the execution of the project. However, when appealed to, it also came to the rescue of the project.

Reference

- [1] A Controversial Project, Retrieved on June 1, 2008 from <http://www.esgindia.org/campaigns/bmic/press/A%20controversial%20project.htm>
- [2] Environmental Support Group, Retrieved on September 7, 2007 from http://www.esgindia.org/campaigns/bmic/docs/rep_300305_annexures/annex
- [3] Google Maps Retrieved on September 7, 2008 from www.googlemaps.com
- [4] Headlines India, Retrieved on June 1, 2008 from http://www.headlinesindia.com/archive_html/17June2006_3861.html
- [5] India Together, Retrieved on September 7, 2007 from <http://www.indiatogether.org/campaigns/bmic/>
- [6] IndLaw, Retrieved on June 1, 2008 from <http://www.indlaw.com>
- [7] In Gowda country, even SC is Not Spared, Retrieved on June 1, 2008 from <http://www.hindustantimes.com/StoryPage/StoryPage.aspx?id=036442f4-ddbf-4706-8a04-4ddfe50eacc8>
- [8] Nandi Infrastructure Corridor Limited, Retrieved on September 1, 2008 from <http://www.nicelimited.com>
- [9] No More Road Blocks for BMIC, Retrieved on October 8, 2008, from http://timesofindia.indiatimes.com/Cities/Bangalore/No_more_roadblocks_to_BMIC/rssarticleshow/3571788.cms
- [10] Project Award Document (KIADB and Government of Karnataka), 1998
- [11] PWD ordered to provide land for BMIC project Retrieved on October 8, 2008 from <http://www.hindu.com/2006/06/19/stories/2006061904080600.htm>
- [12] Sale Deed Agreement, 2003 between KIADB and All India Manufacturers Organization and Others
- [13] State of Karnataka and Another vs All India Manufacturers Organization and Others (2006 INDLAW SC 166)

Exhibit 1: Project Alternatives

Source: www.googlemaps.com

Exhibit 2: Details of the Townships

Sr No	Township Theme	Location (Near)	Government Land	Private Land	Total Land	Initial Proposal	After Negotiation
1	Corporate	Bidadi	45	2,729	2,774	•	•
2	Commercial	Bidadi	575	1,272	1,847	•	•
3	Heritage	Ramanagaram				•	
4	Farming and Marketing	Ramanagaram	652	963	1,615	•	•
5	Industrial	Ramanagaram	2,668	14	2,682	•	•
6	Agricultural	Mandya-Srirangapatnam				•	
7	Eco-tourism	Srirangapatnam	2,253	2,032	4,285	•	•

Source: http://www.esgindia.org/campaigns/bmic/docs/rep_300305_annexures/annex

Exhibit 3: Project Details

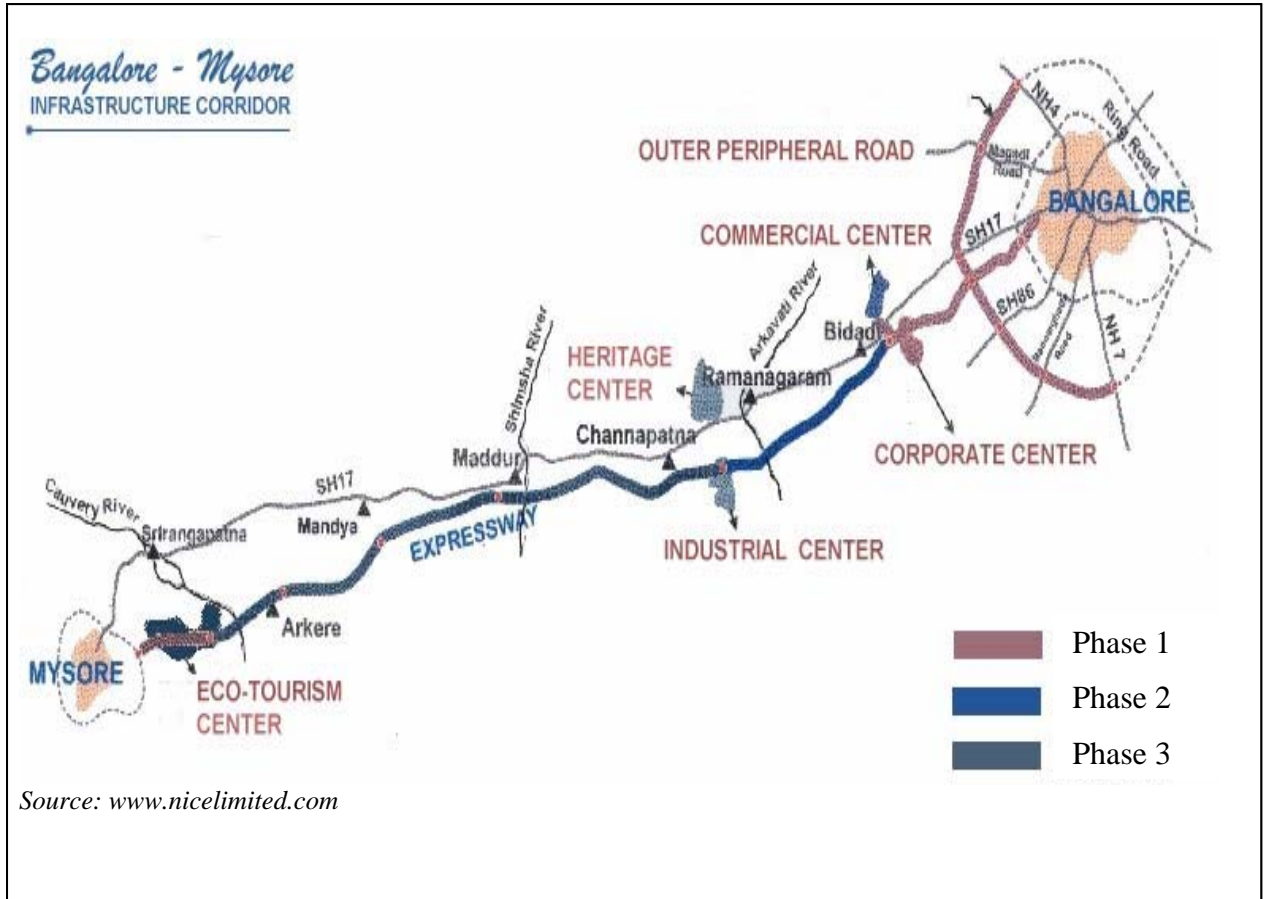


Exhibit 4: Clearance from MoEF

- On December 4, 2000 NICE applied for clearance to MoEF. Subsequently, on (i) February 3, 2001, (ii) February, 7, 2001, (iii) March 24, 2001, (iv) April 26, 2001, (v) May 21, 2001 and (vi) June 5, 2001, NICE sent letters to MoEF providing clarifications and seeking updates. A government clarification was also received April 30, 2001.
- Clearance was sought for construction of 111 km long tolled expressway, 41 km long tolled outer peripheral road, 9.1 km link road, 3.1 km long elevated section of the link road, 5 townships, power plant, and other associated infrastructure facilities.
- The EIA notification, 1994 as amended subsequently was attracted to the road/expressway component and power plant only. Since the power requirement in the initial phases was to be met through Karnataka Power Transmission Corporation Limited and Hospet Power Limited, the environmental clearance for the power plant was to be obtained at a later date as per the rules and regulation applicable. **Therefore, the scope of the project for the purpose of the clearance was limited to the road/expressway component of the BMIC project.**
- The total land requirement for the project was estimated to be 20,193 acres out of which 4,076 acres was required for the expressway alone. It included 168 acres of forest land for which in principle approval for diversion of forest land had been obtained. The total cost of the project was estimated to be Rs 19,300 million.
- **After careful examination, MoEF accorded environmental clearance subject to effective implementation of the following conditions and environmental safeguards:**
 - a. **Specific Conditions**
 - i. All the conditions stipulated by Karnataka State Pollution Control Board vide their letter number KSPCB/CFE/DEO-2/AEO-2/2000-2001/208 dated 11th August, 2000 shall be effectively implemented.
 - ii. All the conditions stipulated by this Ministry while according forestry clearance for diversion of forest land shall be strictly implemented.
 - iii. The project affected people shall be rehabilitated as per the rehabilitation plan approved by the Government of Karnataka vide their G.O. No. RD 161 REH 2001 dated 23rd April, 2001.
 - iv. All the designs will be duly approved by the Public Works Department, Government of Karnataka and it shall be ensured that the safety measures as per Indian Road Congress (IRC) and other standards are built into the design till execution.
 - v. Noise barriers will be provided at the appropriate locations so as to ensure that the noise levels do not exceed the prescribed standards.
 - vi. Appropriate arrangement for providing of percolation pits, storm water drainage and culverts shall be provided to ensure that ground water recharge and hydrology of the area is not adversely affected. It will also be ensured that the adjoining villages are not subjected to flash floods as a result of this project.
 - vii. Arrangement shall be made for rain water harvesting in the project design and the rain water so harvested shall be optimally utilized. In addition, rain fed water tanks shall be augmented by rain water harvesting to maintain their aesthetics and for environmental protection.
 - viii. The solid wastes generated will be disposed in identified areas for which prior approval of the State Pollution Control Board shall be obtained.
 - ix. Specific environmental clearance for the power plant shall be obtained as per the rules and regulations applicable to the same.
 - x. No sand will be withdrawn from the river beds for construction of this project.
 - xi. Fly ash shall be used to the extent possible in the construction of the project. For the purpose, an action plan identifying the specific power plants from where the fly ash/bottom ash will be taken and the quantities thereof, which could be utilized in the project shall be prepared and submitted to this Ministry within 3 months.

- xii. Accident mitigation measures and the procedure to be followed in emergency situation should be detailed and information furnished to this Ministry within 3 months.
- xiii. Adequate number of under passes shall be provided in the portion of the alignment passing through habitations.
- xiv. Adequate Avenue Plantation shall be carried out all along the alignment and specific allocation of funds shall be made in this regard. Details in this regard will be furnished within 3 months.

b. General Conditions

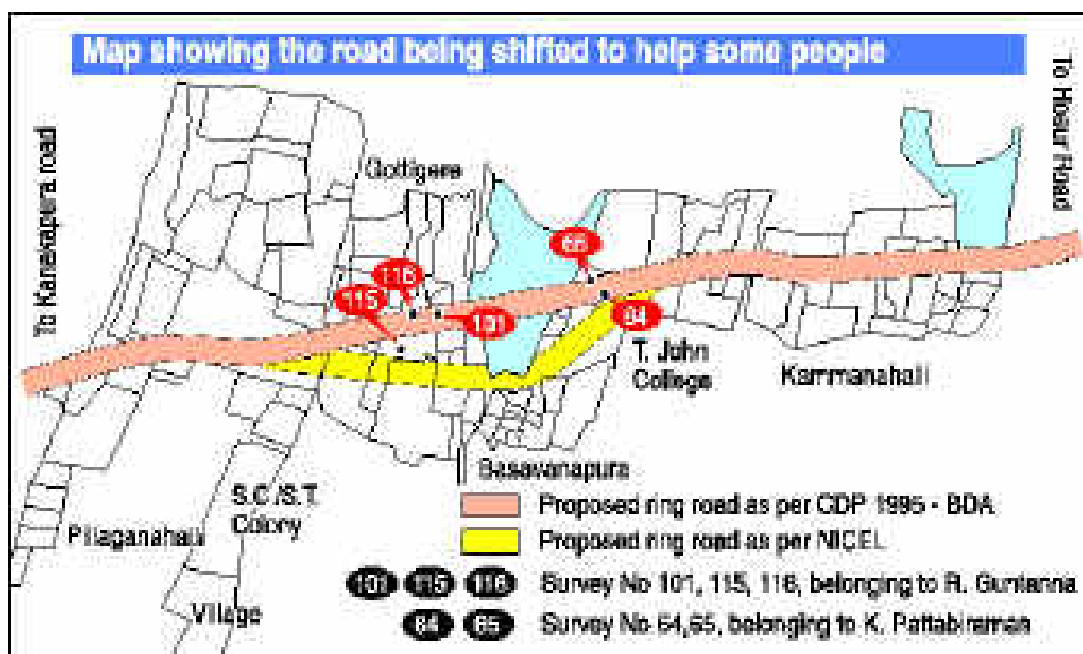
- i. Adequate provision for infrastructure facilities including water supply fuel and sanitation must be ensured for construction workers during the construction phase of the project in order to avoid any damage to the environment.
- ii. Appropriate measures must be taken while undertaking digging activities to avoid any likely degradation of water quality.
- iii. Borrow sites for earth, quarry sites for road construction material and dump sites must be identified keeping in view the following :
 - a.No excavation or dumping on private property is carried out without written consent of the owner.
 - b.No excavation or dumping shall be allowed on wetlands, forest areas or other ecologically valuable or sensitive locations.
 - c.Excavation work should be done in consultation with the Soil Conservation and Watershed Development Agencies working in the area; and
 - d.Construction spoils including bituminous material and other hazardous materials must not be allowed to contaminate water courses and the dump sites for such materials must be secured so that they should not leach into the ground water.
- iv. The construction material should be obtained only from approved quarries. In case new quarries are to be opened, specific approvals from the competent authority should be obtained in this regard.
- v. Adequate precautions should be taken during transportation of the construction material so that it does not affect the environment adversely.
- vi. Borrow pits and other scars created during the road construction should be properly leveled and treated.
- vii. The project-affected people, if any, should be adequately rehabilitated and the details in this regard should be furnished to the Ministry.
- viii.Adequate financial provision must be made in the project to implement the stipulated safeguards.
- ix. The project proponent will set up separate environmental management cell for effective implementation of the stipulated environmental safeguards under the supervision of a Senior Executive.
- x. Full support should be extended to the officers of this Ministry/Regional Office at Bangalore by the project proponents during their inspection of the project for monitoring purposes by furnishing full details and action plan including action taken reports in respect of mitigative measures and other environmental protection activities.
- xi. A six-Monthly monitoring report shall be submitted to the Regional Office of this Ministry at Bangalore regarding the implementation of the stipulated condition
- xii. The ministry or any other competent authority may stipulate any other conditions or environmental safeguards, subsequently, if deemed NICEssary, which should be compiled with.
- xiii.The Ministry reserves the right to revoke this clearance if any of the conditions stipulated are not compiled with to the satisfaction of the Ministry.
- xiv.In the event of a change in project profile or change in the implementation agency, a fresh reference shall be made to the Ministry of Environment & Forests.

- xv. The project proponents shall inform the Regional office as well as the Ministry, the date of financial closure and final approval of the project by the concerned authorities and the date of start of land development work.
- xvi. A copy of the clearance letter will be marked to concerned Panchayat/local NGO, if any, from whom any suggestion/representation has been received while processing the proposal.
- xvii. State Pollution Control Board should display a copy of the clearance letter at the Regional Office, District Industries Centre and Collector's Office/Tehsildar's office for 30 days.
- xviii. The project proponent should advertise at least in two local newspapers widely circulated in the region around the project., one of which shall be in the vernacular language of the locality concerned informing that the project has been accorded environmental clearance and copies of clearance letters are available with the State Pollution Control Board and may also be seen at Website of the Ministry of Environment & Forests at <http://envfor.nic.in> The advertisement should be made within 7 days from the date of issue of the clearance letter and a copy of the same should be forwarded to the Regional Office of this Ministry at Bangalore.
- xix. These stipulations would be enforced among others under the provisions of Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, the Public Liability (Insurance) Act, 1991 and EIA Notification 1994 including the amendments and rules made thereafter.

Exhibit 5: Summary of Frontline Article Bringing out Nexus between Politicians and Bureaucrats

- NICE sold 110.25 acres (all in Bangalore South and North taluks) out of a total of 14,505 acres of private land.
- NICE has the option to buy out around 3,919 acres of the leased government land (used for commercial purpose), at guideline values of 1999-2000, provided it did so within 10 years from the date of financial closure of the project (that is, March 2003). The government headed by Mr S M Krishna, in 2001, provided this option. Until then, the land was available only on a 40-year lease and had to be returned to the government at the end of that period.
- Around 5,688 acres were to be leased of which around 1,500 acres would be used for the road. The remaining land could in theory be used for commercial purposes and hence be bought by NICE, at prices that will be frozen at the 1999-2000 level. If the average cost per acre is taken at Rs 1 million/acre, NICE could end up buying 4,000 acres of government land for Rs 4000 million even in 2013.
- In June 2001 the government withdrew 49 acres of land that had been given for the construction of houses under the Ashraya scheme and handed the same to NICE. In July 2003, the government withdrew 307 acres of forest land at Badamanvarthi Kaval from the Forest Department, and handed it over to NICE.
- The whimsical ways of the KIADB, which in many instances is not aware of the road's alignment, has resulted in a landowner (H V Vijayaraghavan of Survey No. 104/2-7) first having his lands notified, then dropped and then recommended for notification again. The last two decisions took place within two months of each other (on October 17, 2003, and December 24, 2003).
- NICE received favorable decisions from successive governments. The Janata Dal government headed by Mr J H Patel amended the KIADB Act to include transport (meaning construction of expressways/roads) and townships as industrial infrastructural facilities. Concessions made later included substantial exemptions in stamp duty and registration charges for the land transferred from KIADB to NICE and from NICE to its lenders/financial institutions, and exemption of industrial conversion charges (Rs 0.16 million/acre for over 20,000 acres of land).
- On June 29, 2002 the government stated that it had no objection to NICE creating a charge, mortgage, hypothecation or other encumbrances on the whole or part of NICE's right, title and interest under the Project Documents, the Land, and Project Facilities and/or the Project revenues in favor of the lenders and in this regard granted such rights and such obligations as may be required by the lenders, including the step-in rights, which shall subsist till all amounts payable to the lenders had been paid in full. The government also agreed to the proposal of the lenders, "whereby in the event of the government exercising its rights to terminate any of the project agreements, then the government shall pay to the lenders directly, on termination, the termination purchase price payable under the Framework Agreement".
- Former Prime Minister Mr Deve Gowda accused the Chief Minister Krishna, the Chief Secretary B S Patil and an unnamed senior Minister of colluding to part with government land on the outskirts of Bangalore using acquisition for the BMIC as a ruse.
- Informed sources pointed out that there were gross irregularities and improprieties in the acquisition of land for the project. In many instances, land that was originally in the path of the BMIC was left out and lands that were not required were acquired.
- NICE secured financial closure only for the first phase. As per the latest schedule, the first phase - construction of the 9.8 km ground-level link road on the Bangalore side, the 41 km southern section of the Outer Peripheral Road and the 13 km section of the expressway from Bangalore to Bidadi - will begin on February 5. This phase was scheduled to be completed by August 2005, and the whole project within four years.
- As many as 10 key government officials took up employment with NICE almost immediately after retirement which included Mr C R Ramesh (Secretary, PWD), Mr N Vishwanathan (Additional Chief Secretary), and Mr K B Gopalkrishna (Executive Engineer, PWD).

- A letter written by the Special Deputy Commissioner, KIADB, Mr S Anees Siraj to the Chief Engineer (South), PWD, on July 2, 2003, reflected the lack of planning. "While reviewing the progress of the BMIC and the land acquisition notifications issued, the Chief Executive Officer and Executive Member, KIADB, has desired to know the alignment drawings for the peripheral road, link road including interchange and the expressway as approved by the PWD," the letter states. It is surprising that the KIADB, the agency that is to acquire the land, was unaware of the alignment. If the KIADB did not have copies of the alignment, how did it acquire the land?
- As per the proceedings of the meeting held under the chairmanship of Mr Deshpande on November 12, 2003 to review the BMIC, the Minister observed that copies of the (road) alignment as approved by the Karnataka PWD had not been made available either to the Commerce and Industries Department or to the KIADB.
- Many evacuees said the KIADB haphazardly served notices to landowners throughout the project area, and then offered to drop notification proceedings for a price. Frontline investigations revealed a number of instances where the alignment of the peripheral road has been changed. A number of land survey numbers were deleted in the final notification (the landowners had been earlier served with a preliminary notification). According to the owners, the current fee (depending on the location of the land) for getting land deleted from the acquisition list is around Rs.2.5 lakh per acre. All deletions have to be signed by the Industries Minister.
- In Gottigere on Bangalore's outskirts, as many as 14 survey numbers were dropped. In another instance, an owner who was served a preliminary notification for his 30 acres (12 ha) of land near Kengeri (on Bangalore's outskirts) had the acquisition proceedings dropped.
- According to a land acquisition officer, the problem is that nearly 40 per cent of the land on Bangalore's outskirts is held in benami (proxy) names "with many influential people being the real owners". This has made acquiring land a nightmare.
- Owners have also suddenly found themselves being served with a notification. Said H.V. Vijayaraghavan, who stands to lose 13 acres (5.2 ha) of land close to the Gottigere tank: "My land had not been notified till January 2003.



- The peripheral road is supposed to dovetail the ring road proposed in 1995 as part of the Bangalore Development Authority's (BDA) CDP. An overpass should be built over the Gottigere tank. But in January just to skirt a certain farmhouse and to help provide easy access to another property, NICE diverted the peripheral road (see map).

- In an order in June 1999, the High Court had directed that no road should be laid bisecting the Gottigere tank or preventing or disturbing the inflow of water into the tank. The court said that in case NICE wanted to lay a ring road, it was open to lay any such road by providing an overpass without disturbing the free flow of water to the tank. But NICE has diverted the road and blocked the inflow of water from the southern side."
- Srinivas Reddy of Talaghattapura on the outskirts of Bangalore said: "I am losing 1.5 acres of land that I have converted to industrial use and set up a small-scale industry. My land is not part of the original CDP, and the BDA even gave me a no-objection certificate. But now, because a politician has developed 9 acres of land in the vicinity, officials were told to shift the alignment of the peripheral road."
- A C Ananthaswamy of Hosakerehalli (Bangalore) accused NICE of identifying land that was part of the BDA's designated Regional Park (green belt pockets): "I have grown coconut, areca, coffee, pepper and teak in an area designated for the a regional park but still the land is being taken for an industrial project."
- Increasingly, many owners are not in favor of parting with their land, especially those whose land hugs Bangalore or those in the rice- and sugarcane-growing areas of Mandya district. Many owners near Bangalore, after paying a fee of Rs.1.6 lakhs an acre, converted their agricultural lands for non-agricultural use.
- NICE's offer of around Rs.10 lakhs an acre in places close to Bangalore has also not pleased many of the landowners. While some, especially those near Bidadi and Ramnagaram (mostly with dry lands), have accepted the amount, others have not.
- They averred that the market rate was much higher and even the BDA had paid higher rates. They alleged that NICEL sold 30 acres of land near Madavara (Bangalore Rural district) to the Indian Machine Tool Manufacturers Association (for establishing a convention centre) at Rs.32 lakhs an acre. The KIADB had acquired the land from original owners paying under Rs.10 lakhs an acre and then handed it over to NICEL.
- Kheny said that NICE was well within its rights to sell the land. "The Karnataka government wanted the Association to establish an exhibition centre in Bangalore. Since this land was readily available, they asked me to give it. Otherwise the Association would have taken their exhibition centre to Hyderabad. The land was sold for the same price that we bought it from the KIADB plus development costs. The Association wanted infrastructure such as a parking lot, a sewage plant, a 100-foot road and a power substation. Not Rs 32 lakhs but around Rs 20 lakhs an acre."
- Kheny also confided that NICEL was engaged in talks with the Harvard Medical School (which wanted to set up a school in India) to sell 5 acres of land.
- Documents with Frontline show that NICEL had in June 2002 offered 10 acres to LIC Home Finance Limited's Care Homes Ltd at the BMIC's Mysore road interchange. The letter specifies that BMICP would establish "electric infrastructure, supply of portable water, sewage disposal and an approach road" and then hand over the land to the LIC "for developing their own layout and (for) constructing buildings". The price tag: Rs.27.5 lakhs an acre. Land losers cite this as another example of how the project has become a plain and simple real estate deal.
- Asked Leo Saldhana of the Environment Support Group: "NICE can sell real estate in their townships, but how is it doing it at the Mysore road interchange? And at Madavara? The project's first township is at Bidadi."
- On Monday, a 42-km stretch of smooth expressway, India's first private, urban expressway, was to have dramatically slashed many Bangalore commutes from up to 90 minutes to 10.
- It would have helped India's silicon heartland regain some of its battered international reputation -- and showed the rest of the country how world-class roads and towns could be built at no cost to the government.
- Instead, an army of engineers - who are backed by investors from Anil Ambani in Mumbai to auto-component baron Baba Kalyani in Pune to 12 Indian banks to a venture fund in New York -- can only watch in frustration as former Prime Minister H.D. Deve Gowda's hatred for their boss manifests in stalling the project despite a Supreme Court intervention. A spanking new peripheral expressway linking the city's six arterial highways is ready all along

Bangalore's southern outskirts, but inaugurating it makes no sense: the JD(S)-BJP government is not releasing land to build entry-and-exit ramps.

- The peripheral expressway is part of a 164-km string of expressways and five world-class townships aimed at decongesting Bangalore. It will eventually wind all the way up to Mysore, across an area the size of Singapore. The project is slated to have its own 400 MW power plant, water and sewage systems and even a monorail along its median.
- A Supreme Court judgment on April 20 had ordered the release of all land (6,200 acres for the first phase) to project builders, NICE. The land was acquired by the state itself and paid for by NICE but it had not been handed over to the latter in the previous four months.
- A three-judge bench came down heavily on the Karnataka government for obstructing the expressway and said its bureaucrats were guilty of lying in the course of a public battle with Ashok Kheny, managing director of the NICE and a Kannadiga settled in the US.
- After falling out with Mr Kheny, Mr Deve Gowda leaned on the previous Congress government to stop the release of land acquired for the expressway and the townships. Mr Gowda called it "real-estate business", though it is an accepted way of infrastructure development worldwide. Mr Gowda is now keeping the pressure up through his eldest son and Karnataka Chief Minister Mr Kumaraswamy. We are releasing land for the road, let them build the first phase," Mr Kumaraswamy told the Hindustan Times, a day after announcing a grandiose, Rs 33,000-crore plan to build similar townships and two expressways ringing Bangalore, one closely following NICE path.
- "If this contract is not honored, it will not create a good impression," a spokesman for a leading Japanese construction company said in an e-mail, requesting the company name not be used. "Companies like ours will be afraid of entering India." All around Bangalore, industries, which are now struggling not to lose global competitiveness because of the city's infrastructure problems, await the expressway.
- Three months ago Toyota (India) managing director Atsushi Toyoshima inspected it. Toyota's Indian plant is at Bidadi, a mofussil town at the end of the expressway's first phase towards Mysore. Toyoshima is waiting for the planned township there so that company managers can get world-class homes next to the factory and have easy access to Bangalore.
- City planners shun it and state politicians refuse even to take a look at its state-of-the-art engineering. So while Kumaraswamy promises to release land to at least complete the initial expressway, his bureaucrats are doing nothing of the sort.
- PWD secretary P.B. Mahishi claims the government does not even have the SC judgment. "We have only seen the judgment on the Internet," he said. "We are waiting for an authentic copy." Yet, four days after the judgment was passed, HT has learned, Mahishi's own office sent a copy to the advocate-general for his opinion. Mahishi further says once the judgment is "received", the government will "examine and decide what to do".
- At the western edge of the peripheral expressway rises the massive steel frame of what will be one of India's largest exhibition and convention halls.
- It is being built by the Indian Machine Tool Manufacturers Association, guided by Jamshyd Godrej, chairman of Godrej and Boyce. This is the building against which Gowda raged to this reporter in February: "They (Nandi) are building a kalyan mantapa (marriage hall) in the name of expressway! I cannot allow it."

Source: <http://www.esgindia.org/campaigns/bmic/press/A%20controversial%20project.htm> (Volume 21 - Issue 02, January 17 - 30, 2004)

Exhibit 6: KIADB Response to Governor's Letter



**KARNATAKA
INDUSTRIAL AREAS
DEVELOPMENT
BOARD**

(A Government of Karnataka Undertaking)

Office of the Special Deputy Commissioner
Bangalore - Mysore Infrastructure
Corridor Project

1, Midford House, Midford Gardens
Off : M.G. Road, Bangalore - 560 001

Phone : 5594771
Fax : 5581972

ANNEXURE 10

NO. BMICP /
Encl. :

LAQ/Misc.Cr.27/2003-04

DATE :
22-5-2004.

To

The Project Co-ordinator,
BMICP, PWD,
Bangalore.

Sir,

Sub: Memorandum submitted by Sri H.D.Devegowda, Former
Prime Minister of India, to H.E.Governor of Karnataka
on the implementation of BMICP - reg.
Ref: Your letter No.PWD/155/CRM/95/BMICP-Petition/2004
dated: 12th May 2004.

25/05/04
PROVIDED SL NO. 8508/PW/2004

This has reference to your letter relating to the observations made on the Memorandum submitted by Sri. H.D.Devegowda, Former Prime Minister of India to His Excellency, the Governor of Karnataka and communicated to the Chief Secretary to Government, Vidhana Soudha, Bangalore by the Principal Secretary to Governor, Raj Bhavan, Bangalore.

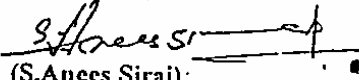
- a) The total land required for the project as per the schedule annexed to the Frame Work Agreement dated: 3rd April 1997 is 20193 acres, of which land requirement for the Toll Road is 6999 acres (Government land 1499 acres, Private land 5500 acres) and land requirement for the 5 Town Ships is 13194 acres (Government land 5457 acres, Private land 7737 acres) The Government in order dated: 7-10-1999 accorded approval to lease 5688 acres of Government land in favour of KIADB for onward transfer in favour of M/s Nandi Infrastructure Corridor Enterprises Ltd., for construction of Express way, Peripheral Road and Link Road together with Interchanges and other facilities. Against 5688 acres of Government land 4982 acres 39 guntas is transferred in favour of the promoter company.

b) Pursuant to an agreement dated: 14-10-1998, between KIADB and M/s NICE Ltd., and decisions of the Board, notifications were issued for acquisition of land for the corridor project under the provisions of Karnataka Industrial Areas Development Act. Notifications were issued under section 3(1), 1(3), 28(1) and 28(4) commencing from 30-10-1998 to 30-3-2004. The total area notified u/s 3(1) is 29258 acres 25 guntas, u/s 1(3) is 22133 acres 23 guntas, u/s 28(1) is 20935 acres 03 guntas and u/s 28(4) is 2569 acres 19 Guntas. Since the area notified u/s 28(1) is in excess of the actual requirement, denotification for 2728 acres was issued (vide Gazette dated: 11-2-2004) relating to the lands indicated by the company as not required.

Denotification is also issued by the Government for about 18 acres 4 guntas from 28(1) notification and 12 acres 29 guntas after the issue of 28(4) notification. Thereby the total area de-notified after the issue of 28(1) notification is 2746 acres 12 guntas and after the issue of 28(4) notification is 12 acres 29 guntas
(Total area denotified is 2759 acres 01 gunta)

Land Acquisition notifications, were issued based on the requirement indicated by the promoter company and not on the basis of any technical drawings / maps as approved by the Government in PWD, or the project report.

Yours faithfully,


(S. Anees Siraj)
Spl. Dy. Commissioner

Source: <http://www.esgindia.org>