

21-A. PROVISIONS OF CEILING UNDER THE WBEA ACT, 1953.

**Government of West Bengal
Directorate of Land Records & Surveys
West Bengal**

Memo No.804/4561-4568/C/81

Date Alipur, the 8th/10th/16th August, 1984

To
The Settlement Officer,
Haora - Hugli - Nadia.

Sub : Disposal of Petitions u/s. 6(5) of the W.B.E.A. Act.

In accordance with the guidelines issued by the Board of Revenue vide this Memo. No.6097 S&S dated 26.06.1984 (copy of enclosed) and in supersession of all previous circulars issued either by the Board of Revenue or this Directorate in this regard the following instructions are issued for disposal of petitions u/s. 6(5) of the WBEA Act, 1953 :-

1. Where the land of the ex-intermediary/raiyat vested in the State due to non-exercise of option and where he was not allowed an opportunity of being heard :

a) If the C.A. Roll has been finally published and payment has been made and if the interests mentioned in the 6(5) petitions have been incorporated in the C.A. Roll and if either final payment or payment of ad interim compensation has been made, the case should not be re-opened.

b) If the C.A. Roll has not been finally published or the C.A. Roll has been finally published without incorporating the interest mentioned in the petition, but the land has been distributed to a patta-holder, the case should not be re-opened.

c) If no C.A. Roll has been finally published or the C.A. Roll has been finally published but no payment has been made or if a C.A. Roll has been finally published and payment has been made without incorporation of the interests mentioned in the petition in the C.A. Roll and the land has not been distributed by patta, the case may be re-opened with the written approval of the Settlement Officer, concerned. The Revenue Officer shall dispose of the petition after ascertaining whether the intermediary held land above ceiling on the date of vesting. He will also obtain an explanation from the petitioner as to why he had not taken advantage of the benefit u/s. 6(5) previously. Special care must be taken to ensure that the heirs of intermediaries do not succeed in getting land divested if the intermediary held the land as ceiling-surplus on the date of vesting.

d) Before granting permission to re-open such cases, Settlement Officer will satisfy himself that the above conditions have been fulfilled.

2. Where option was exercised by the ex-intermediary and lands were vested dis-regarding such option without good and sufficient reasons manifest in the records and without giving any opportunity of hearing to the intermediary/Raiyat:

The same procedure as in respect of '1' should be followed.

3. In all other cases, the matter should be referred to the Directorate with a full statement of facts. Such petitions should not be encouraged except in cases of extreme hardship, for example, when homestead land has vested.

4. In the monthly progress return, the divesting should not be reported unless the vesting was earlier reported to the JLRO (in many cases, it so happened that the vesting of small areas of land were not reported to the J.L.R.O., at all). If, however, such vesting was earlier reported and notified to the JLRO, the divesting should be duly reported to the JLRO and the figures shown in the progress return.

T. K. Ghosh
Director of Land Records and Surveys, West Bengal.

TO BE SUBSTITUTED FOR THE BOARD'S ORDER BEARING THE SAME NUMBER & DATE

Copy of memo No.6097-S&S dated, 26th June, 1984 from the Board of Revenue, West Bengal to the Director of Land Records and Surveys, W. Bengal.

Sub : Relief U/s. 6(5) of the Estates Acquisition Act,

Ref : His unofficial Note No. 804/4008/C/81 dated 19/23.11.83.

The undersigned is directed to refer to the above and to state that after careful consideration and in supersession of all previous instructions in this behalf, the Board has decided as follows :-

Relief u/s. 6(5) of the Estates Acquisition Act may be considered on specific prayer (i) where lands of intermediary/ raiyat vested in the State due to non-submission of 'B' Form or (ii) where 'B' Form was submitted, but the Revenue Officer disposed it disregarding the option exercised in such 'B' Form without good & sufficient reasons manifest in the records & without giving any opportunity of hearing to the intermediary / raiyat provided that the lands involved in either of the two cases have not been distributed.

In considering the cases u/s. 6(5) of the Act the fact that the lands now opted for retention have been taken possession of even symbolically may be ignored.

While disposing of the 6(5) cases the facts regarding preparation of Compensation Assessment Roll and Payment of compensation in favour of the petitioner intermediary/ raiyat will have to be duly considered. If payment of compensation on the basis of finally published C.A. Roll or on Ad-interim basis has already been made, no relief should be given. If however, no Roll has been prepared or a Roll has been prepared but no payment has been made, relief u/s. 6(5) can be given subject to fulfilment of other conditions.

The Board has further decided that in the matter of relief u/s. 6(5) the final decision in all cases should rest with the Settlement Officers.

It should be the duty of all the supervising officers to see that proceedings u/s. 6(5) are initiated only in appropriate cases and that relief is extended only to such cases as satisfy the conditions set forth in the foregoing paragraphs.

He is requested to issue detailed instructions to the Settlement Officers within the framework of the above guideline under intimation to the Board.

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**Government of West Bengal
Office of the Settlement Officer
Haora-Hugli-Nadia
at Hugli**

Memo No.31/217(31)/S/78

Date Hugli, the 5.1.85

To
The Charge Officer,
The Officer-in-Charge 'B'/'C' camp/.....

Sub : Disposal of Petitions u/s. 6(5) of the W.B.E.A. Act.

Ref : This Office No. 31/11399(31)/S/75 dated 06.09.84.

Please refer to the above and to state that prior to sending any proposal for extending relief u/s. 6(5) of the E.A. Act to the intermediary/ raiyat the proposal should invariably contain information on the following points.

1. Whether the possession of the land has since been taken and distribution made.
2. Whether any C.A. Roll for the land has since been prepared and payment made.
3. Whether the intermediary / raiyat was a big raiyat on the date of vesting.
4. Whether the intermediary / raiyat or his successors-in-interest filed 'B' option Form subsequently.

Sd/- Illegible
Settlement Officer,
Haora-Hugli-Nadia at Hugli.

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**Government of West Bengal
Law Department
Legislative**

NOTIFICATION

No. 1516-L. — 9th November, 2010 – The following Act of the West Bengal Legislature, having been assented to by the President of India, is hereby published for general information :-

**West Bengal Act XIX of 2009
The West Bengal Estates Acquisition
(Amendment) Act, 2009.**

[Passed by the West Bengal Legislature]
[Assent of the President of India was first published in the Kolkata Gazette,
Extraordinary, of the 9th November, 2010.]
An Act to amend the West Bengal Estates Acquisition Act, 1953,

Whereas it is expedient to amend the West Bengal Estates Acquisition Act, 1953, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Sixtieth Year of the Republic of India, by the Legislature of West Bengal, as follows :-

Short title and commencement,

1. (1) This Act may be called the West Bengal Estates Acquisition (Amendment) Act, 2009.

(2) This Act shall come into force at once.

Amendment of section 6 of West Ben. Act I of 1954.

2. Explanation to sub-section (3) of Section 6 of West Bengal Estates Acquisition Act, 1953 (hereinafter referred to as the principal Act), shall be renumbered as 'Explanation I' to that sub-section and to Explanation I so renumbered, the following Explanation shall be, and shall be deemed always to have been, added, namely :-

“Explanation II. – For the removal of doubts, it is hereby declared that the expression “revise any order” mentioned in the proviso to this sub-section, shall, notwithstanding anything contained in any law for the time being in force or in any agreement or in any decree, judgement, decision, award of any court, tribunal or other authority, include revision of an order of retention made under this sub-section, at anytime after such order of retention so made, if the intermediary or the lessee, as the case may be, fails to use or ceases to use the whole or any part of the land for the purpose for which it has been retained i.e. for tea-garden, mill, factory or workshop, as the case may be, by him, so as to resume such land as being surplus to his requirement, by the State Government in the manner laid down in this proviso.”

Validation.

3. The amendment made in the principal Act by Section 2 shall be deemed to have been made with effect from the date of commencement of the principal Act and accordingly, anything done or any action taken or purported to have been taken or done under the principal Act on or after its commencement and before the commencement of this Act, shall, notwithstanding anything contrary contained in any judgement, decree or order of any court, tribunal or other authority, be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the said amendment had been in force at all material time.

By order of the Governor

K.Y.S. Manhas
Pr. Secy.-in-Charge to the Govt. of West Bengal
Law Department

<http://wbllroa.in>