

2. INSTRUCTION ON SMASAN, BHAGARH ETC.

GOVERNMENT OF WEST BENGAL Board of Revenue, West Bengal

'A' Group, K.M. Branch.

No.8335 (15)-G.E.,

dated Calcutta, the 27th April, 1965

To
The Additional Collector (EA),

Subject : Question of settlement of lands recorded as 'smasans' with public right of easement.

It has come to the notice of Government that there are quite a number of plots which have been recorded as 'Smasans', 'Bhagars', 'Kabarasthans', etc., with public rights of easement, but are not used as such at all or are used as such only partly. Questions have been raised as to whether such rights of easement still exist or these have been extinguished by operation of the West Bengal Estates Acquisition Act and whether there is any legal bar to the settlement of these lands with deserving public institutions like schools, clubs, hospitals, etc. The Board has been advised by the Law Officers of Government that customary rights of the public to use certain lands as cremation grounds, bhagars, etc., are in the nature of incumbrances on those lands and as by operation of the Estates Acquisition Act the lands have vested in the State free from incumbrances, those customary rights should be deemed to have been extinguished. Although this means that there is no legal bar to the settlement of these lands, it has been decided that the State as the protector of public rights should not divert such lands to other uses or let these out to private persons when these are still used as cremation ground, burial ground or Bhagars, etc. Where, however, the lands or parts thereof are no longer used by the public for those purposes, these can be let out to private persons and put to other profitable uses. The Board feels that for some time at least proposals of settlement of such cases should be treated as special cases and therefore directs that prayers for settlement of such lands should be referred to it with full particulars of the land in the proforma enclosed.

A. DAS GUPTA,
Special Officer and (ex officio)
Secretary,
Board of Revenue, West Bengal.

No.F.1(14)/74-CWC, New Delhi-12, Dated : the 24th June, 1976 from the Secretary,
Central Wakf Council, C-1, Nizamuddin (West), New Delhi,

To
The Chief Secretary,
Government of West Bengal, Calcutta.

Sir,

The Central Wakf Council discussed in its last meeting held on 3rd and 4th April, 1976 the question of graveyards being treated as "parti" (uncultivated) land and being resumed and distributed to landless persons for cultivation by the Gaon Panchayats and other official agencies. The Council felt greatly agitated as this process would eventually leave no spaces for the burial of the dead bodies of the Muslims. The land included in a graveyard but not yet occupied by graves should not be recorded treated as uncultivated land and should be preserved for future burials. I shall be grateful if you will kindly have suitable orders issued on the subject to all Collectors and Tahsildars to ensure that such land was not resumed and village records were correctly maintained.

Yours faithfully,
ABDUL QAYUM,
Secretary.

Memo. No.15123(36) G.E./232/76.

Copy forwarded to –

- i) D.L.R. & S., West Bengal,
- ii) Commissioner, Division,
- iii) Collector,
- iv) Addl. District Magistrate (L.R.),
(including Barasat and Tamluk),
--- for information and necessary action.

2. In this connection attention is invited to Board's Circular No.8335(15)-G.E., dated 27th April 1965 (copy enclosed).

While lands included in a graveyard not yet occupied by graves should usually be preserved for future burials, it is enjoined that in the matter of putting such categories of vested lands to other uses the requirement of land for the public purpose should also be kept in view.

Board of Revenue, W.B.,
Section 'A', G.E. Branch, Calcutta.
The 12th August 1976.

K.P.DE,
Deputy Secretary,
Board of Revenue, West Bengal

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Government of West Bengal
Land and Land Reforms Department
L.R.(A-III) Branch

No.2234 (38/-L.R./394/99GE(M)

Dated: 03.12.99

To

The Commissioner
The District Magistrate & Collector,
The A.D.M. and D.L. & L.R.O.

Sub : Guidelines to be followed in matters pertaining to the lands used as Burning Ghat (Smasan)/Graveyard (Kabarsthan)/ Bhagar (Dunghill)/Pasture Land (Gocharan Bhumi).

It has come to the notice of the Government that Buring Ghat (Samasan)/Graveyard (Kabarsthan)/Dunghill(Bhagar)/Pasture Land (Gocharan bhumi) which normally feature in Collector's Khatian are not being properly maintained and being gradually encroached upon. It is also noticed that in some cases there are unregistered local committees which maintain the concerned Smasan/Kabarsthan/Bhagarh but in most cases they are left at large and under the care of none. In Municipal areas, however, Municipality often maintain the Burning Ghat though the land or its management has not been formally transferred to the concerned Municipality.

2. Besides, there are many private raiyati plots of land which are used as burning ghat/kabarsthan/Bhagarh. Normally such plots feature in the concerned private Khatian but the use and easement right are noted in appropriate columns of the R.O.Rs. Again it has been brought to the notice of the Govt. that in many cases the Raiyati Khatians do not feature such use and easement right and in consequence the people traditionally using the land face resistance from the land owners.

3. The matter has been examined and to mitigated the problems as aforesaid, the Govt. after careful consideration, has decided as follows:-

1. The burning ghat/graveyard/Dunghill(Bhagar)/pasture land under control of Collector be transferred to the concerned Gram Panchyat/Municipality for management, maintenance and up keep U/R 28A of WBLR Rules 1965;
2. In case the burning ghat/graveyard/Dunghill(Bhagar)/pasture land used by people of more than one Gram Panchayat, transfer of management of such places should be made to the concerned Panchayat Samity;

3. In case any burning ghat/graveyard/Bhagarh/Pasture is found to be in the management of a Committee of local people, the Gram Panchayat/Panchayat Samity may allow such committee to continue with management under the active supervision of the concerned Gram Panchayat/Panchayat Samity as the case may be.

4. Gram Panchayat/Panchayat Samity should under no circumstances allow any individual to manage such places on its behalf.

For management of Bhagarh the concerned Panchayat should however, obtain clearance from the pollution control Board and take such steps that for use of the place as Bhagarh the surrounding is not polluted.

5. In case of private land, the Revenue Inspector should check the R.O.Rs. and ascertain if the use and easement right have been recorded. If not, he will furnish a report to the B.L.&L.R.O. who in turn will draw up an appropriate proceeding under the WBLR Act 1955 for recording such use and right in appropriate columns of RORs.

6. All concerned are directed to follow the above decisions/instructions strictly.

P. Bandyopadhyay
Joint Secretary to the
Govt. of West Bengal

No.2234(38)/1(3)-L.R.

Dated: 3.12.99

Copy forwarded for information & necessary action to:-

- 1) The D.L. R. & S. & Jt. L.R.C., West Bengal,
Survey Buildings, 35, Gopalnagar Road, Alipore, Calcuta-27
- 2) The Panchayat & Rural Dev. Dptt.
- 3) The Municipal Affairs Deptt.

P. Bandyopadhyay
Joint Secretary to the
Govt. of West Bengal.

<http://wbllroa.in>