

5. CIRCULARS ON CULTIVATION BY BARGADAR

GOVERNMENT OF WEST BENGAL
Office of the Board of Revenue, West Bengal
Section A.(I) , G.E. Branch,

No.10741(18)-G.E./368/78,

dated Calcutta, the 14th June, 1978.

To
The Additional District Magistrate (L.R.)/
Additional Deputy Commissioner (L.R.)-

Section 20B of the Land Reforms Act provides that in case of surrender or abandonment of the right of cultivation by a bargadar the person whose land the bargadar cultivates may give information in writing of such surrender or abandonment to the authority appointed under section 18(1) *ibid*.

2. In Board's Memo. No.3116/1(16)-LM, dated 25th February 1975, it was indicated that where the owner of the land fails to give information of such surrender or abandonment it would be competent for the officer under section 18(1) to initiate action under section 19A(2). An intimation from the bargadar would constitute a sufficient cause of action for the Bhagchas Officer to initiate action under section 19A(2). A Bhagchas officer can, in effect, initiate action if he has reason to believe that cultivation of land by a bargadar has been terminated without due process of law.

3. Again, the officer empowered under section 18(1) of the Land Reforms Act is required under Section 20B(2) *ibid* to cause an enquiry into the question if the surrender or abandonment of right of cultivation by bargadar has been made voluntarily. The Bhagchas officer should be extremely careful in conducting such enquiries. It is more often than not that the designing land-owners create circumstances which compel a bargadar to surrender or abandon his right of cultivation. During enquiry the Bhagchas Officer should satisfy himself that such surrender or abandonment of right of cultivation by the bargadar was not caused due to intimidation, coercion, baiting or bluff, etc. There may be cases where surrender or abandonment of cultivation by a bargadar is based on an agreement like solenama, etc., between him and the landowner. Such an agreement may be seemingly innocent. During enquiry the Bhagchas officer will find out if the bargadar actually became a party to such agreement on his own accord. Where it is found on enquiry that the bargadar had voluntarily made an agreement with the landlord, the Bhagchas officer shall make sure after a sifting enquiry that the terms which constitute pre-condition to the proposed abandonment/surrender have been executed to the entire satisfaction of the bargadar. It has also to be borne in mind that a bargadar is not, under the normal circumstances, expected to part with his right of cultivation. Therefore, whenever a case of surrender or abandonment of right of cultivation comes to the notice of the Bhagchas Officer it should be presumed that it was not voluntarily. He will determine such surrender or abandonment as voluntary only when the above presumption is rebutted on the basis of evidences produced and results of local enquiry undertaken by him personally.

4. A bargadar does not generally part with his right of barga cultivation of his own. It is in the above background that the question of surrender or abandonment of the barga cultivation should be critically viewed and the relevant sections of the Act administered.

5. All Junior Land Reforms Officers should be suitably instructed accordingly.

J.R. SAHA
Secretary,
Board of Revenue, West Bengal.

Copy forwarded to –

- 1) Commissioner, _____ Division, _____
- 2) Collector / Deputy Commissioner, _____
- 3) Director of Land Records and Surveys, West Bengal.
- 4) Settlement officers, _____
- 5) Sub Divisional Land Reforms Officer, _____
for information and guidance.

Calcutta,
The 14th June, 1978.

J.R. SAHA
Secretary,
Board of Revenue, West Bengal.

●

GOVERNMENT OF WEST BENGAL
Land Utilisation and Reforms and
Land and Land Revenue Department
Land Reforms Branch

No.3047 (18)-L. Ref.

Dated, Calcutta, the 17th August, 1978.

To

The Addl. District Magistrate (L.R.)

The Addl. Deputy Commissioner (L.R.)

Sub : Use of proper designation of the officer dealing with matters concerning Bargadars.

The undersigned is directed to state that it has come to the notice of the Government that some officers, do not use the correct designation while dealing with proceedings involving bargadars. In particular, it was found that one officer, passing an order in respect of bargadars, used the designation "Bhagchas Officer". The Hon'ble High Court struck down the proceedings for use of this illegal designation.

2. In order to remove any doubt or confusion that might exist, this is to state that the term "Bhagchas Officer" is not a legal term and so it should not be used in the transaction of any official business. The correct designation shall be as follows :-

(a) While passing an order under sub-section (1) of Section 17 of the West Bengal Land Reforms Act, 1955, the officer shall write his designation as "Officer under sub-section (1) of Section 17 of the West Bengal Land Reforms Act, 1955;"

(b) While passing an order under sub-section (2) of the said section, the officer shall write his designation as "Prescribed authority under sub-section (2) of section 17 of the West Bengal Land Reforms Act, 1955;"

(c) While passing an order under sub-section (1) of section 18 of the said Act, the officer shall write his designation as "Officer under sub-section (1) of section 18 of the West Bengal Land Reforms Act, 1955;" and

(d) An officer passing an order under section 19B of the said Act shall write his designation as "Officer specially empowered under sub-section (1) of section 19B of the West Bengal Land Reforms Act, 1955;"

3. It should be impressed upon the officers/authorities under Chapter III of the West Bengal Land Reforms Act, 1955 that they are not "Courts" though they exercise certain powers of a Civil Court under the Code of Civil Procedure, 1908. They should not, therefore, describe themselves as "Courts" and so all emblems, rubber stamps, notice boards etc., containing the word "Court" should be removed.

4. He is requested to draw the attention of all officers concerned, particularly the Junior Land Reforms Officers, so that the proper and correct designation of the officers are henceforth stated in matters concerning bargadars.

5. All the Junior Land Reforms Officers should be provided with 4 sets of rubber stamps of above descriptions.

Sd/- Illegible.
Deputy Secretary to the
Government of West Bengal.

From the booklet "General Instructions on Land Reforms" issued by the Board of Revenue in 1979.

Model Order Sheet for cases under section 16(4), West Bengal Land Reforms Act.

1. Whereas one Shri, son of, Village, has filed an application stating that he has been cultivating the land described in the application as a bargadar of Shri, Son of, Village, and had been delivering due share of produce to him and this year the landowner refused to accept the owner's share though tendered by him onor, refused to accept on granting a receipt for the share of produce tendered or, refused to grant a receipt for the share of produce delivered to him;

Whereas the applicant intends to deposit the owner's share of produce within the prescribed period of 30 days from the date of refusal; and

Whereas it is found on enquiry (report enclosed) that the applicant is a bargadar in the land in question ;

It is ordered that the quantity of share of the produce.....mds./quintals of.....and/or.....of straw intended to be deposited by the applicant be received against proper receipt in Form C of Appendix B of the West Bengal Land Reforms (Bargadar) Rules, 1956. It is further ordered that the produce tendered be kept in the custody of the applicant or as Jimmadar until further orders.

Issue notice to the landowner in Form D of Appendix A of the West Bengal Land Reforms (Bargadar) Rules, 1956, under registered post.

To..... for S.R.

Officer prescribed under Section 16(4) of the West Bengal Land Reforms Act, 1955, and rule 3(3)(b) of the West Bengal Land Reforms (Bargadar) Rules, 1953.

2. Notices duly served vide S.R. filed with case records.

3. The landowner Shri.....does not take delivery of produce deposited under section 16(4) within 15 days from the date of service on him of the intimation of such deposit. Hence,

Ordered

That the produce so deposited be sold and the sale proceeds thereof, after deducting cost of conducting the sale, be deposited in treasury in the revenue deposit, to the credit of the landowner and intimation of such deposit be given to the landowner in prescribed form and manner.

Officer under section 16(4) of the West Bengal Land Reforms Act, 1955, and rule 3(3)(b) of the West Bengal Land Reforms (Bargadar) Rules, 1956.

Model Order sheet for cases under section 18(1) (aa) read with section 16A, West Bengal Land Reforms Act.

1. Whereas one Shri....., Son of....., Village....., has filed an application alleging that he is a **bargadar** under Shri.....of....., in respect of the land described

in the application and the landowner has forcibly taken away the produce of the land which was cultivated by the applicant as bargadar ; and

Whereas it is necessary to ascertain the truth or otherwise of the allegation made, issue notices on both the parties fixing.....(date) at.....(time) for a field enquiry and asking both the parties to be present and produce evidence at that time on the land in question.

To..... for S.R

Officer appointed under section 18(1) of the West Bengal Land Reforms Act.

2. Notices duly served vide S.R. filed with C/R.

Or,

Notices on applicant duly served. The opposite party refused to receive the notice. The notice on opposite party served by hanging Vide S.R. filed.

Officer appointed under section 18(1) of the West Bengal Land Reforms Act.

3. Held filed enquiry as fixed earlier. Enquiry report is attached and it has been explained to the parties present. Evidence recorded as per that report. Heard the parties present. To.....(date).....at.....(time) in my office for orders.

Officer appointed under section 18(1) of the West Bengal Land Reforms Act.

N.B.- The next order should be the final order in the case.

Model Order Sheet for cases covered by section 17(1), West Bengal Land Reforms Act.

Nature Of Case : Proceedings under section 18(1)(b) read with section 17(1) (a)(b)(c) and (d) of West Bengal Land Reforms Act.

1. Whereas Shri, Son ofof Villagehas filed an application stating that Shri.....Son of....., of Village -....., has been cultivating his land described in the petition as bargadar and has failed to cultivate the land or has used it for any purpose other than agriculture; and

Whereas the allegation made by the landowner against the bargadar(s) is to be decided on evidence to be gathered and verified locally, it is considered necessary to hold local enquiry into the matter ;

Issue notices fixing.....as the date of enquiry asking the applicant and the opposite party to remain present on the land described in the petition onat.....and to produce oral and documentary evidence, which they want to adduce.

To

Officer appointed under section 18(1) of the West Bengal Land Reforms Act.

Or,

Whereas Shri....., Son of....., of Villagehas filed an application stating that Shri, Son ofof Village, has been cultivating his land described in the petition as **bargadar** and did not cultivate the land personally; and

Whereas the allegation made by the landowner against the **Bargadar(s)** is to be decided on evidence to be gathered and verified locally, it is necessary to hold local enquiry into the matter;

Issue notice fixing.....as the date of enquiry asking the applicant and the opposite party to remain present on the land described in the petition onat.....and to produce evidence.

To

Officer appointed under section 18(1) of the West Bengal Land Reforms Act.

Or,

Whereas Shri....., Son of....., of Village....., has filed an application stating that Shri....., Son of....., of Village....., has been cultivating his land described in the petition as **bargadar** and has failed to tender or deposit to the full extent the share of produce lawfully due to him; and

Whereas the allegation made by the landowner against the **bargadar(s)** is to be decided on evidence it is necessary to hear the parties concerned and to consider the evidence, as may be adduced by them;

Issue notices fixing.....as the date of hearing and for production of evidence onat.....at my office.

To

Officer appointed under section 18(1) of the West Bengal Land Reforms Act.

Or,

Whereas Shri, Son of.....,of Village, has filed an application stating that Shri....., Son ofof Village, has been cultivating his land described in the petition as **bargadar** and he bonafide requires the land for bringing the same under personal cultivation and praying for an order for termination of the **bargadar**; and

Whereas the claim of the landowner against the bargadar(s) is to be decided on evidence it is necessary to hear the parties concerned and to consider evidence, as may be adduced by both the parties;

Issue notice fixing as the date of hearing and for production of evidence onat.....at my office.

To

Officer appointed under Section 18(1) of the West Bengal Land Reforms Act.

2. Notices duly served vide S.R. filed with case records.

To

Office appointed under section 18(1) of the West Bengal Land Reforms Act.

3. Both parties present / applicant present, opposite party found absent on Call/Applicant absent on call/Heard both parties/Heard the case ex-parte. The applicant produces evidence in support of his contention. The opposite parties fail to rebut the evidence adduced by the applicant/the applicant fails to substantiate his allegations. Evidence adduced by applicant/respondent is trustworthy. Local enquires held on reveal that the allegations made by the applicant are correct/not correct.

** ** * * *

Hence ordered

Officer appointed under section 18(1) of the West Bengal Land Reforms Act.

N.B.-(1) Local enquiries must be made in respect of the cases mentioned in clauses (a), (b) (c) and (d) of sub-section (1) of Section 17, West Bengal Land Reforms Act.

- (2) Strike out the grounds not applicable.
- (3) Indicate grounds for decision appropriate for each particular case.
- (4) Names of witnesses examined by each party have to be mentioned in the order sheet at the appropriate place.
- (5) List of documents produced by each party should be mentioned in the order sheet at the appropriate place.

Model Order Sheet for cases under section 18(1)(a), West Bengal Land Reforms Act.

NATURE : Proceedings for division and delivery of the produce

1. An application has been received from Shri son of Village - to the effect that he owns acres of land as described in the application and Shri Son of Village the O.P. cultivated his land as bargadar in the year 13.....B.S., but did not deliver to him the due share of produce. He has, therefore, prayed for relief.

Fix as the date of hearing and issue notices on the parties to appear before me for a hearing at.....a.m. with evidence.

To for S.R.

Officer appointed under section 18(1) of the West Bengal Land Reforms Act.

2. Notices duly served vide service return filed with the case record.

To for hearing.

Officer appointed under section 18(1) of the West Bengal Land Reforms Act.

N.B.- The officer should satisfy himself whether the application is barred or not barred by limitation vide proviso to section 18(1). If he finds it barred by limitation, he should reject the application outright. If however, the opposite party appears and raises the question of limitation, the officer should decide that question after hearing both sides.

3. Both parties appear. Heard them. The allegation made by the applicant landowner is denied by the opposite party by submitting that he delivered due share of the produce to the landowner but no receipt therefore was granted to him /the opposite party submits that there was failure of crop on the land cultivated by him due to flood/drought, other natural calamities, stolen away by some other persons for which he lodged information with the local police-station. It is necessary to ascertain the truth by local enquiry by evidence, etc.

To.....for field enquiry/production of evidence/examination of witnesses.

Officer appointed under section 18(1) of the West Bengal Land Reforms Act.

(Further orders to be recorded on the evidence produced or results of field enquiries, etc.)

Model Order Sheet for cases under section 19B(1)(a), West Bengal Land Reforms Act.

1. One Shri....., son of of Village has filed an application alleging that he is a **bargadar** in respect of the land described in the application but cultivation of the land by him as **bargadar** has terminated or caused to be terminated in contravention of the provisions of the West

Bengal Land Reforms Act by the owner of the land Shri of or about the.....the day of the month of, The applicant has alleged further that the landowner has brought the land under his personal cultivation/the landowner has engaged a person other than a bargadar on his behalf to cultivate the land/the land has not been cultivated.

Issue notices on both the parties to appear before me on at a.m. for a hearing and also for production of evidence.

Officer especially empowered under section 19B
of the West Bengal Land Reforms Act.

2. Notices duly issued and served vide S.R. filed with case records.

Or,

Notice on the applicant duly served. The opposite party refused to receive the notice which has been served by hanging. S.R. filed with case records.

Officer especially empowered under section 19B
of the West Bengal Land Reforms Act.

N.B.- After service of notices, both parties or the parties which like to be heard should be heard and evidence adduced by them should be taken. A field enquiry should then be made after giving notice to both the parties and an enquiry report should be attached. Then a date and time should be fixed for delivery of final orders at the office. On that date and time final orders should be passed.

Proceedings under section 19B(1)(b), West Bengal Land Reforms Act

1. One shri.....of.....has filed an application alleging that he is a bargadar under Shri.....of.....in the land described in the application and cultivation of the land by him as bargadar was terminated or caused to be terminated by the landowner on or about theth day of the month of.....in the year.....B.S. He has further alleged that the land has been cultivated by a new bargadar engaged by the owner in the year.....B.S.

Issue notices on both the parties to appear before me onat.....a.m. for a hearing and also for production of evidences.

Officer especially empowered under section 19B
of the West Bengal Land Reforms Act.

2. Notices duly issued and served vide S.R. filed with case records.

Or,

Notice on the applicant duly served. The opposite party refused to receive the notice which has been served by hanging. S.R. filed with case records.

officer especially empowered under section 19B
Of the West Bengal Land Reforms Act.

N.B.- After service of notice, both parties or the party which likes to be heard should be heard and evidences adduced by them should be taken. A field enquiry should then be made after giving notice to both the parties and an enquiry report should be attached. Then a date and time should be fixed for delivery of final orders at the office. On that date and time final orders should be passed.

Model Order Sheet for cases under section 20B, West Bengal Land Reforms Act.

1. Whereas an information has been received in writing from Shri, Son of....., Village....., that Shri, Son of, Village....., who has been cultivating the land described in the written information, surrendered/voluntarily abandoned his right of cultivation of the lands as bargadar;

Whereas it is necessary to ascertain the truth or otherwise of the information by hearing the parties concerned issue notice in the prescribed form to the bargadar asking him to appear before me on at for a hearing with all relevant oral and documentary evidence. The landlord be also informed for being present at the hearing with oral and documentary evidence.

Officer appointed under Section 18(1) of the
West Bengal Land Reforms Act,.

2. Notices duly served vide S.R. filed with the case records.

3. Both the parties, namely, Shri and Shri are present. Considered oral and documentary evidence adduced by them.

[Please note the documents produced and the witnesses examined and cross-examined by each party.]

Heard the submissions of the parties.

[Please discuss the evidence and give grounds for coming to the finding which is arrived at. But, if necessary, a filed enquiry should be held before arriving at a finding but after giving the parties due notice. The finding should be either that the surrender/abandonment was voluntary or that it was not so. The next course of action will depend upon the finding. Depending on the nature of the finding, subsequent orders should be passed in accordance with either sub-section (3) of section 20B or sub-section (4) of that section.]

Officer appointed under section 18(1)
of the West Bengal Land Reforms Act.

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From: Land and Land Revenue (Land Reforms) Department File No.

Subject The West Bengal Land Reforms Act, 1955 (West Bengal Act X of 1956)-Section 20(2)-Order made by the Executing Officer for execution of the order of a Bhag Chas Officer – Whether an appeal lies against such order of the Executing Officer.

Legal Adviser's opinion

It appears that there is no provision in the West Bengal Land Reforms Act, 1955 (West Bengal Act X of 1956), for an appeal against an order of execution passed by an officer (Subdivisional Officer) appointed under section 20(2) of the said Act. Section 54 of that Act is not applicable as the order of execution made by the Subdivisional officer under section 20(2) of that Act is not an order made by a Revenue Officer or Revenue authority under clause (a) of section 54. Order 45, Rule 16, of the Civil Procedure Code, 1908 (V of 1908), has no application as that relates to appeals from orders made by the Court which executes the decree or order of the Supreme Court relating to such execution.

Legal Remembrancer's opinion

I agree. The appeal lies against an order. When the order is finalized, it is executed. There is no question of appeal at that stage.

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Copy of Memo. No.8581-GE dated 12.07.79 from Board of Revenue, West Bengal to A.D.M. (L.R.) Birbhum.

Subject : Persons working under "Hateli" system of cultivation - whether can be recorded as bargadar.

Reference : His D.O. No.5579 LR dated 26.5.79.

The undersigned is directed to say that the legal Adviser and Joint Secretary, Land Utilisation & Reforms and Land & Land Revenue Department was consulted in the matter referred to in your D.O. No. cited above. His opinion is reproduced below -

“Persons working under “Hateli” system who take a share of produce from any land should be recorded as bargadars in respect of those lands alone (i.e. the lands in respect of which they take share of produce). Those persons come squarely within the definition of “bargadar” in section 2(2) of the West Bengal Land Reforms Act.”

A.K. Chakraborty
Special officer & (Ex-Officio) Secretary,
Board of Revenue, West Bengal.

**Copy of Letter No. 13308-GE dated, Calcutta, the 11th October, 1979 of the
60(7)/79
Special Officer & (ex-Officio) Secretary, Board of Revenue, West Bengal, addressed
to the Director of Land Records & Surveys, West Bengal.**

Subject : Operation Barga.

Reference : His Memo. No.1092/1807/1/C/78. dt. 6.3.79.

The undersigned is directed to say that the Special Officer (Law) and Joint Secretary, Land Utilisation & Reforms and Land & Land Revenue Department was consulted in the matter referred to in his memo, cited above. His opinion is as follows :-

“Under the Rules bargadars are the only persons who are entitled to copies of barga certificates granted as per rules. Copies of the same should not be granted to persons other than bargadars not because the certificates are not public documents (they are very much public documents) but because persons other than bargadars have no right to claim copies of the same. They may, however, take copies of the record-of-rights in usual manner”.

Memo. No.1092/617-623/C/78 dated, Alipore, 4th February, 1980.

Copy forwarded to the Settlement Officer, for information and guidance.

Sd/- Illegible.
For Director of Land Records & Surveys,
West Bengal.

GOVERNMENT OF WEST BENGAL
Office of the Board of Revenue, West Bengal
Section - AI, G.E. Branch.

No.16321-G.E./696/79, dated Calcutta, the 12th December, 1979
12th March, 1980.

To
The Additional District Magistrate (LR),
Midnapore.

Subject : Recording of “heley mosur” as bargadar.

Ref : Her D.O. No.808-CLR, dated 15th November, 1979.

The undersigned is directed to say that under the ‘heley mosur’ system, the persons engaged for cultivating lands of other persons take the produce of a plot of land as his share of produce. Thus such persons come under the definition of bargadar given in section 2(2) of the W.B.L.R. Act. Such persons should, therefore, be recorded as bargadar.

A.K. CHAKRABORTI,
Special Officer & (ex-officio)
Secretary,
Board of Revenue, West Bengal.

Memo No.16321/1(26)-G.E.

Copy forwarded to –

- 1) Director of Land Records and Surveys, West Bengal.
- 2) Additional District Magistrate (LR)/Additional Deputy Commissioner (LR).
- 3) Settlement Officer,
for information.

Calcutta,
The 12th December, 1979.

A.K. CHAKRABORTI,
Special Officer & (ex-officio)
Secretary,
Board of Revenue, West Bengal.

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GOVERNMENT OF WEST BENGAL
Office of the Board of Revenue, West Bengal
Section – A(I), G.E. Branch

Land Reforms 6/80

Memo. No.8147-G.E. 152/79 (Pt.I),

dated Calcutta, the 3rd June, 1980,

To
The Additional District Magistrate (LR)
Tamluk, Midnapore.

Subject : Recording of Thicka Tenants as Bargadars.

Ref : His Memo. No.5064, dated 25.6.79.

The undersigned is directed to say that the Thicka Tenants in question may be presumed to be Bargadars under section 21B of the W.B.L.R. Act and recorded as such. The Raiyats of such land may fight out their cases, if any, in the court of law.

As to the point “who amongst these cultivators would be entitled to be recorded as Bargadar”, it has been decided that the bargadar who cultivated the land for the longest period since 1.1.70, shall be considered to be rightful bargadar for the purpose of restoration under section 19B in exclusion of other bargadars, and as such, this bargadar will be recorded.

A.K. CHAKRABORTI,
Special Officer & (ex-officio)
Secretary,
Board of Revenue, West Bengal.

Memo. No.8147/1(44)-G.E.

Copy with copy of memo. No.5064, dated 25.6.79, from the Additional District Magistrate, Tamluk, forwarded for information and guidance to :-

- 1) The Commissioner.....Division.....
- 2) The Director of Land Records & Surveys, West Bengal.
- 3) The Collector/Deputy Commissioner.....
- 4) The Additional District Magistrate (LR)/
The Additional Deputy Commissioner (LR),
- 5) The Settlement Officer,.....

Calcutta,
The 3rd June, 1980.

A.K. CHAKRABORTI,
Special Officer & (ex-officio)
Secretary,
Board of Revenue, West Bengal.

GOVERNMENT OF WEST BENGAL
Office of the Additional District Magistrate,
Tamluk.

Memo. No. 5064,

dated 25th June, 1979.

From : The Additional District Magistrate (LR), Tamluk.

To
The Land Reforms Commissioner,
Writers' Buildings, Calcutta - 700 001,

Sir,

Kindly refer to your instruction on page 2 and 3, paragraph 4 of your tour notes during your visit to Midnapore from 6th February, 1979 to 8th February, 1979 communicated by the S.O. & Ex-Officio Secretary, Board of Revenue, under his memo. No.1919 (6) G.E./152/79, dated 19th February 8th March 1979.

The thika-tenants have been instructed to be treated as bargadar and recorded as such since the law recognizes only two modes of cultivation, either personal or barga.

But the fact remains that under the custom of such thika tenancies in this district different persons cultivate the same land in different years on payment of advance rent to the land owner. It will be difficult to determine who amongst these cultivators would be entitled to be recorded as a bargadar. As in cases of section 19B of W.B.L.R. Act, the question of taking a specified period for determining who cultivated the land on such advance payment for the longest period comes in. As such cultivation by different persons may have continued for many years, more than twenty years in some cases, it is difficult to establish and identify the person cultivating the land for the longest period under this system.

Secondly, the definition of bargadar as given in Section 2(2) of W.B.L.R. Act, does not accord with thika tenancies because advance payment of rent cannot be a substitute for share of produce or even money value of the same because it is paid to the land-owner in advance independently of the actual produce with the risk of entire or partial failure of crop being borne by the cultivator himself.

Since appeal cases come up for hearing and the above issues are agitated before me, kindly issue necessary instructions on the above.

To my mind the provisions of the existing law are deficient in this respect and it is necessary to suitably amend the law by suitably amending definition of bargadar or otherwise.

Yours faithfully,
Sd/-Illegible
Addl. District Magistrate (LR),
Tamluk.

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GOVERNMENT OF WEST BENGAL
Office of the Board of Revenue, West Bengal
Section A(I), G.E. Branch.

No.16939-GE,

dated Calcutta, the 29th November, 1980.

To
The Additional District Magistrate (LR),
Birbhum.

Subject : Interpretation of section 16(1) of the West Bengal Land Reforms Act.

In supersession of the instructions issued under Board's memo. No.11686-G.E./222/77, dated 30th September, 1977, the Board of Revenue has been advised to

say that the bargadar has the option to accept or refuse plough, cattle, manure and seeds necessary for cultivation, if supplied by the landowner.

S. SINGH,
Secretary,
Board of Revenue, West Bengal.

Memo No.16939/1(814)-G.E.

Copy forwarded for information and necessary, action to :

- 1) The Commissioner Division
- 2) The Director of Land Records & Surveys, West Bengal.
- 3) The Collector/Deputy Commissioner,
- 4) The Addl. District Magistrate (LR)
- 5) The Settlement officer
- 6) The Sub-divisional officer,
- 7) The Sub-divisional Land Reforms Officer,
- 8) The Junior Land Reforms Officer
- 9) Block Development Officer-Cum Executive Officer
..... Panchayat Samity.
(For Unnayan Parikalpana-O-Bhumi Sanskar Sthayee Samiti)

Dated : Calcutta,
The 29th November, 1980.

S. SINGH,
Secretary,
Board of Revenue, West Bengal.

Copy of Boar's Memo. No.397/1(150)-GE dt. 16.1.1981 addressed to the Settlement Officer, Medinipur.

Subject : Opening of khatians in favour of bargadars on land vested under the Land Reforms Act.

1. A reference is invited to sub-section (3) of section 14S of the W.B.L.R. Act which envisages that a bargadar who is entitled to retain his cultivation in respect of vested land in terms of sub-section (2) ibid shall become a raiyat in respect of such land. Such a person is, therefore, entitled to a khatian.

2. The practice followed so far was that a list of such vested lands alongwith other vested lands was sent to the J.L.R.O. for distribution of such land u/s. 49. The land was allotted to the bargadar if he was found otherwise suitable or to other persons according to the provisions of the above section. In view of the fact that such bargadars automatically become raiyats it has now been decided that they are entitled to khatians, which should be opened in their favour during the settlement operations. The Revenue Officer will, therefore, open khatians in appropriate cases immediately on disposal of the proceedings U/s. 14T of the Act on 7A forms submitted by the raiyats or otherwise. The provisions contained in sub-section (2) of section 14S require that an enquiry should be made as to the total size of the land owned by the beneficiary and cultivated by him as bargadar before the benefit of sub-section (3) can be extended to him. (It has been proposed to amend sub-section (2) of section 14S by substituting 1.00 hectare by 1.00 acre occurring in that sub-section. The related bill is now with the Select Committee). For the purpose of the enquiry the Revenue Officer will consult records available with him and also obtain a declaration from the beneficiary bargadar to the effect that the aggregate of the land owned by him as a raiyat, the lands cultivated by him as a bargadar and the lands in respect of which a khatian is proposed to be opened in his favour does not exceed one acre. He will give an undertaking that if it is found subsequently that the aggregate of such lands was more than one acre on or after commencement of Chapter - IIB, the khatian opened in his favour would be liable to be cancelled.

3. Past cases where schedules of vested land cultivated by a bargadar was sent to the J.L.R.O. for distribution need not be re-opened.

Copy of the Memo. N/739/8222/C/81 dt. 19.11.81 from D.L.R.S. to Secretary, Board of Revenue, West Bengal.

In the general instructions issued by the Directorate, (PP 24-26) certain procedures have been laid down for recording where the bargadar has been dispossessed. The discussion is mainly with reference to bargadars recorded in the previous settlement operations, i.e. in the mid-fifties and since dispossessed. This was so as the date relevant for consideration of possession U/s. 19B of WBLR Act was not clearly defined in law.

2. The position has now changed after the 1980 amendments to the WBLR Act. After the amendment, the section provides that the bargadar in barga possession for the longest period of time after 4.8.70, shall be considered to be the rightful bargadar.

3. As a substantial portion of our records were framed before this amendment came into force, in many cases, the evicted bargadar recognized as the genuine bargadar in our records, is no longer entitled to be so recognized.

4. Board of Revenue's Memo. No.397/GE/444/80 dated 12.1.1981 requires us to open Khatians in respect of bargadars entitled to become raiyats U/s. 14S(3) of the WBLR Act. If we blindly follow our records in this respect, it will be clear from the above discussions that persons not entitled to raiyati status may get recorded as raiyats to the detriment of persons so entitled. This will happen if a bargadar recorded in the mid-fifties has been evicted since and another person, inducted as a bargadar before or after 4.8.70, has been in barga possession for a long period of time since.

5. On the other hand, a controversy to be settled under section 19B of the Act has to be settled by the JLRO, the officer having power under that section.

6. It is, therefore, suggested that in cases coming under section 14S(3) of the Act, where a bargadar has been evicted and another inducted, no khatian in favour of either bargadar should be opened straight way. There should be an entry against the plot in the vested land statement to the effect **(Bengali Setout)** After due enquiry under these sections, JLRO will arrange distribution of these lands to the persons entitled to allotment (who may be an erstwhile bargadar) under intimation to the Settlement Wing for correction of records.

7. Board of Revenue's Circular No.397/GE/444-80 dt. 12.1.81 may kindly be amended to this extent.

Asok Gupta
Director of Land Records and Surveys
West Bengal.

GOVERNMENT OF WEST BENGAL
Office of the Settlement Officer, 24 Parganas
35, Gopalnagar Road, Alipore, Calcutta - 27.

Memorandum No.119/30492-95/P/93.

Dated, Alipore, the 13.10.82.

To
The Charge Officer,
Charge No.I/II/III/IV.

Subject : Model Order Sheet and Notice in connection with allowance of Khatians to the recorded bargadars U/s. 14S(2) & 14S(3) of the W.B.L.R. Act.

Model Order Sheet and notices in respect of allowance of Khatians to eligible and recorded bargadars U/s. 14S(2) and 14S(3) of the W.B.L.R. Act are sent herewith for opening khatians. Spare copies of Order Sheet and notices are enclosed for distribution amongst the officers under him.

P. Banerjee.
Settlement officer, 24-Parganas.

(..... Bengali Words)

<http://wblroa.in>

ORDER SHEET
(RULE 129 OF THE RECORDS MANUAL, 1917)

Order Sheet, dated from _____ to _____

District _____ No. _____ of 19 _____

Nature of the Case : Proceedings U/s. 14S (3) read with Section 14S(2) of WBLR Act.

Serial number and date of order.	Order and signature of Officer	Note of action taken on Order
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1. Whereas it appears that Shri _____
_____ and _____
others of moua _____, J.L. No. _____
P.S. _____ of District 24-Parganas vide schedule
attached and made part of the proceedings have been
recorded as bargadar on the vested lands under the
provision of W.B.L.R. Act; and

Whereas there is prima facie reason to believe that
the above noted bargadars have no lands in excess of
1.00 acre each aggregating the lands owned by each or
each of their family as raiyat and the lands cultivated by
each of them as bargadar U/s. 14S(2) ibid; and

Whereas they are entitled to cultivate the vested
lands occupied by them as raiyat as per provisions of
Sub-Section (3) of Section 14S ibid; and

Whereas the vested lands so occupied by them
have not yet been distributed to other eligible person by
the Collector; and

Whereas it is considered necessary to obtain
written undertaking from the said bargadars before
allowing raiyati khatians to them for the vested lands
occupied by them as bargadars, to the effect that none of
them possesses more than 1.00 acre of land in aggregate
of lands owned by them as raiyat and cultivated by them
as bargadars and that if in future on further scrutiny of
records total quantum of lands is found to be above 1.00
acre in aggregate after commencement of Chapter II-B
ibid, the khatians so opened in favour of such bargadars
would be liable to be cancelled, this proceeding U/s.
14S(3) read with Section 14S(2) ibid is drawn up by me.

Issue Notice U/s. 57 read with Section 14S(2) of
the W.B.L.R. Act to the bargadars as per schedule
attached and made part of the proceedings and to the
interested parties (i.e., J.L.R.O., on behalf of Collector),
Panchayat Sabhapati, Peasants organization, Gram
Sabha member, fixing the date of hearing as on
_____ at 11 A.M. In case they fail to
appear with documents as called for and other evidence if
any to represent their case, the case will be heard ex-
parte on merit.

R.O.

Serial number and date of order.	Order and signature of Officer	Note of action taken on Order
2.	Notice duly served. File the service return with the case records.	R.O.
3.	<p>The bargadars Shri _____</p> <p>_____</p> <p>present. Their signatures obtained in the schedule attached with the case records and made part of the proceedings.</p> <p>The J.L.R.O., Shri _____</p> <p>_____ the</p> <p>Panchayat prodhan Shri _____</p> <p>_____ are</p> <p>present. Heard them. Admittedly the bargadars mentioned against Serial Numbers _____</p> <p>_____ of</p> <p>the schedule made part of the proceeding have no lands in excess of 1.00 acre aggregating their own lands as raiyats and the lands cultivated by them as bargadar. They submitted written undertakings which are filed with the case records. Satisfied that they are entitled to benefit of Section 14S(3) ibid. Opened khatians in favour of eligible bargadars with the vested land occupied by them, details of which shown in the schedule made part of the proceedings.</p>	R.O.
4.	Case disposed of.	R.O.

SCHEDULE

LIST OF BARGADARS RECORDED ON VESTED LANDS UNDER W.B.L.R. ACT FOR CONSIDERATION U/S 14S(3) READ WITH SECTION 14S(2) OF W.B.L.R. ACT.

Name of Mouza _____ J.L. No. _____ Circle _____ Halka _____ P.S. _____ Dist. _____

Sl. No.	Name of Bargadars with father's name	Area of land owned as Raiyat (including his family)				Area of lands possessed by him as Bargadar of other Raiyat.				Area of vested land (under L.R. Act) possessed by him as Bargadar.			
		Name of mouza with J.L.No.	Khatian No.	Plot No.	Area of The Plot	Name of Mouza with J.L.No.	Khatian No.	Plot No.	Area of the Plot	Name of mouza	Khatian No.	Plot No.	Area of Plot under cultivation
1.	2.	3a.	3b.	3c.	3d.	4a.	4b.	4c.	4d.	5a.	5b.	5c.	5d.

Total area of land possessed by him (3d. + 4d. + 5d.)	Total area of land possessed as per his declaration in writing.	Order of R.O. in brief	If eligible U/S. 14S (3)			Remarks
			New Khatian No.	Plot No.	Area	
6.	7.	8.	9a.	9b.	9c.	10.

Filed with case records and made part of the proceedings.

R. O

Government of West Bengal
Office of the Board of Revenue, West Bengal.
G.E. – Branch.

Memo. No.5778-G.E.

Dated, Cal. the 15th June 1984.

To
The Director of Land Records and Surveys,
West Bengal.

Sub : Opening of khatians in favour of bargadars on land vested under the L.R. Act.

Ref : Board's Memo. No.397-GE dated 12.1.1981.

It has come to the notice of the Board that there is some confusion among the field functionaries in the matter of opening of khatians in favour of the bargadars under section 14S(3) of the L.R. Act.

Board issued clear instructions in the matter under Memo.No.397-GE dated 12.01.1981. He is requested to kindly reiterate the contents of the above Circular to the concerned field functionaries so as to remove confusion in the matter.

A.K. Chakraborti
Special Officer & (Ex-Officio)
Secretary,
Board of Revenue, West Bengal.

Memo. No.5778/1(8)-GE

Copy forwarded to the Settlement officer, Haora-Hugli-Nadia for information and necessary action.

A.K. Chakraborti
Special Officer & (Ex-Officio)
Secretary,
Board of Revenue, West Bengal.

Dated : Calcutta,
The 15th/22nd June, 1984.

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GOVERNMENT OF WEST BENGAL
Directorate of Land Records & Surveys, West Bengal.

Circular No.III 65/5938/C/85.

Dated, Alipur, the 30th October, 1985.

It has come to notice that an ingenious method is being adopted by some land owners to deprive the share-croppers of the rights of cultivation.

2. The owner notionally sells the land to the bargadar on paper, thus making the barga entry inapplicable; after the entry is thus deleted, the land is reconveyed to either the original owner or a near relative having a record without any barga entry.

3. The stratagem, though clever, can be put to a stop interms of Section 54 of the Transfer of Property Act. Such transfers should be assailed on the grounds that no transfer is valid unless accompanied by delivery of possession.

4. A keen vigilance of all concerned would be helpful to detect such cases.

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

GOVERNMENT OF WEST BENGAL
Directorate of Land Records & Surveys, West Bengal.

Memo. No.65/5925/C/85

Dated 6th/30th October, 1985.

CIRCULAR

Subject : Recording of bargadars where the existance of the Thika Bhag Section of cultivation is claimed.

It has been reported that, in some cases, the system of Kut Bhag or Thika Bhag is being pleas to frustrate barga recording. Essentially, this system means that a fixed quantity of the produce rather than a fixed percentages of the same is allegedly taken on the cultivator by the owner.

2. This alleged farming out of agricultural land is illegal U/s. 4(4) (d) of the WBLR Act and Collector may, after due enquiry, seize and auction-sell the land involved.

3. U/s. 21B of the WBLR Act, a person lawfully cultivating another person's land is presumed to be a bargadar and the burden of proving the contrary is on the owner. So, in the cases cited above, the cultivators are presumed to be bargadars unless the owners can prove the contrary in any particular case. Thus, the owner will have to take the specific plea of Kut Bhag or Thika Bhag. If he does so, he is exposed to the penalties U/s. 4(4) of the WBLR Act. If the Collector can be persuaded to enforce the legal consequences of farming out of agricultural land, as admitted by the owner, other owners will be discouraged from taking shelter under an incorrect plea of Kut Bhag or Thika Bhag.

4. This may be brought to the notice of all concerned. Individual cases may be taken up with the Collector, if necessary, where pleas of Kut Bhag or Thika Bhag are common.

T. K. Ghosh.

Director of Land Records & Surveys, W. Bengal.

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GOVERNMENT OF WEST BENGAL
Directorate of Land Records & Surveys & Jt. Land Reforms Commissioner,
West Bengal

No.2/6482/C/86(PT).

Dated, Alipur, the 10th Dec., 1985.

CIRCULAR

The undermentioned problem arose at the time of attestation of a mouza.

PROBLEM : A plot has been purchased by the recorded bargadar himself from the owner of the plot by registered deed and on the same day he has sold the plot by another registered deed to some other person. Will the name of bargadar be recorded against the plot in the khatian of the latest purchaser ?

The problem has to be examined in the following manner.

- (a) If the transfers are genuine, the barga right is extinguished by the purchase of land by the bargadar, as no body can be his own bargadar.
- (b) But whether the transactions are genuine is to be carefully examined in such cases. Section 54 of the Transfer of Properties Act lays down that no transfer is valid unless acted upon by delivery of possession. This requires to be examined. If there has been no follow up of the transfer by actual delivery of possession, the transfer cannot be recognized for the purpose of preparing records of rights. The facts and circumstances of the given case strongly suggest that the transfer to the bargadar was only notional, and are made as stratagem to delete his name as a bargadar. It is hardly likely that a person can exercise ownership possession during the spell of a single day.

Ownership possession has to be exercised by some specific act and there is little scope for making any specific operation on the land or making a decision about the manner of cultivation etc. in the course of a day. There are the basic criteria for ownership possession. If this is found to be the case, the name of the bargadar should remain on record. However this is a question of fact to be determined by the Revenue Officer according to his judgement.

K.P. Sandilya
For Director of Land Records & Surveys and
Joint Land Reforms Commissioner, W. Bengal.

**Copy of the Memo. No. $\frac{4564-GE}{472/85}$ dated 27.3/18.4.87 from Board of Revenue,
West Bengal to D.L.R. & S. West Bengal.**

The undersigned is directed to say that it has come to the notice of the Board that the names of more than one legal heirs of a deceased bargadar are being brought into records. The legal provisions as laid down in Section 15A(1) of W.B.L.R. Act are that where a bargadar dies at a time when cultivation of land by the bargadar was continuing, the cultivation of such land to be continued by the lawful heir of the bargadar or where there are more than one lawful heir, by such lawful heir of the bargadar as all the lawful heirs of the bargadar may determine within the prescribed period. The law further enjoins that where the lawful heirs of the bargadar omit or fail to name a determination of the lawful heir; the officer appointed under section 18(1) ibid may nominate one of the lawful heirs of the bargadar.

In the above circumstances, it will not be legal to record the names of more than one legal heirs of a deceased bargadar. In cases where more than one legal heir of a deceased bargadar are found to continue cultivation of such land, the Settlement Wing should refer the matter to the J.L.R.O. concerned who is the appointed authority under section 18(1) ibid and upon determination of such lawful heir by the J.L.R.O., record the same in the R.O.Rs.

The above position may please be explained to all concerned for guidance.

Sd/- Illegible
Special Officer & (ex-Officio) Secretary,
Board of Revenue, W. Bengal.

GOVERNMENT OF WEST BENGAL
Office of the Board of Revenue, West Bengal.
Section : A1, Branch : G.E.

No. $\frac{9436-GE}{341/90}$

Dated, Calcutta, the 8th October, 1990.

From : Shri A.K. Chakraborti, I.A.S.
Special Secretary,
Board of Revenue, West Bengal.
Writers' Buildings,
Calcutta - 1.

To
The Director of Land Records & Surveys, West Bengal,
35, Gopalnagar Road, Alipore,
Calcutta - 700 027.

Subject : Prescribing authority under Sub-Section (4) of Section 16 of the West Bengal Land Reforms Act, 1955.

A reference is invited to Sub Section (4) of Section 16 of the W.B.L.R. Act, 1955, which states inter alia that if a person whose land is cultivated by a bargadar refuses to accept the share of the produce tendered to him by the bargadar or to give a receipt therefore, the bargadar may deposit, within the prescribed period, such share of the produce with such officer or authority, as may be prescribed. A question has been raised if it is necessary to prescribe appropriate officers in the Integrated Set up for the purposes of this Sub Section.

2. By sub rule (b) of rule 3 of the West Bengal Land Reforms (Bargadar) Rules, 1956 the officer or authority appointed under Sub section (1) of Section 18 of the Act has been prescribed as the authority with whom such deposit may be made.

3. All Collectors, D.L.L.R.Os, Dy. D.L.L.R.Os, S.D.L.L.R.Os and B.L.L.R.Os have been appointed as the authority under Section 18(1) under Board's Notification No.3438-G.E. 5/4/11.89. Similarly, all Revenue Officers have been appointed as such under Board's Notification No. 4719-G.E. dated 15.5.89.

4. All officers of the categories mentioned above may, by virtue of rule 3(b) of the West Bengal Land Reforms (Bargadar) Rules, 1956, discharge the functions envisaged in subsection (4) of Section 16 of the Act. No separate rule prescribing them as officer or authority under the above sub section is necessary,

5. This should be brought to the notice of all concerned.

A.K. Chakraborti
Special Secretary, 12.10.90
Board of Revenue, West Bengal.

Memo. No.9436/1(33)-G.E.

Dated, Calcutta, the 8th October, 1990.

Copy forwarded for information and necessary action to :-

1. Collector
.....
2. District Land and Land Reforms Officer,
.....

B. Dutta
Deputy Secretary,
Board of Revenue, West Bengal.

Copy of Memo. No.2266(17)-GE, dated 20th March, 1991 from Shri A. K. Chakraborti, Special Officer & (ex-Officio) Secretary, Board of Revenue, West Bengal, to the District Land & Land Reforms Officer, South 24-Parganas.

Subject : Recording of bargadars U/s. 21D of the West Bengal Land Reforms Act, 1955.

It has come to the notice of Board that petitions for recording of bargadars are being heard and disposed of under Section 50 of the West Bengal Land Reforms Act where the relevant R-O-Rs are under revision under Chapter-VIIA of the Act. Notices are also being reportedly issued under the said section.

2. In this connection his attention is drawn to section 21D of the Act which provides that the name of bargadar should be recorded in such mouza in such manner as may be prescribed. Necessary prescriptions have been made in rule 14I of the W.B.L.R. Rules, 1965.

3. In view of the overriding effect of the above section, all petitions regarding recording bargadars in R-O-Rs under revision under Chapter-VIIA, should be disposed of, with issue of notice under the said Section 21D read with Rule 14I.

4. This should be brought to the notice of all concerned.

GOVERNMENT OF WEST BENGAL
Office of the District Land & Land Reforms Officer
South 24-Parganas, Alipore
35, Gopal Nagore Road, Calcutta – 700 027

ORDER

No.215/30090/P/91.

Dated, Alipore, the 6th December, 1991.

Section 21D has been added by the W.B.L.R. (Amendment) Act, 1981 which provides that the names of the Bargadars shall be entered in the record-of-rights. The Revenue Officer empowered u/s. 51 and having jurisdiction in a Mouza shall record the names of Bargadars, who cultivate lands in the said mouza, in the R.O.Rs at different stages of preparation or revision of record-of-rights as described in Schedule "A". This has a reference to this office Memo. No.119/II/11742-887/P/73 dt. 19.04.1991.

In case of a mouza lies in between the stages before final publication, special order need be taken from the Revenue Officer as Settlement Officer for holding spot enquiry in the said mouza in order to record the names of bargadars after issuing notices to the materially interested parties including local representatives of peasants' organization as per rule 14-I. Special order, if required, may be supplied on requisition from the B.L. & L.R.Os. Such order sheet should be maintained in "A" file of the mouza concerned as a permanent document as it may require for production before Court.

A specimen copy of order sheet is enclosed for information of all.

D. Sen
District Land & Land Reforms Officer
South 24-Parganas.

Specimen Order Sheet

Nature of Case : Recording of Bargadars U/s. 21D of the W.B.L.R. Act, 1955 read with rule 14-I of the W.B.L.R. Rules.

	<p>Wheres it has come to my notice that a large number of bargadars is yet to be recorded in the R-O-Rs in respect of mouza _____ J.L. No. _____ of P.S. _____, I do hereby, in exercise of the power conferred on me by clause (ii) of Second Proviso to Clause I of Schedule "A" of the W.B.L.R. Rules direct that names of unrecorded bargadars shall be recorded in the R-O-Rs at any time in between any stage of L.R. Operation U/s. 51 of the W.B.L.R. Act before final publication after holding such enquiry and after giving the person/persons claiming as bargadars and the owner of the land concerned such opportunity of being heard as the Revenue Officer deem fit.</p> <p style="text-align: center;">Revenue Officer & Settlement Officer & D.L. & L.R.O. South 24-Parganas.</p>	
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Government of West Bengal
Office of the Board of Revenue, West Bengal
Section – A(I), Branch – GE.

No. 01 (17)-GE
434/90

Dated Cal., the 01/14/01.1992.

To
The District Land & Land Reforms Officer,

Subject : Recording of bargadars in respect of lands covered by Land Acquisition Proceedings.

The Land Acquisition Act 1894, provides for payment of compensation to a bargadar for acquisition of land under his barga cultivation. Instances have come to the notice of the Board where applications have been filed before the Revenue Officer for recording of barga right in respect of lands covered by L.A. proceedings with the ostensible purpose of getting compensation. Such applications are filed by so-called bargadars in collusion with the interested parties.

2. Extreme care should be taken in the matter of recording of barga right on lands covered by L.A. Proceedings so that such bargadars cannot get away with the compensation just by recording their names as such. Applications for recording of barga right on such lands should be considered if only conclusive evidence is available that the barga right was being exercised from a date prior to the initiation of L.A. Proceedings. The date of initiation of L.A. Proceedings where acquisition is made under the provisions of the Land Acquisition Act, 1894 will be the date of issue of notification U/s. 4 of the Act. Where acquisition, proceeded by requisition, is made under the provisions of the W.B. Land (Requisition & Acquisition) Act, 1948, the date of initiation will be date of order made by the Collector under Sub-section (1) of Section 3 of the Act.

3. As soon as an application has been received for recording of barga right on land involved in L.A. Proceedings, the Revenue Officer will take up enquiry with field visit. One of the points for determination during enquiry will be if the application has been filed for recording of barga right with the intention of getting compensation on acquisition of the land in question. Recording may be made only where there is evidence to the contrary and the claim is otherwise genuine.

4. The Collectors are being requested to instruct the Special Land Acquisition Collectors to send to the B.L.L.R.Os schedules of lands covered by L.A. Proceedings with dates of notification u/s. 4 of the L.A. Act, 1894 or date of order U/s. 3(1) of the W.B. Land (Requisition & Acquisition) Act, 1948, as the case may be.

5. This should be brought to the notice of all the filed officers concerred.

A.K. Chakraborty,
Special Officer & (ex-Officio)
Secretary,
Board of Revenue, West Bengal.

Government of West Bengal
Office of the Director of Land Records and Surveys
And Joint Land Reforms Commissioner, West Bengal,
35, Gopalnagar Road, Alipore, Calcutta- 700 027

Memo. No.14/1213/C/92.

Dated, Alipore, the 16th March, 1993.

To
The District Land & Land Reforms Officer,
Hugli.

Subject : Correction of Form/Notice U/s. 57 of W.B.L.R. Act.

This is to inform him that his proposal for correction of From/Notice U/s. 57 of W.B.L.R. Act, sent under Memo. No.21/9100/N/89 dated 05.11.1992 has the approval of this Directorate.

A. K. Bhattacharya
for Director of Land Records and Surveys and
Joint Land Reforms Commissioner, W.B.

Memo. No.14/1214-1234/C/92

Dated, Alipore, the 16th March, 1993.

Copy along with a copy of the revised Form is forwarded for information and necessary action to :-

1. The D.L. & .R.O.,

A. K. Bhattacharya
for Director of Land Records and Surveys and
Joint Land Reforms Commissioner, W.B.

(..... Bengali Words)

Government of West Bengal
Office of the District Land and Land Reforms Officer,
Birbhum, Suri

Memo. No.L.R.32/86/94.

Dated, Suri, the 6/1/94.

To
The Director of Land Records and Surveys and
Joint Land Reforms Commissioner, W.B.
35, Gopalnagar Road, Alipore, Calcutta-27

Subject : Note for Order regarding cultivation of land where bargadar is terminated on the ground laid down under Sub Section (1)(c) of Section 17 of the W.B.L.R. Act.

A question has been raised by the B.L. & L.R.O., Illambazar that, if a bargadar is terminated from barga cultivation on the ground laid down under sub section (1)(C) of section 17 of the W.B.L.R. Act whether such land to be brought under the personal cultivation of the raiyat or another bargadar to be appointed on such land.

There is no such provision in section 17 of the W.B.L.R. Act to appoint another bargadar in a land from where a bargadar has been terminated on the ground laid down U/s. 17(1) (c) of the W.B.L.R. Act. Therefore such land may be brought under the personal cultivation of the person owning the land if he/she desires. Your kind instruction is solicited in this respect.

Sd/- Illegible
District Land and Land
Reforms Officer, Birbhum, Suri.

GOVERNMENT OF WEST BENGAL
Director of Land Records & Surveys, &
Joint Land Reforms Commissioner, West Bengal.

Memo. No.24/2732/C/94.

Dated : Calcutta, the 19.04.1994

From : Director of Land Records & Surveys West Bengal.
& Joint Land Reforms Commissioner, West Bengal.

To
The District Land & Land Reforms Officer, Birbhum.

Subject : Cultivation of Land where Bargadar is terminated on ground laid down under Sub-section (1)(c) of Section 17 of the WBLR Act.

Ref : His office memo. No. LR 32/86/93 dated 6.1.94.

Reference to above. This is to inform him that though there is a provision of termination of Bargadar under Sub-section (1)(c) of Section 17 of the WBLR Act, the bargadar is not likely to be terminated straightway. He should be afforded opportunity to deliver the person whose land he cultivates the share of the produce due to such person or to pay the market price to that person in lump or in installment as fixed by the appropriate authority.

The Bargadar should be given ample scope to retain the barga land and larger no. of instalment should be fixed if necessary.

If the bargadar fails to pay the arrear dues even after being afforded such scope, the bargadar may be terminated restoring the land to the personal cultivation of the land owner provided the stipulation in clause (d) is satisfied. In such event the land owner may go in for money suit for recovery of arrear share.

A. K. Bhattacharya
For Director of Land Records & Surveys &
Jt. Land Reforms Commissioner,
West Bengal.

Memo. No.24/2733-54/C/94.

Dated, Alipur the 19.4.94.

Copy together with a copy of letter dated 6.1.94 forwarded to the District Land & Land Reforms Officer, for information and guidance.

A. K. Bhattacharya
For Director of Land Records & Surveys &
Jt. Land Reforms Commissioner,
West Bengal.

●

Government of West Bengal
Office of the Director of Land Records & Surveys and
Joint Land Reforms Commissioner, West Bengal,
35, Gopalnagar Road, Alipore, Calcutta – 700 027.

Memo. No.44/3704-21/96.

Dated, Alipore, the 2nd December, 1996.

From : Director of Land Records & Surveys and
Joint Land Reforms Commissioner,
West Bengal.

To
The District Land Land Reforms Officer,

In terms of West Bengal Land Reforms Act 1955, the Bargadars who normally cultivate principal crops are recorded as such on the land of owners on condition of delivering a share of the produce. In fact, in the West Bengal Land Reforms Act one may cultivate land either personally as a raiyat or as a bargadar on raiyati land. Cultivation by any other mode like lease or contract is neither acceptable nor cognizable in our present legal frame. It has come to the notice of the Directorate through different sources that many raiyats are getting their land cultivated by others on annual / short term contract basis, the share payable on contract varies widely from season to season and from crop to crop. While it is true that for borro crops and some other crops which are capital intensive, the big land owners lease-in land from small and marginal owners in the form of a kind of reverse tenancy, at the same time small and marginal peasants also lease-in land of big land owners or absentee land owners or land owners engaged in white colour job on contract basis and deliver a share of the produce as agreed upon between the two parties in the contract. In the former case it is the lack of necessary capital which forces the small and marginal peasants to lease-out their land to big land-owners, in the later cases the land-owners enter into cash/kind contract with the sub-marginal, marginal or small peasants to circumvent the provisions regarding recording of share croppers. Since as per Land Reforms Act such mode of cultivation is not legally permissible, this should also be construed as cultivation by share croppers.

For an assessment of the dimension of the phenomenon, it is necessary to conduct a field survey in 4/5 mouzas in each district in the format enclosed. In the districts of Medinipore, Tamluk, Burdwan, North 24-Parganas and Hugli, however around 10 mouzas should be taken up, for studies. In each district at least 50% of mouzas should be selected from around the urban centres. Selection of blocks and manzas may be made on random basis by the D.L.&L.R.O. and an officer of the rank of R.O. accompanied by one R.I./Amin may conduct the survey for each mouza. The blocks and mouzas selected may please be communicated to this Directorate within 15 days since the receipt of this letter so that the officers from the Directorate may also visit some of the places to inspect the work in the filed.

P. Bandyopadhyay
Director of Land Records and Surveys
& Joint Land Reforms Commissioner, West Bengal.

Encl : Format as stated.

FORMAT

District : _____ **Block** _____ **Mouzas** _____, **J.L. No.** _____

1. Owner of the land, address & occupation
2. Khatian No. 3. Plot No. 4. Area 5. Classification
6. (a) Is the land cultivated by Owner himself/herself ?
(b) If 'Yes', whether cultivated by own family member or by hired labourer or by both?
(c) Place from which the hired labourers are engaged & the distance of the place from field. Amount of wages paid to the hired labourers.
(d) Wages paid daily or after a period.
(e) If after a period, the length of such period
(f) If wages paid in cash or in kind
(g) If the inputs are fully supplied by owner or partly by owner and partly by labourer ?
(h) If the plough hired/supplied by owner or by labourer
7. (a) Is the cultivation done by contract
(b) If 'yes', the name of the contract farmer and period of contract
(c) Terms of contract i.e. the percentage of share to be paid
(d) Crops cultivated on contract
(e) If share is paid in cash or kind
8. Did the peasant cultivate the land of any other owner on contract previously ? If so, the plot nos., area and the name of the previous owner(s) whose land was cultivated on contract. The period of contract for which such land was cultivated.
9. Whether the peasant cultivating on contract, applied for recording his name as share cropper? If 'not', why?
10. Total quantum of land owned by the peasant cultivating on contract.
_____ ● _____

Government of West Bengal
Office of the Director of Land Records and Surveys
And
Joint Land Reforms Commissioner, West Bengal,
35, Gopal Nagar Road, Alipur, Calcutta – 700027.

Memo. No. 17/4117/C/96.

From : Director of Land Records and Surveys and
Joint Land Reforms Commissioner.

To
The District Land & Land Reforms Officer,
Medinipur.

Dated : Calcutta, the 31st December, 1996.

Subject : Recording of a person as Bargadar over his close relative's Land.
Ref : His Office Memo. No.34740/E-34 (Garh-III)/96 dated 26.9.1996.

Reference to above, this is to inform him that generally there are three reasons, for which such petitions are filed.

1. In many cases some fictitious person's name were recorded by the Land owners, who are near relatives of the owner but do not come under the declaration of family as described under section 14K(c) of WBLR Act in order to avoid the possibilities of recording the name of a genuine Bargadar.

2. In case enmity between the co-shares or relatives, it's a common trend to get one party's name to record as bargadar upon the land of another party to harass the enemy relative or enemy co-sharers.

3. When the owner holds a large quantum of land or he is engaged in any other business or service and he has no time to cultivate the land, he generally entrust some near relatives to cultivate his land or to look after his cultivation. In such cases the relative engaged in cultivation may apply for recording his name as Bargadar.

Hence such cases or petitions of co-sharers or near relatives shall carefully be examined to determine whether he is a genuine Bargadar or not.

If a near relative of a raiyat claiming to be a Bargadar files any petition, it should be examined whether he is cultivating the land personally or not (cultivating personally includes cultivation by the assistance of the members of the family also). It should further be enquired into whether such petition has been filed to deprive any genuine Bargadar or not. If, after thorough examination, it is found that there is no wrong in the matter, then the name of such near relative may be recorded as bargadar.

He is, therefore, requested to kindly take necessary action for disposal of such petitions accordingly, under intimation to this Directorate.

P. Bandyopadhyay
Director of Land Records and Surveys
& Joint Land Reforms Commissioner, W.B.

GOVERNMENT OF WEST BENGAL
Office of the Director of Land Records & Surveys &
Joint Land Reforms Commissioner, West Bengal
35, Gopalnagar Road, Alipore, Kolkata – 700 027.

Memo. No.30/2597/C/2002

Dated : Alipur, the 3rd May, 2002.

To
The Special Secretary to the Government of West Bengal,
Land & Land Reforms Department,
Writers' Buildings, Kolkata – 700 001.

Subject : Eviction of Bargadars due to rapid urbanization etc.

Sir,

For some time past it is observed that in adjoining areas of municipalities, CMDA, Railway stations and in some other important areas, a huge quantum of land is being converted from agricultural nature to non-agri ones. In most of these areas buildings and structures are being constructed apparently without any planning and as a result the net arable lands in West Bengal are being diminished day by day. Automatically, the bargadars, either recorded or unrecorded, are also being evicted day by day. For such illegal conversion, most of the persons do not take any permission from the Collector U/s. 4C of the W.B.L.R. Act, 1955. Only a very few persons who want to build house by taking loans from the Govt., Bank, LIC and other financial Institutions, seek permission U/s. 4C of the W.B.L.R. Act.

However, a bargadar remains bargadar until and unless cultivation of bargadar is lawfully terminated. But what is fact is that due to rapid growth of urban area, the bargadars are being evicted after a local compromise between the transferor and the bargadar, who generally transfers the land against a premium through mutual adjustment. It would not be irrelevant to mention here that inspite of having provisions

of some penal measures in section 4D and Section 20B (5) of the WBLR Act, but till date, perhaps no such action have been taken by any officials due to fear of public resentment. As Section 4(4), has since become ultra-vires the matters are being dealt with U/s. 20B(5) or 4D of WBLR Act.

In this connection the provisions as laid down in Rule 166(i) of the West Bengal Land & Land Reforms Manual may kindly be considered. The Rule 166(i) speaks that while disposing of a petition for conversion, if it may come to the notice of the Collector that the land has already been converted to some use other than appearing from the R.O.Rs, it should be enquired as to whether the change in use has been made in the usual course of nature or by deliberate action on the part of the applicant or any other person, and, in the latter case, it should also be ascertained whether the change took place before 24.3.1986. In Rule 166(i), the pertinent point is that there must be an application after conversion and it should be ascertained as to whether such conversion took place before 24.3.86.

As stated earlier, most of the persons do not at all apply for conversion before or after making such conversion, in sub-rule (ii) of Rule 166, it has been stated that if there was a reasonable cause made behind the change occurred, the Collector may consider the merit of the case and see as to whether post facto approval should be granted. On the other hand, it is proved that the change was made deliberately and without any reasonable ground after 24.3.86, penal action may be taken u/s. 4D.

Whatever may be cause, deprivation of the bargadar cannot be stopped when he abandons the cultivation mutually or forcefully without lodging any complaint.

So, in consideration of the above, it is suggested that as the L & L. R. Department, in respect of tea-garden, issued a circular to regularize the eviction of bargadars by the tea-garden owners for expansion of tea-gardens on payment of such amount as is paid to the bargadar when land is acquisitioned for any development purpose. In that case also a cut-off date i.e. 30.06.2001, has been fixed and after that no tea-garden shall be expanded and grab any land of bargadar (Vide Circular No.3186 (8)-L, Ref./IM-14/98 dated 23.07.2001) In case of construction of buildings and structures imposition of such cut off date perhaps is not possible. Moreover, for fear of public resentment none of our officials are taking any action against such construction of buildings and structures made after 24.03.1986 violating section 4C of W.B.L.R. Act.

Hence, it is proposed that in such cases payment of compensation should be made by that person to the bargadar at the same rate as provided under the Land Acquisition Act or 50% of the market value of the land in question, if he is at all traceable. The concerned authority should get it confirmed whether such payment is made and deletion of bargadar should be made after ascertaining the status in accordance with the provision of Section 18 otherwise penal action u/s. 4D or 20B(5) of the WBLR Act should be taken.

Correction of R-O-Rs may be made U/s. 51A(4) or 51B or 50(f) according to date of such construction and stage of mouza R-O-Rs.

D.K. CHAUDHURI
Director of Land Records and Surveys and
Joint Land Reforms Commissioner,
West Bengal.

**Government of West Bengal
Land and Land Reforms Department
Branch – IS.**

Memo $\frac{6525-IS}{542/2002}$

Calcutta the $\frac{10^{th}}{17^{th}}$ September, 2002

From : Sri S. Bandyopadhyay,
Deputy Secretary to the Govt. of West Bengal,.

To
Director of Land Records and Surveys, West Bengal,
And Joint Land Reforms Commissioner, West Bengal,
35, Gopal Nagar Road, Alipore, Kolkata – 700 027.

Subject : Eviction of Bargadars due to rapid urbanization etc.

Sir,

I am directed to refer to your letter no.30/2597/C/2002 dated 3/15.5.2002 on the above subject and to say that exception for eviction of bargadars has been made for tea gardens with the backing of Law and with adequate safety measures. Section 20B of the W.B.L.R. Act, 1955 has been amended to accommodate tea gardens and to make them bargafree. But such provision, if made for urban expansion, may lead to opening of a uncontrollable flood gate against sharecroppers.

Hence, the proposal mooted by you is not acceptable for the present.

Yours faithfully,
S. Bandyopadhyay
Deputy Secretary to the
Government of West Bengal.

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**Government of West Bengal
Land & Land Reforms Department
Writers' Buildings, Kolkata – 700001.**

No.120-1S/LRC-2922/06

Date: 05.01.2007

From : Land Reforms Commissioner & Principal Secretary,
Land & Land Reforms Department.

To
The District Magistrate, Hooghly.

Subject : Payment of compensation to the unrecorded bargadars against acquisition of land.

It is to clarify that there is no distinction between recorded bargadar and unrecorded bargadar as per provision of WBLR Act, 1955. Whoever cultivates land of another person on condition of delivering a share of produce is a bargadar unless he is a relative of the land owner as per section 2(2) of the WBLR Act. It is, therefore, clear that a bargadar irrespective of whether his name is already recorded in the RORs or not, is entitled to get the compensation as per the provisions of section 23(4) of the LA Act, 1894.

If the unrecorded bargadar applies for compensation, his case will be considered provided he has applied before issuance of the notice under section 4(1) of West Bengal Land Acquisition Act. To be satisfied about the genuineness of a claim for getting

compensation on account of barga cultivation, it would be necessary to have a certificate from the revenue official of the concerned area. The matter may, therefore, be taken up with the ADM and District Land and Land Reforms Officer so that the concerned BL & LRO may enquire in the field and issue certificates in favour of the unrecorded bargadars who are found to be genuine as per field enquiry. A copy of this letter is being endorsed to the ADM and District Land and Land Reforms Officer, Hooghly for immediate necessary action.

Crash programme may be drawn up in the districts where such acquisitions are in process or likely to take place soon.

P.K. Agrawal
Land Reforms Commissioner,
West Bengal

No. 120/1-1S

Date : 05.01.2007

Copy forwarded for information and necessary action to the ADM and DL&LRO, Hooghly.

Sd/- Illegible
Joint Secretary,
Land & Land Reforms Deptt.

No.120/2-1S

Date : 05.01.2007

Copy forwarded for information and necessary action to the DLR&S and Joint Land Reforms Commissioner, W.B. Since quite large area of land will be acquired by the Govt. for Industrial or other projects in near future in other districts too, the concerned ADMs may be suitably instructed to take up updation of records on a priority basis so as to reflect the current status of records by effecting all pending mutation cases, conversion cases and also by recording the cases of barga cultivation so that the Collector may not face any problem in releasing compensation against acquisition of land in those districts. Primarily the districts to be affected are (1) North 24-Parganas, (ii) South 24-Parganas, (iii) Howrah, (iv) Purba Medinipur, (v) Paschim Medinipur in addition to Hooghly.

SD/- Illegible
Joint Secretary,
Land & Land Reforms Deptt.

No.120/3(11)-1S

Date : 05.01.2007

Copy forwarded for information to :

- 1) P.S. to MIC, L & LR with request to place it before MIC for his kind information.
- 2) District Magistrate, North 24-Parganas / Howrah/Purba Medinipur / paschim Medinipur.
- 3) ADM & DL&LRO, North 24-Parganas / South 24-Parganas / Howrah / Purba Medinipur / Paschim Medinipur.

Sd/- Illegible
Joint Secretary,
Land & Land Reforms Deptt.

<http://wbllroa.in>