

11. INSTRUCTION FOR RECORDING THE NAMES OF HOMESTEAD BENEFICIARIES

THE WEST BENGAL ACQUISITION OF HOMESTEAD LAND FOR AGRICULTURAL LABOURERS, ARTISANS AND FISHERMEN ACT, 1975

West Bengal Act XLVII of 1975

An Act to provide for the acquisition of land in rural areas on which homestead has been constructed by any person being an agricultural labourer, an artisan or a fisherman and conferment of title to such land in favour of such person.

Whereas it is expedient to provide for the acquisition of land in rural areas on which homestead has been constructed by any person being an agricultural labourer or an artisan or a fisherman and conferment of title to such land in favour of such person ;

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

1. Short title and extent.-(1) This Act may be called the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975.

(2) It extends to the whole of West Bengal except the areas included within a municipal corporation, a municipality, a town committee, a notified area and a cantonment and also the areas included within the Calcutta Metropolitan Area.

2. Definitions.- In this Act, unless there is anything repugnant in the subject or context,-

- (a) "artisan" means a handicraftsman and includes potter, carpenter and Blacksmith;
- (b) "Calcutta Metropolitan Area" means the area as defined in section 2 of the Calcutta Metropolitan Development Authority Act, 1972 (West Bengal Act XI of 1972);
- (c) "Collector" means the Collector of a district and includes an Additional District Magistrate or any other officer appointed by the State Government to discharge any of the functions of a Collector under this Act ;
- (d) "homestead" means a dwelling house which is complete in itself and is not shared in common with any person other than a person belonging to the same family and includes any courtyard, compound, garden, place of worship, family graveyard, tank, well, privy, latrine, drain and boundary wall annexed to or appertaining to such dwelling house but does not include a brick-built structure with a pucca roof :

Provided that in the district of Darjeeling excluding its Siliguri Sub-division a homestead shall include a brick-built structure with a pucca roof ;

Explanation, - For the purpose of this clause, "family" includes husband, wife, son, daughter and any lineal descendant of any son or daughter;

- (e) "land" means either agricultural land or non-agricultural land upon which there is a homestead;
- (f) "occupier" means an agricultural labourer or an artisan or a fisherman who is in possession of any land of another person, either as a lessee or as a licensee or as a trespasser and who holds no other land in any capacity whatsoever and includes the heirs of such person ;
- (g) "prescribed" means prescribed by Rules made under this Act.

3. Act not to apply to certain lands.- Nothing in this Act shall apply to any land –

- (a) belonging to, or taken on lease or requisitioned by, the Central or any State Government.
- (b) belonging to or taken on lease by, any local or statutory authority.

4. Acquisition of lands for occupiers. – Where an occupier has been in possession of any land on the 26th day of June, 1975 then –

- (a) if the land in his possession does not exceed .0334 hectare, such land, and
- (b) if the land in his possession exceeds .0334 hectare, so much of such land as does not exceed .0334 hectare.

shall stand acquired by the State Government and shall thereupon stand transferred to and vest absolutely in favour of such occupier.

5. Amount to be paid. – When any land is acquired under section 4, there shall be paid by the State Government to every owner an amount which shall be equivalent to ten times of the annual revenue or rent, as the case may be, of such land to be determined by the Collector in the prescribed manner.

Explanation. – A owner includes all persons claiming an interest in the amount to be paid on account of the acquisition of the land and a person shall be deemed to be interested in land if he is interested in an easement affecting the land.

6. Apportionment of the amount.- Where there are several persons interested in the land acquired under section 4, the Collector shall, by order, apportion the amount amongst such persons in accordance with the nature and extent of interest held by each such person.

7. Status of occupier. – An occupier in whose favour any land vests under section 4 shall have the status –

- (i) of a raiyat, if such land is agricultural land, or
- (ii) of a non-agricultural tenant, if such land is non-agricultural land :

Provided that the occupier shall not be liable to pay any revenue or rent for such land.

8. Abatement of revenue or rent. – Any person whose land has been acquired under the provisions of section 4 shall be entitled –

- (a) if the land is included in an agricultural holding, to have the revenue payable by him abated by such amount as bears the same proportion to such revenue as the area of the land acquired bears to the area of such agricultural holding, and
- (b) if the land is included in any non-agricultural tenancy, to have the rent payable by him abated by such amount as bears the same proportion to such rent as the area of the land acquired bears to the area of such tenancy.

9. Settlement of disputes. – (1) If there is any dispute on the question as to whether land has vested in an occupier under the provisions of section 4, the matter shall be referred to the Collector, whose decision thereon shall be final.

(2) The manner in which the Collector shall decide the dispute shall be such as may be prescribed.

10. Limitation on transfer by occupier. – (1) Subject to the provisions of sub-section (2), no occupier shall transfer any land or part thereof vested in him under section 4.

(2) An occupier may transfer his land or part thereof by simple mortgage in favour of a scheduled bank, a co-operative land mortgage bank or a corporation, owned or controlled by the Central or the State Government or by both, or any other authority notified by the State Government in this behalf, for the development of such land.

11. Penalty for unlawful eviction. – Any person who evicts an occupier unlawfully from the land or part thereof which has vested in him under section 4 shall be liable to

imprisonment which may extend to six months or to a fine which may extend to one thousand rupees or to both.

12. Bar to jurisdiction of civil courts. – No court shall entertain any suit, application or proceeding in relation to any land or any part thereof which has vested in an occupier under section 4 and no occupier shall be liable to be evicted or dispossessed from such land notwithstanding any judgement, decree or order of any court for such eviction or dispossession.

13. Act to override other laws. – The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law or in any contract, express or implied, or in any instrument and notwithstanding any usage or custom to the contrary.

14. Declaration as to policy of the State. – It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (b) of Article 39 of the Constitution of India.

15. Power to make rules. – (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for any matter which has to be or may be prescribed.

16. Repeal and savings. – (1) The West Bengal Acquisition of Homestead Land for Agricultural Labourers and Artisans Ordinance, 1975 (West Bengal Ordinance XIII of 1975) is hereby repealed.

(2) Anything done or any action taken under the West Bengal Acquisition of Homestead Land for Agricultural Labourers and Artisans Ordinance, 1975 shall be deemed to have been validly done or taken under this Act as if this Act had commenced on the 24th day of September, 1975.

Notes : Determination is necessary whether an occupier holds any other land or not and whether he is an agricultural labourer or an artisan or a fisherman.

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WEST BENGAL ACQUISITION OF HOMESTEAD LAND FOR AGRICULTURAL LABOURERS, ARTISANS AND FISHERMEN RULES, 1976

Notification No. 1690-CDP-2nd March, 1976. – In exercise of the power conferred by section 15 of the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975 (West Bengal Act XLVII of 1975) and in supersession of the notification No.10102 – CDP., dated the 29th September, 1975, the Governor is pleased hereby to make the following rules for carrying out the purposes of the said Act, namely :

1. Short title and commencement. – (1) These rules may be called the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Rules, 1976.

(2) They shall come into force from the date of their publication in the Official Gazette.

2. Definitions. – (1) In these rules unless the context otherwise requires,-

- (a) “the Act” means the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975 ;
- (b) “Collector” means the Collector of a district containing the area as to which the Act extends and includes an Additional District Magistrate, and also any Sub-Divisional Officer, Special Land Acquisition Officer, Sub-Divisional Land Reforms Officer, Deputy Magistrate and Deputy Collector or Block Development Officer appointed by the State Government to discharge any of the functions of a Collector under the Act, and
- (c) “section” means a section of the Act.

3. Power to enter upon land to make survey and demarcation.-(1) The Collector, or any other officer authorised by the Collector in this behalf, may, at any time between sunrise and sunset, enter upon any land which has vested in favour of an occupier under section 4, with such officers and workmen as he considers necessary and make a survey and take measurements of that land for the purpose of determining the area in possession of the occupier and for demarcating such land.

(2) A plan of the land shall be prepared and kept with the case record.

4. Procedure for inviting claims for compensation. – (1) Where a land has vested in favour of an occupier under section 4, the Collector shall by individual notice require all owners of that land to submit to him by a fixed date, not being earlier than fifteen days from the date of such notice, the nature of their respective interest in the land and the amount and particulars of their claims to compensation for such interest.

(2) The service of a notice referred to in sub-rule (1) shall be effected :

- (a) by delivering or tendering copy thereof endorsed by the Collector, to the person on whom the order is to be served or his agent, or
- (b) by fixing a copy thereof on the outer door or in a conspicuous part of the house in which the person on whom the order is to be served ordinarily resides or carries on business or personally works for gain, or
- (c) by sending the same to the person on whom the order is to be served by registered post with acknowledgement due, or
- (d) by fixing a copy thereof in a conspicuous part of the land to which the order relates and also in a conspicuous place of the office of the Collector.

5. Manner of determining annual revenue or rent. – For the purpose of assessing the amount of compensation, if any, payable under section 5 in respect of a land which has vested in favour of an occupier under section 4 the Collector shall determine the annual revenue or rent, as the case may be, of the land, -

- (a) if the land vested comprises an entire agricultural holding or non-agricultural tenancy, at such rate as the owner was paying immediately before the acquisition of the land ;
- (b) if it is part of the holding or tenancy, at such rate as bears the same proportion to the revenue or rent, which was being paid for the holding or tenancy immediately before the vesting of the land, as the area of the land vested bears to the area of the holding or tenancy ;
- (c) if no revenue or rent was payable in respect of the holding or tenancy as the case may be, immediately before the vesting of the land at such rate as may be deemed proper having regard to the revenue or rent that is generally being paid for lands of similar description and with similar advantage in the vicinity.

6. Procedure for payment of compensation. – (1) The Collector shall, if he finds not more than one owner of a land which has vested in favour of an occupier under section 4, require such owner by a notice to appear personally or by a duly authorised agent on a specified date to receive payment of compensation.

(2) If the Collector finds more owners than one of the land vested, he shall make an order apportioning the compensation among such owners in accordance with the nature and extent of interest held by each such owner and requires them by a notice to appear personally or by a duly authorised agent on a specified date to receive payment of compensation.

(3) In case any owner or owners referred to in sub-rule (1) or sub-rule (2) fail to appear on the due date, the Collector shall keep the amount of compensation in revenue deposit and inform the owner or owners to whom the payment is due that the amount kept in revenue deposit may be withdrawn and paid to him or them in the same manner as money in revenue deposit is ordinarily paid.

7. Settlement of dispute. – The Collector shall give reasonable opportunity to an owner to represent his case, and if any dispute is raised the Collector shall after considering the evidence, if any, dispose of the same.

8. Conferment of title of land. – The Collector shall confirm the title of the land which has vested in an occupier under Section 4, by a document in favour of that occupier in the form appended below :-

FORM OF DOCUMENT FOR CONFERMENT OF TITLE

Whereas by virtue of enforcement of the provisions of section 4 of the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975, the land described in the Schedule below stands acquired by the State Government and also stands transferred to and vested absolutely in favour of the Occupier/occupiers.

Now, therefore, this document be issued in favour of the said.....as a token of the title to the land since vested in him/her/them.

Schedule of land

(Boundaries or in areas candastrally surveyed, candstral survey plot Nos. of the Settlement in which the land is comprised).

North :
South :
East :
West :

Signed and sealed
Collector,

By Order of the Governor,
A. R. Bose.
Dy. Secy. to the Govt. of West Bengal.

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

No.9222-G.E.,

dated Calcutta, the 25th May, 1978.

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

Subject: Recording the names of occupiers of land who have been given the status of a raiyat or a non-agricultural tenant under the provisions of the West Bengal Acquisition of Homestead Lands for Agricultural Labourers, Artisans and Fishermen Act, 1975.

The West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975, provides for statutory acquisition, transfer and vesting of land in rural areas held by any person being an agricultural labourer, an artisan or a fisherman. All these take place by operation of law, provided that the conditions required by the Act are fulfilled.

2. Under section 4 of the said Act, where an occupier has been in possession of any land on the 26th June 1975, (a) if the land in his possession does not exceed .0334 hectare, so much of land as does not exceed .0334 hectare, shall stand acquired by State Government and shall thereupon stand transferred to and vest absolutely in favour of such occupier. (The Act, defines “occupier” as “an agricultural labourer or an artisan or a fisherman who is in possession of any land of another person, either as a lessee or as a licensee or as a trespasser and who holds no other land in any capacity whatsoever and includes the heirs of such persons”). A question may arise in regard to the treatment of homestead land under occupation of a “bargadar” as this category has not been

specifically mentioned in the Act. A bargadar generally works also as an agricultural labourer, particularly in the lean seasons. Therefore there should not be any difficulty in extending the benefits of this Act to bargadars.

3. In view of the above provisions, the land not exceeding .0334 hectare in possession of an occupier on the 26th June, 1975 has already been acquired by the State and transferred to and absolutely vested in such occupier who has, in terms of section 7 of the Act, attained the status –

- (i) of a raiyat, if such land is agricultural land; or
- (ii) of a non-agricultural tenant, if such land is non-agricultural land.

4. Such occupiers having the status of a raiyat or that of a non-agricultural tenant have to be recorded as such in the current Settlement Operation by opening a khatian for each of them. Where portion of a plot, being in occupation of any such person, has vested in him a separate plot be carved out for such portion and a number assigned to it. Such occupiers will not, however, be liable to pay revenue or rent for such land but liable to pay cesses only.

5. The Settlement Officers may be instructed to get the names of such occupiers recorded in the current Settlement Operation, but where the name of such an occupier has already been recorded in column, 23 (old) (i.e., the remarks column of the khatian) in course of the current settlement Operation such cases should be re-opened and action should be taken as indicated in paragraph 4 of this circular. They may also be instructed to send mauzawari lists of such persons to the Land Reforms Circle Offices for incorporation of their names in Register II (Tenants' Ledger) for the purpose of collection of Public Works/Road and Education Cesses. They may also send another copy to the Settlement Charge Officer as such occupiers might get some financial assistance for house building purposes. These lists should be forwarded to the designated officer in the district who deals with such matters.

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

Memo. No. 9222/1(36)-G.E.

Copy forwarded for information and necessary action to the –

- (1) Commissioner.....Division,.....,
- (2) Collector/Deputy Commissioner,.....

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GOVERNMENT OF WEST BENGAL
Office of the Director of Land Records & Surveys, West Bengal
Survey Buildings, Alipur,
35, Gopalnagar Road, Calcutta – 27

Memo No.125/5044-51/C/76

Dated, Alipore, the 6th June, 1978.

To
The Settlement Officers (All)

Subject : Recording the names of occupiers of land as raiyat or non-agri. tenant as per provisions of the West Bengal Acquisition of Homestead Land for Agri. Labourers, Artisans and Fishermen Act, 1975.

In inviting a reference to Board's Memo No.9222-G.E. dated the 25th May, '78 communicated under this Directorate Memo. No.125/4498-4505/C/76 dated the 2nd June, 78, this is to inform him that the occupiers of material lands who come under the purview of the aforesaid Act may be recorded as raiyat or non-agri. Tenant (as the case may be) without waiting for the schedules, certificates and sketch map from the B.D.Os., as envisaged earlier in Board's Memo. No.6035 (17)/G.E./391/74 dtd. the 27th April, 77 and communicated under Directorate memo.no. 125/2360-67/C/70 dtd. the 19th May, 1977.

Two copies of the West Bengal Acquisition of Homestead Land for Agri.Labourers, Artisans and Fishermen Act, 1975 are enclosed. It would appear therefrom that "Homestead" means a Dwelling House, complete in itself but does not include brick-built structure with a Pucca roof, except in the hilly portion of Darjeelling district where it shall include a brick built struture with a pucca roof also. The criterian of an 'occupier' is that he should be an agricultural labourer or an artisan or a fisherman who is in possession of such a homestead land and he should hold no other land in any capacity whatsoever. A bargadar is also an agricultural labourer and will come under the Act provided he satisfies all other conditions.

A separate khatian should be opened in the names of such occupiers with the status of a raiyat or a non-agri. Tenant with the following notings, viz. :-

In Col. 11**(Bengali Words)**.....
 In Col. 13**(Bengali Words)**.....

The occupier of the homestead land shall not be liable to pay any revenue/rent in terms of Section 7 of the Act. But the previous owner of the land shall be entitled not only to a proportionate abatement of revenue/rent in terms of Section 8 of the Act but also an amount of money equivalent to ten times of the revenue/rent of such land in terms of Section 5 of the Act. In the occupier's khatinan, therefore, the rent/revenue should be noted as below :-

In Col. 4, the proportionate revenue/rent as determined from owners khatian should be noted.

In Col.7 (i.e. remarks col.), it should be noted**(Bengali Words)**.....

In cols, 8, 9 and 10 the notings should be as follows :-

For col. 8 -**(Bengali Words)**..... and for cols. 9 and 10 the amounts of cesses as calculated under the rule should be inserted.

In the owner's khatian proportionate abatement of revenue/rent should be shown in terms of Sec. 8 of the Act.

In respect of the mouzas where K-B has not yet been completed the procedure should be followed forthwith. In respect of the mouzas where K-B has already been completed, the following procedure should be adopted, viz. :-

Col.16 (i.e.old col.23) of all the khatians should be verified and new khatians should be opened in respect of the occupiers found to have been recorded in such col. 16, with notings as instructed above.

One copy of the mouza-war list of occupiers be sent to the Land Reforms Circle Officers and another copy to the Designated Officer in the district through the Charge Officer very quickly as instructed in para 5 of the Board's instructions conveyed under their No.9222-G.E. dated 25.5.78.

A monthly statement (in duplicate) may be submitted in the following proforma so as to reach this Directorate by the 15th of the following month: -

Particulars of the beneficiaries under the West Bengal Acquisition of Homestead Land for Agri. Labourers, Artisans and Fishermen Act, 1975 whose names have been recorded in the mouza records upto _____(month) 1978 :

Sl. No.	Name of Mouza and J.L. No.	No. of beneficiaries recorded so far.	Total area of land recorded in the name of the beneficiaries.	Total amount of abatement of revenue/rent allowed to the erstwhile owners for this purpose.	Remarks.
(1)	(2)	(3)	(4)	(5)	(6)
					SC/ST/M/Others

A.K. Chakraborti
 Director of Land Records and Surveys,
 West Bengal.

**Government of West Bengal,
Office of Board of Revenue, West Bengal.
Section AI, G.E. Branch.**

No.11025(24)-G.E.

Dated, Calcutta, the 27th/31st August, 1979.

To

1) The Director of Land Records and Surveys, West Bengal.

2) The Collector _____

3) The Settlement Officer,

Subject : West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975.

A reference is invited to the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975 (Act XLVII of 1975). The salient features of the Act are given below :-

- (i) Where an Occupier has been in possession of any land on the 26th day of June, 1975, then –
 - (a) if the land in his possession does not exceed .0334 hectare, such land, and
 - (b) if the land in his possession exceeds .0334 hectare, so much of such land as does not exceed .0334 hectare, shall stand acquired by the State Government and shall thereupon stand transferred to and vest absolutely in favour of such occupier. The 'Land' means either agricultural land or non-agricultural land upon which there is a homestead.
- (ii) Where there are several persons interested in the land acquired, the Collector shall, by order, apportion the amount amongst such persons in accordance with the nature and extent of interest held by such person.
- (iii) An Occupier in whose favour any land vests under the Act shall have the Status –
 - (a) of a raiyat, if such land is agricultural land or
 - (b) of a non-agricultural tenant, if such land is non-agricultural land :
Provided that the occupier shall not be liable to pay any revenue or rent for such land.
- (iv) If there is any dispute on the question as to whether a land has vested in an Occupier under the provisions of the Act, the matter shall be referred to the Collector, whose decision thereon shall be final.

2. The West Bengal Acquisition of Homestead Land for Agricultural Laborers , Artisans and Fishermen Rules, 1976 made under the Act (Promulgated under Agricultural Department Notification No.1690-CDP, dated 02-03-'76) lay down, inter alia, the following :-

- (i) The Collector, or any other Officer authorised by the Collector in this behalf, may, at any time between sunrise and sunset, enter upon any land which has vested in favour of an Occupier, with such officers and workmen as he considers necessary and make a survey and take measurements of that land for the purpose of determining the area in possession of the Occupier and for demarcating such land.
- (ii) A plan for the land shall be prepared and kept with the case records.
- (iii) The Collector shall confer the title of the land which has vested in an Occupier under the Act by a document in the form enclosed.

3. Under Board's Memo No.9222-G.E., dated the 25th May, 1978, instructions were issued to the effect that the Occupiers of land in terms of the provisions of the said Act, having the status of a raiyat or that of a non-agricultural tenant have to be recorded as such by opening a Khatian for each of them. It was also instructed that mouzawise lists of such persons should be sent to the Land Reforms Circle Offices for incorporation

of their names in Register II. A provision in the West Bengal Land Reforms Rules has also been made to empower the Revenue Officer to record the names of such occupiers and to issue Parcha to them vide Notification No.3290 L. Ref. dated 9.9.78.

4. In areas where Settlement Operation U/s. 51 of the W.B.L.R.Act is going on, the name of the Occupiers of such lands are being recorded in the R.O.Rs and copies thereof being handed over to such occupiers. The lists of such occupiers are being sent to the Land Reforms Circle Officers as instructed previously. It appears that the Block Development Officers have been appointed as the Collectors for the purpose of the Act. It is, therefore, necessary that lists of such occupiers be sent to the Block Development Officers as well who will issue the documents conferring rights of land on such occupiers. The Settlement Officers may please be instructed accordingly.

5. The Collectors or in other words the Block Development Officers will as soon as they receive the lists of the persons recorded in the R.O.R., arrange for issuing the document conferring the right of land to such occupiers.

6. In areas where Settlement Operation is not going on, the Block Development Officers acting as the Collectors will take all actions in regard to vesting and transferring of such lands in favour of the Occupiers in terms of the provisions of the said Act and issuing the documents conferring title of lands to them. A copy of the document should immediately be sent to the concerned J.L.R.O. for incorporating the names in the Register – II. A copy should also be sent to the Officer-in-Charge, Settlement Camp concerned for bringing the names in record.

7. The members of the Panchayat Samities may please be consulted whenever necessary.

8. Immediate actions may please be initiated on the above lines.

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

FORM OF DOCUMENT FOR CONFERMENT OF TITLE

Whereas by virtue of enforcement of the provisions of Section 4 of the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975, the land described in the Schedule below stands acquired by the State Government and also stand transferred to and vested absolutely in favour of the Occupier / Occupiers.

Now, therefore, this document be issued in favour of the said.....as a token of the title of the land since vested in him/her/them.

Schedule of land

(Boundaries or in areas cadastrally surveyed, Cadastral Survey Plot Nos. of the Settlement in which the land is comprised).

North :
South :
East :
West :

Signed and Sealed
Collector.

General Instruction regarding Recording the names of occupiers of Homestead land under the provision of the W.B. Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975.

Directorate instructions conveyed under memorandum No.125/5044-51/C/76 dated 6.6.78 may please be referred to. The present instructions supplement those given earlier and also incorporates directions issued from time to time.

2. Persons entitled to the benefit of the act can be identified in three ways :-
 - i) by enquiry into petitions received;
 - ii) by searching mouza records and locating permissive possessors of homestead land and then making enquiries u/s. 6 of Act and
 - iii) making recordings according to the list of pattas received from Collector.
3. For persons who have already received pattas, no further enquiry is necessary and khatians can be opened in their names straight-way with entries as prescribed in the earlier circular.
4. In the two other cases, the following procedure is to be adopted.
 - 4.1 As landless occupiers of homestead land belonging to the eligible categories are found in practically all the mouzas, Settlement Officers should on their own motion, issue orders under Clause 1, Second proviso to the Schedule A to the W.B.L.R. Rules, 1965, in respect of all the mouzas of all the police stations where work u/s. 51 of the W.B.L.R. Act has been taken up but has not proceeded upto the stage of final publication, authorizing the recording of the names of persons given the status of rayats or non-agricultural tenants under the West Bengal Act XLVII of 1975. A draft order is annexed. This may be used with necessary modifications.
 - 4.2 All mouzas in respect of which work u/s. 51 of the W.B.L.R. Act has started and completed at least upto the stage of K.B. should be searched and list made out of the occupiers of homestead land in the proforma below :-

Name of P.S.	Name of mouza With J.L. No.	Name of occupier with father's name	Khatian No.	Plot No.	Area in Occupation
(1)	(2)	(3)	(4)	(5)	(6)

- 4.3. The details of persons from whom applications for recording u/s. 6 of the Act are pending should be added to the list.
- 4.4. If the mouza is running in K.B. occupiers of homestead land belonging to the eligible categories should be identified by field enquiry during K.B. The working copy of modified Khatian should be split into two parts, one for the occupiers portion of homestead land and the other for the rest of the land in the Khatian. The entries prescribed in Directorate Circular No.125/5044-51/C/76 should be made in the khatians, which shall then be separately K.B'd. The khatians thus opened in favour of the occupiers should be given bye-numbers. For example, if two such khatians in favour of two occupiers are curved out of modified khatian no.3, their number shall be 3/1 and 3/2. The rest of the land shall continue to feature in khatian no. 3.
- 4.5. If the mouza is completed in K.B., but not completed in attestation, separate re-oriented khatians shall be opened in the manner previously prescribed from the prepared list of occupiers. No field enquiry is necessary at this stage. It can be held prima facie that all occupiers fall within the eligible categories, and the owners, who will get copies of parchas, will get an opportunity of rebutting the presumption or having it modified during attestation.

- 4.5.1. If re-oriented khatians have not already been prepared, card-indexes and re-oriented khatians for the occupier and the owner should be prepared on a priority basis and if necessary, before the preparation of other re-oriented khatians in the mouza.
- 4.5.2. Copies of relevant parchas should forthwith be issued to the occupier and the owner concerned.
- 4.6. If the mouza is at a stage between attestation and F.P., a mouza-war proceedings or a combined proceedings in respect of a convenient group of mouzas should be started. There should be a general hearing and if the presumption of the occupiers being eligible for getting recorded as raiyats or non-agricultural tenants is not rebutted during hearing, separate khatians should be opened under the Act and second proviso to Clause-I, Schedule-A of the W.B.L.R. Rules in the manner prescribed by the Directorate. A model order-sheet is appended.
- 4.7. If the mouza has already been placed in F.P., khatians should be opened u/s. 51B of the W.B.L.R. Act after due individual notice and hearing.
5. In the meeting held on 30.04.81, the Minister-in-Charge of our Department desired, the early completion of this item of work. The Settlement officer is, therefore, requested to have the searching of mouzas completed by 15.6.81 and the recording by 15.7.81. Separate staff should be earmarked for this work without seriously jeopardizing the other regular items of work.
6. Settlement Officers are also requested to have the list of persons recorded (other than those recorded on the basis of pattas issued by Collector) sent to the J.L.R.O. as early as possible.
7. Settlement Officers are requested to report completion of searching by 21.6.81 and of opening of khatians for occupiers by 21.7.81.

Asok Gupta
Director of Land Records and Surveys
West Bengal.

Memo No.125/2508-16/C/76

Dated, Allipore, the 11th May, 1981

Copy forwarded to :

1. The Settlement Officer for compliance.
2. The Land Reforms Commissioner, West Bengal for favour of information. A copy of Memo No.125/5044-51/C/76 dated 6.6.78 is enclosed.

ANNEXURE -I
MODEL ORDER OF SETTLEMENT OFFICER

I have received information that in mouzas mentioned in the schedule below, there is need to record eligible occupiers of land under the West Bengal Act XLVII of 1975 as raiyats or non-agricultural tenants, as the case may be, and to open khatins for each of them. I have also received information that such recording and opening of khatians has not been made in many cases during the current stage of Settlement Operation under Section 51 of the West Bengal Land Reforms Act.

Therefore, in exercise of the powers conferred under the Second proviso of Clause-1 of Schedule A of the West Bengal Land Reforms Rules, 1965, I direct that the names of such eligible occupiers be recorded at any time before final publication of the mouzas and such khatians be opened.

Revenue Officer and Settlement Officer

SCHEDULE

Mouzas having J.L. Nos. of Police Station.

ANNEXURE - 2

ORDER SHEET

1. There is reason to believe that the persons named in the Schedule below should be recorded as raiyats/non-agricultural tenants in respect of lands noted against the names in the Schedule under the provisions of the West Bengal Act XLVII of 1975. Direction authorizing such recording in respect of eligible persons in the mouza/mouzas has been received from Settlement Officer,, Vide his Memo No.....dated.....

Issue general notice appending the Schedule, sending a copy of such notice with a copy of the Schedule to the

- 1) J.L.R.O. _____
- 2) Office of the Panchayat Samity,
- 3) _____ Gram Panchayat.

for publication giving wide publicity. Also publish a copy in my office.

Objections may be filed against the proposed recording by.....at my office. The matter shall be taken up onat.....A.M. at my office for final orders. Any objector or occupier who may remain present on that latter date shall be heard.

Revenue Officer.

2. The case is taken up for hearing. No objection against the proposed entries has been received. Record the occupiers mentioned in the schedule as raiyats/non-agricultural tenants and open separate khatians for them.

Or

The case is taken up for hearing. Heard those present. The persons appearing at Sl.Nos. of the list shall not be recorded as raiyats/non-agricultural tenants for the following reasons :-

The others as per schedule shall be recorded as raiyats/non-agricultural tenants as there is no valid objection to such recording. Record them as such.

Revenue Officer.

ANNEXURE - 3

(.....Bengali Words))

CIRCULAR

No.125/3471/C/76

Dated, Alipur, the 12th June, 1981.

Instructions conveyed under this office memo no.125/2508-16/C/76 dated 11.5.81 may please be referred to.

2. During my recent tours on inspection, some difficulties in implementing the instructions contained thereon were pointed out to me.

3. It was pointed out that in many cases, a person was enjoying a piece of homestead land by exchange with some other land. These persons, in all likelihood, had other lands also. I was told that if the summary procedure outlined in the circular referred to was adopted there was a risk of these persons being recorded as occupiers contrary to the provisions of the W.B. Acquisition of Homestead Land for Agricultural Labourers, Artisans & Fishermen Act, 1975.

4. In all summary proceedings, there is a risk of a small number of mistakes in recording. But if the procedure outlined in the above mentioned circular is followed recording will be done only after a public hearing, and the risk of such mistakes will be minimum. However, in cases where there is prima facie reason to believe that the occupier may have other lands (whether due to exchange or for other reason) the following extra pre-cautions may be adopted.

5. If the exchange was made before the coming into effect of Sec. 5 of the WBLR Act (i.e. 1-3-65); the exchange was a valid method of transfer and name of the person getting the land by exchange should be recorded as owner independent of the provisions of the W.B. Acquisition of Homestead Land for Agricultural Labourers, Artisans & Fishermen Act, '75 under the normal process of recording. If the exchange was made after that date, it is not a valid method of transfer and the occupier by exchange can be recorded only as permissible possessor on the exchanged land. In such cases, there is no way, on the face of records, to distinguish him from other permissive possessors. If the person has land in another part of the same mouza, there is no chance of any mistake as that fact will come out at the time of consolidation of cards, if not earlier. But if he has land in another mouza, the fact will not come to light in this manner. However, it is expected that the real facts will come to notice during public hearing, either at the stage of attestation, or at a subsequent stage as provided in the circular. But if there is independent information available with the Revenue Officer that some of the persons provisionally listed as occupiers under the above circular have lands elsewhere, he will take the final hearing of the case in the mouza itself. In that cases, it can be safely presumed that the fact of the person having lands elsewhere will come to light.

This should be explained to all his officers concerned. A report that this has been done should be sent by the end of this month.

Asok Gupta
Director of Land Records & Surveys,
West Bengal.

●

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

No.775/5068/C/81

Dates, Alipore, the 15th/20th July, 1981

CIRCULAR

There is reason to believe that pattas issued by collectors in respect of vested and Khasmahal lands and under the W.B. Acquisition of Homestead land for Agricultural Labourers, Artisans & Fishermen Act, 1975 have not in most cases been brought to our notice either by the officers of the Management Wing or by the recipients themselves. It has also come to the notice of the undersigned that in many cases we have not been

made aware of transfer of land by the collectors to other departments or Panchayati Raj bodies. As a result, our records are incomplete to that extent and do not reflect the changes consequent on vesting and distribution. The records have been finally published in some cases. Even such finally published records will have to be corrected to incorporate the above mentioned information, when received. That will be a slightly complicated process. So, it will be better if bulk of the changes in records consequent on issue of pattas/distribution is made before final publication of the mouzas. Towards that purpose, Land Reforms Commissioner has been moved for issuing a circular to the collectors to help the settlement wing with lists containing necessary information. A copy of the letter is enclosed.

2. However, it is possible, that even on receipt of such information there may be some difficulty in making the necessary entries in the R.O.Rs. in some cases. In some cases, distribution may have been made in such a wrong manner as to make recording impossible. For example, more land, than what is available in a plot may have been distributed notionally. Again, in some cases when part of a big plot has been distributed, distribution may be without clear demarcation or description, making correction of records impossible. Further, the distribution may be only notional and to backed up by delivery of possession. In such cases, it will not be possible to transfer the information contained in the lists to the Record of Rights. But if the lists are received and scrutinized, bulk of the distribution, acquisition under the Acquisition of Homestead Act, 75 will be reflected in our records. The discrepancies may then be isolated and the Settlement Officer may take them up with the ADM (L.R) concerned for their correction.

3. The following procedure may be adopted.

3.1 The list received from collectors in respect of each mouza may be scrutinized with reference to the Khasras and khatians. As possession is noted in these documents, there should be no difficulty in finding out if the allottees are actually in possession.

3.2 If the allottees are in possession and there is no ambiguity in respect of some entries in the list, R.O.Rs are to be corrected to that extent in the manner to be laid down in the following paragraph. If there are some ambiguities, which can be corrected by an inspection of the field, this should be done.

3.3 There may be cases where the possession as noted in our records is not consistent with the allotment as per list. In such cases, there should be inspection in the field to find out if possession as shown in our records is correct. If not, our records should be corrected according to procedure to be described hereinafter.

3.4. Even after this, there may be a residue of cases where the allotment will not be backed up by delivery of possession and shall be so ambiguous as to be unrecordable even after a visit to the field. A list of such cases should be drawn up in respect of each mouza and send to the Settlement Officer by the Revenue Officer through the usual channel. The Settlement Officer, in his turn, shall refer them to the ADM (LR) concerned for further action.

4. If the information is received and scrutinized before attestation, it shall be incorporated in our records straightway, and reoriented khatian should be prepared/corrected accordingly, after drawing up mistake lists. If anyone has any objection against such recording, he will no doubt get an opportunity of agitating his objection during attestation.

4.1 If such information is received between attestation and D.P., a mistake list should be drawn up and records corrected after giving the parties concerned, including the JLRO, an opportunity of being heard.

4.2 If the list is received within a month of D.P., the JLRO should be advised to give formal objection u/s. 51A(1) and the objection disposed of in the usual manner.

4.3 If the list is received after a month of D.P. but before F.P. the powers of Settlement Officer under Schedule A of the WBLR Rules for incorporation of the information should be invoked in appropriate cases. In other cases, F.P. should be

awaited and such papers should be kept in the mouza records with a note in the order-sheet.

4.4 If the list is received after F.P., correction may be made U/s. Sec. 50 with due notice in the usual manner. This would also apply to cases referred to in the latter portion of the foregoing paragraph.

4.5. If necessary, Settlement Officer will make orders enable the Revenue Officer to correct records.

5. In the district of Purulia and Islampur Sub-Division field work U/s. 51 of the WBLR Act has not yet started in full swing. In respect of these areas, pencil notings shall be made on the R.S. records after scrutiny of the list in the above manner, and the khatians concerned should be modified as quickly as possible, after which suitable entries in ink should be made in Col. 21 of the modified khatian. This work should be done U/s. 50 of the WBLR Act and a note to that effect should be kept against the entries.

6. It is always open to the JLRO to agitate for correction of records during attestation or by way of formal objection after D.P. or F.P. The above instructions are to supplement the procedure.

Asok Gupta
Director of Land Records & Surveys, West Bengal.

————— ● —————

Copy of memorandum No.768/7538-7545/C/'81, dated, 25.09.81 from Director of Land Records and Surveys, West Bengal addressed to the Settlement Officer,

Section 2(e) of the W.B. Acquisition of Homestead Land for Agricultural Labourers, Artisans & Fishermen Act 1975, defines the word 'Land' as "either agricultural land or non-agricultural land upon which there is a homestead". Again, Sec. 2(f) of the Act defines an occupier as a person, who, subject to certain conditions, "is in possession of any land of another person" and "who holds no land in any other capacity whatsoever". It is clear that the first reference is to 'Land' as defined in the preceding clause and the second reference is to 'Land' in the plain dictionary sense of the word. This is, no doubt rather unhappy, in that the drafting is not free from ambiguity. But any other interpretation would be extremely illogical. If the second reference to 'Land' is construed as a reference to 'Land' as defined in the preceding clause, a person holding substantial land otherwise, but without any homestead land, would be entitled to the benefit of Section 4. This cannot be the intention of the legislature.

It appears that there is some confusion in the mind of some officers about the exact interpretation of Section 4 read with Section 2(f). The above position may be explained to them. In other words, only persons otherwise landless (the word 'Landless' should be interpreted in a plain & Non-technical sense) would be entitled to the benefit of section 4.

Memorandum No.16962-64/P/XXVI-76(B)/'81, dated, Kochbihar, the 28th October, 1981.

Copy forwarded to the settlement Charge Officer, Kochbihar / Jalpaiguri / Darjeeling for information and necessary action.

[Spare copies are meant for the distribution amongst the all Officer-in-Charges, L.R. 'C' Camps. All Circle Officers and all Halka Officers under his jurisdiction for guidance.]

B. Chattopadhyay
For Settlement Officer,
Koch Bihar-Jalpaiguri-Darjeeling
at Koch Bihar.

**GOVERNMENT OF WEST BENGAL
DIRECTORATE OF LAND RECORDS & SURVEYS
WEST BENGAL**

CIRCULAR

No. 1079/1235/C/79

Dated, Alipore, the 1.4.82

Sub : Meaning of the word Land in section 2(e) of the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans & Fishermen Act, 1975

Ref : This Directorate Circular No.768/7538-7545/C/81 dated 25.09.1981.

In modification of the circular mentioned above it is decided that a person who is an Agricultural Labourer or an Artisan or a Fisherman and is in possession of any homestead on the land of another person, either as a lessee or as a licensee or as a trespasser, and who satisfies other conditions mentioned in Section 4, Section 3 and Section 2(d) of the above mentioned Act shall be treated as an occupier within the meaning of Section 2(f) of the Act, if he holds less than 0.4047 hectare of land either as an assignee of vested land or otherwise, on which there is no homestead of his own.

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

●

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

No.1131(17)/G.E.

Dated, Cal. the 10th Feb. 1984.

To

The Addl. District Magistrate (L.R.)/

The Addl. Deputy Commissioner (LR)

Subject : Delivery of Documents of Title to the beneficiaries under the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975.

A reference is invited to Board's Memo No. 17508(24)-G.E dt.11.12.80 in which it was envisaged that Documents of Title would be delivered by the J.L.R.Os to the beneficiaries under the W.B. Acquisition of Homestead Land for Agricultural Labourers, Artisans & Fishermen Act, 1975.

A copy of the form of Document of conferment of title appended to rule 8 of the rules made under the Act is enclosed.

It has come to the notice of the Board that in some districts the local officers are finding it difficult to fill in the above form because of the fact that the boundaries of the plots in respect of which the title has vested in the beneficiaries have to be mentioned. A careful reading of the form particularly the portion within brackets below "schedule of land" will show that the plot will have to be described by boundaries only in the areas which have not been cadastrally surveyed. As regard the areas where cadastral survey has already been done, only the number of the plot will have to be mentioned.

It has to be remembered that all the areas where the Act is being implemented have already been cadastrally surveyed. Therefore, in the Documents to be delivered it is not at all necessary to mention the boundaries.

He is requested to see that the cases pending with the J.L.R.Os are liquidated as early as possible.

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

GOVERNMENT OF WEST BENGAL
Office of the Settlement Officer
24-Parganas

CIRCULAR

A question has arisen whether the occupiers of homestead land as per provision of the W.B. Acquisition of H.S. Land Act, 1975 within a Municipal area will get any title or khatian if any Municipality is established after coming into force of the said Act.

The Homestead Act operates on and from 26.6.1975. If the beneficiaries are in possession since before the Act came into force they earned right on the land from that date and the land deemed to have vested with effect from that date. They are, therefore, entitled to get khatian under the Act.

P. Banerjee.
Settlement Officer,
24-Parganas.

Memorandum No.104/Pt.I/15483-636/P/76 dated, the 28.5.84.

Copy forwarded to the :-

- 1) Director of Land Records & Surveys, West Bengal for favour of information.

————— ● —————
Government of West Bengal
Panchayat & Community Dev. (CD) Department
Raj Bhavan

No.229-RH

Calcutta, the 16th July, 1985.

NOTIFICATION

In exercise of the power conferred by clause (c) of Section 2 of the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975 (West Ben. Act XLVII of 1975), and in continuation of this department Notification Nos. 455-RH dated the 29th September, 1980 and 430-RH dated the 29th December, 1984, the Governor is further pleased hereby to appoint all the District Land & Land Reforms Officers and Settlement Officers, Deputy District Land & Land Reforms Officers and members of the subordinate Land Revenue Service, Grade-I to discharge within their respective jurisdiction any of the functions of Collector under the said Act.

By Order of the Governor,
J. K. Bandhu
Dy. Secy. to the Govt. of West Bengal.

————— ● —————
Memo No.775/2735-42/C/81 dt. 13./20.6.85 from D.L.R.&S. West Bengal to S.O.,
.....

Subject : Recording of less than 1 decimal of Homestead Land under the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975.

It has been reported that there are some cases where near relations have occupied small amounts of homestead land by making further minute sub-divisions and have erected homestead separately before 26.6.75 and that they are living in homesteads.

2. Two problems ensue as will be clear from the following example.

3. Let us suppose, A, B & C are three brothers who have erected 3 (three) separate homestead on 2 decimals of land divided more or less equally and are eligible for the benefit under the Act. 1/3rd of 2 decimals of land cannot be separately shown on a map of normal scale. Secondly, it is customary on 16"=1 mile to depict areas only upto two

places of decimals of an acre. In this case, if this is done, the picture of records as far as total area in a khatian is concerned will be unsatisfactory.

4. In fact, something like the following will be the picture of records as far as total area in a khatian is concerned.

Owner	Share of the plot	Area
A	1,0000	.01
B	1,0000	.01
C	1,0000	.00

Thus, the entire bata plot belonging to 'C' will have to be shown to be of Nil area, which is not proper.

5. Such problems, if encountered, should be solved in the following manner :-

(a) First, badar will be made of the plot. The sub-plots will be shown on a larger scale in the sheet-margin with remark 'Not according to Scale.'

(b) Secondly, the area of individual bata plots will be shown upto 3 places of decimal of an acre, like -

A=.007; B=.007; C=.006

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

Copy of Memo No.1079/5465/C/79 dt. 4.10.85 from D.L.R. & S., West Bengal to S.O., Burdwan.

Subject : Recording of homestead beneficiaries.

Reference : His Memo No.109/2678/S/85, dt. 5.9.85.

An occupant under the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975 has to be landless for being entitled to the benefit of the Act.

It is nowhere laid down that the land has to be in West Bengal. Landed property anywhere is a disqualification and accordingly sufficient defensive measures may be adopted.

K. P. Sandilya
For Director of Land Records & Surveys,
West Bengal.

Memorandum No.1079/5466-5476/C/79

Date : 4.10.85.

Copy with a copy of the letter to which this is a reply is forwarded to the Settlement Officer, 24-Parganas for information and guidance.

K. P. Sandilya
For Director of Land Records & Surveys,
West Bengal.

GOVERNMENT OF WEST BENGAL
Office of the Settlement Officer, Bardhaman-Bankura,
Bardhaman

Memo No.109/2678/S/85

Dated : 5.9.85

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

Subject : Recording of homestead beneficiaries.

One Shri Debnarayan Sharma has submitted a petition praying for recording him as homestead beneficiary under West Bengal Acquisition of Homestead Land for Agri. Labourers, Artisans and Fishermen Act, 1975. The history of the case as follows :-

Shri Sharma is originally a resident of Hazaribagh in the State of Bihar. He has some lands there. Shri Sharma is also an artisan. He has constructed a dwelling house in plot no. 4189 in mouza Amadpur, P.S. Memari about 15 years back and is residing there.

As Shri Sharma is an artisan, his case come under the definition of occupier of the Act. But a confusion has cropped up with regard to section 2(a) of the above Act. The occupier as per provision of above section "holds no other Land in any capacity whatsoever". But it has not been clearly defined in the Act whether the holding of land in any other States will be a disqualification for being a occupier of homestead land.

You are therefore requested to kindly issue instructions whether Shri Sharma will be recognized as homestead beneficiary and separate khatian be opened in his favour.

Sd/- Illegible,
Settlement Officer,
Bardhaman-Bankura.

●
Government of West Bengal
Office of the Board of Revenue, West Bengal
Section A I, Branch G.E.

No. 12022(27)-G.E.
330/85

Dated, Calcutta, the 28th November, 1985.

To :

- 1) **The Director of Land Records and Surveys, West Bengal.**
- 2) **The Additional District Magistrate (LR).....**
- 3) **The Settlement Officer.....**

**Sub : West Bengal Acquisition of Homestead land for Agricultural
Labourers, Artisans and Fishermen Act, 1975.**

According to the provisions made under section 2(a) of the aforesaid Act, "artisan means a handicraftsman and includes Potter, Carpenter and Blacksmith".

A question has now arisen whether a 'tailor' or a 'goldsmith' should be taken as an 'artisan' under the Act.

The matter was referred to the Law Officers of the Land and Land Reforms Department of the Government who have opined that a 'tailor' or 'goldsmith' should be treated as an 'artisan' under the Act.

It is, therefore, enjoined that the benefit of the instant Act may be allowed to a 'tailor' or a 'goldsmith' provided he is found to be an 'occupier' under section 2(f) ibid and satisfied the other conditions laid down in the Act and Rules for the purpose.

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

Memo No.12022/1(3)-G.E.

Copy forwarded to The Commissioner.....Division.....

Calcutta,
The 28th November, 1985.

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

Memo No.12022/2-G.E.

Copy forwarded to the Panchayat and Community Development Department for information with reference to that department Memo No.262-R.H. dated 3.9.85.

Calcutta,
The 28th November, 1985.

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

GOVERNMENT OF WEST BENGAL
Office of the Settlement Officer, 24-Parganas.

Memorandum No.7/39201-70/P/86

Dated the 4.12.86.

To
The Officer-in-Charge,
Centralised Halka Camp

Subject: Submission of list of recorded beneficiaries.

It has been brought to the notice of the undersigned that the land schedule of the recorded beneficiaries under the West Bengal Acquisition of Homestead Land Act is being supplied to the concerning J.L.R.Os noting present settlement plot no. and khatian number for conferment of title. As a result the J.L.R.Os are facing difficulty to maintain records at their end.

It is, therefore, requested to mention both R.S. and P.S. Khatian number and plot number in the schedule to avoid confusion. This has a reference to this Office Memo No.49/5225-28/P/83 dated 5.2.83.

N. B. Lodh
Settlement Officer,
24-Parganas.

Copy of Memo No.775/5310-5318/C/81 dt. 20/27.10.86 from D.L.R. & S., West Bengal to S.O., 24-Parganas.

Subject : Recording the names of allottees of Govt. land at any stage before F.P.

It has come to notice that the names of allottees of Govt. land are in some cases not being included in the R.O.Rs between stages of revision and that the persons concerned are being directed to wait till the next stage of revision. In this connection, his attention is drawn to the second proviso to clause (1) of Schedule 'A' appended to the West Bengal Land Reforms Rules 1965. Under this proviso, names of bargadars, occupiers of land under the West Bengal Acquisition of Homestead land for Agricultural Labourers, Artisans & Fishermen Act, 1975, transferors to whom land has been restored under the Restoration of Alienated Land Act, 1973, and allottees of Govt. land can be incorporated in the R.O.Rs at any stage before the Final Publication of the same by order of the Settlement Officer.

2. It is reiterated that advantage should be taken of this proviso for incorporating the names of recipients of Govt. land between stages of the Revisional Settlement Operation.

3. This may be brought to the notice of all concerned once again.

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

Memo No.19083-GE 455/87 dt. Calcutta the 19/21.12.87 from the Special Secretary, Board of Revenue, West Bengal to the Director of Land Records & Surveys, West Bengal.

Subject : Applicability of the provisions of the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975.

Reference : His Memo No.1079/4827/C/79 dt.10.11.87.

The undersigned is directed to refer to the above and to state that the matter was referred to the Law Officers who have opined that a "Wakf" estate is not a local or statutory authority within the meaning of Sec. 3(b) of the W.B. Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975. Therefore, the views conveyed under his memo no. under reference are confirmed.

Memo No.295-GE-422/87 dt. 9.1.89 from Board of Revenue West Bengal to D.L.R. & S.

Subject : Implementation of W.B. Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975.

Reference : His memo no.1079/2025/C/79 dt. 14.6.88.

According to provisions made under section 2(a) of the aforesaid Act 'artisan means a handicraftsman and includes Potter, Carpenter and Blacksmith'. The benefit of the Act has also been extended to Tailor and Goldsmith under Board memo No.12022(27)-GE dt. 28.11.85/30.1.86.

A question has now arisen whether a 'mason' should be taken as 'artisan' under the Act.

The matter was referred to the Law Officers of the Govt. who have opined that a 'mason' should be treated as an 'artisan' under the Act.

It is, therefore, enjoined that the benefit of the instant Act may be allowed to a 'mason' provided he is found to be an occupier U/s 2(f) ibid and satisfied the other terms and conditions laid down in the Act and Rules for the purpose.

A.K. Chakraborty
Special Secretary,
Board of Revenue, West Bengal.

GOVERNMENT OF WEST BENGAL
Office of the Director of Land Records & Surveys &
Joint Land Reforms Commissioner, West Bengal
35, Gopalnagar Road, Alipur, Kolkata - 700027.

Memo No. 13/888/C/2002

Dated, Alipur, the 19th February, 2002

To
The District Land & Land Reforms Officer,
Howrah.

Sub : Recording of homestead land in Wakf of State

With reference to his office Memo. No. 06/LR dated 01.01.2002, this is to state that the West Bengal Acquisition of Homestead land for Agricultural Labourers, Artisans & Fishermen Act, 1975 extends to the whole of West Bengal except the areas included in a Municipal Corporation, a Municipality, a Town Committee, a Notified area, a Cantonment and also the areas included in the Kolkata Metropolitan area.

2. Land, in this Act, means either agricultural land or non-agricultural land upon which there is a homestead.

3. Nothing in this Act shall apply to any land (a) belonging to or taken on lease or requisitioned by the Central Government or any State Government (b) belonging to or taken on lease by local or statutory authority.

Now as per Wakf Act, Bengal Wakf Act, Board of Wakf is a statutory body, but Wakfs are not at all belonging to Statutory body.

As per Wakf Act 1995, Wakf means a permanent dedication, by a person professing Islam, of movable or immovable property for any purpose recognised by Muslim Law as pious, religious or charitable purposes and includes etc.

Now, each Wakf is individual endowment/Institution and identified by the name of the Wakf, created for the spiritual benefit of the dedicator.

In West Bengal Land Reforms Act 1955, such institutions are all raiyats U/S 2(10) of WBLR Act 1955. As there is no bar to vest the excess land of Wakf, no bar in recording of bargadar, hence, there is no bar in recording a beneficiary's name under the West Bengal Acquisition of Homestead Land for Agricultural labourers, Artisans & Fishermen Act, 1975, provided fulfilling all other conditions of the said Act, any beneficiary construct a homestead on Wakf land on or before 26.06.1975.

He is requested please to take necessary steps as per clarification made above.

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

Memo No. 13/889-919/C/2002

Dated, Alipur, the 19th February, 2001

Copy forwarded for information and necessary guidance to the :-

- (1) The Direct Land and Land Reforms Officer
- (2) Sri..... for information and necessary action.
- (3) Officer-in-Charge, Library (Directorate)
- (4) Head Assistant 'C' Group with a request to show it to all of 'C' Group.
- (5) Guard File 'C'

A. K. Bhattacharyaa
for Director of Land Records and Surveys and
Joint Land Reforms Commissioner, West Bengal

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From page no. 81 and 82 of 2004 (1) CLJ (Cal)
CONSTITUTIONAL WRIT JURISDICTION
Before Mr. Justice Altamas Kabir and
Mr. Justice Alok Kumar Basu
Decision : November 27, 2003

Shri Narendra Nath Roy, alias Narendra
Kumar Roy alias Narendra Narayan Roy

... Petitioner.

= Versus =

State of West Bengal and Others.

... Respondents.

West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans & Fishermen Act, 1975 - Section 9 - Order of the Revenue Officer performing the functions of the Collector under the Parent Act - Not applicable - Should be heard by the Tribunal.

The present writ application was filed by the petitioner against an order of the West Bengal Land Reforms and Tenancy Tribunal whereby the petitioner was directed to file an appeal by reference under section 9 of the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans & Fishermen Act, 1975 against the order of the Revenue Officer before the District Land and Land Reforms Officer, Cooch Behar.

Setting aside the order passed by the Learned Tribunal, the Court.

HELD : It has been pointed out that the order of the Revenue Officer is not appealable, since he was discharging functions of Collector under the aforesaid Act vide Notification No.229 RH/Cal. Dated 16th July, 1985. As has been rightly pointed out, by virtue of such notification, the learned Tribunal should have heard out the matter itself, as no appeal lay against the order of the Revenue Officer.

Mr. Biswanath Chakraborty, Sukanta Roy and Baskar Sinha.

... for the petitioner.

The Judgement of the Court was as follows :-

Despite service of notice, none of the respondents appears to oppose the writ application when it is taken up for consideration.

2. Mr. Chakraborty appearing in support of the writ application has drawn our attention to the error in the order of the learned Tribunal, whereby the learned Tribunal directed the petitioner herein to prefer an appeal by way of reference under section 9 of the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans & Fishermen Act, 1975 before the District Land & Land Land Reforms Officer, Cooch Behar. It has been pointed out that the order of the Revenue Officer is not appealable, since he was discharging the functions of Collector under the aforesaid Act vide Notification No.229 RH/Cal. Dated 16th July, 1985. As has been rightly pointed out, by virtue of such notification, the learned Tribunal should have heard out the matter itself, as no appeal lay against the order of the Revenue Officer.

3. In such circumstances, we set aside the order passed by the learned Tribunal with a direction upon the learned Tribunal to hear out the matter on merits and to pass a reasoned order within two months from the date of communication of this order.

4. We make it clear that we have not gone into the merits of the matter and all points are left open for decision by the learned Tribunal.

There will be no order as to costs.

Urgent Xerox certified copy, if applied for be given to the petitioner early.

Kabir, J.
Basu, J.

WEST BENGAL LAND REFORMS AND TENANCY TRIBUNAL

The Hon'ble Mr. K.L. Mukhopadhyay, Administrative Member
and

The Hon'ble Mr. P.K. Ghosh, Judicial Member
Title-Case / Appeal No. O.A. 457/99 (LRTT)

Nibaran Mondal Versus The State of West Bengal & Ors.

Date of Order	Order of the Tribunal
22.02.2000	(1) The applicant Nibaran Mondal, son of Late Gobinda Mondal, P.O. and Village Ailer Upper within the P.S. Raghunathganj, District Murshidabad has in this application invoked the jurisdiction of this Tribunal under section 10 of west Bengal Land Reforms and Tenancy Tribunal Act, 1997.

(2) He has challenged the legality and propriety of the order dated 06.07.99 passed by the Respondent No.8, acting as the Appellate Authority under section 9 of the West Bengal Acquisition of Homestead Land for Agricultural Labourers, Artisans and Fishermen Act, 1975 (hereinafter referred to as W.B. act 47 of 1975) in Misc. Appeal No. 26 of 1996 (Annexure "D")

(3) The aforesaid Misc. Appeal under Section 9 of the W.B. Act 47 of 1975 was directed against the orders dated 09.03.90 and 10.03.90 passed by the Respondent no.5 in Homestead Beneficiary Cases on petition bearing serial nos. 152 of 1987 and 174 of 1990 disposed of analogously by one and the same order.

(4) We have heard the Ld. Lawyer for the applicant as well as the private respondent No.7 and the Government Representative who produced the copies of the Case records of petitions bearing serial nos. 152, 173 and 174 as also the copy of the impugned order passed by the Appellate Authority and the copies of relevant Record of Rights. The Learned Lawyer for the private respondent no. 7 also produced copies of L.R. Khatian no. 835, 836 and 837 of Mouza Ramakantapur J.L. No. 129, P.S. Raghunathganj.

(5) On perusal and close scrutiny of the records produced by the Government Representative and upon going through the Judgment and order dated 06.07.99 passed by the Appellate Authority we are of the opinion that the Ld. Appellate Authority failed to appreciate the true scope and meaning of the word 'Occupier' as defined in Section 2(f) of the W.B. Act, 47 of 1975 which is reproduced below :-

“ ‘Occupier’ means an agricultural labourer or an artisan or a fisherman who is in possession of any land of another person, either as a lessee or as a licensee or as a trespasser and who holds no other land in any capacity whatsoever and includes the heirs of such persons.”

(6) The above definition of 'occupier' prescribes the following qualifications in order to be recognised as an occupier within the meaning of the W.B. Act, 47 of 1975 :-

- a) He must be an agricultural labourer or an artisan or a fisherman.
- b) He must be in possession in any land of another person, either as a lessee or as a licensee or as a trespasser and
- c) He shall not hold any other land in any capacity whatsoever.

(7) The appointed date as per Section 4 of the W.B. Act 47 of 1975 is 26th day of June 1975, on which date the occupier must be in such possession as is referred to in section 2(f) of the Act.

(8) While affirming the order of the Revenue Officer the Ld. Appellate Authority observed:

“On the other hand it is seen in the finding of the Ld. R.O. that the Respondent is a very poor and landless person. Even though they have a small quantum of agri land having no homestead land of his own he will be entitled to get the benefit of the said Act, as he holds land much below the allowable limit.”

(9) The above findings of the Ld. Appellate Authority cannot be sustained. He has no power to pass any order on compassionate ground. If a statute prescribes certain qualification and impose limitation for being a beneficiary under the said statute, the prescribed authorities under the statute has got to be satisfied first if the applicant has the requisite qualification before declaring him to be recognised as a beneficiary.

(10) In the instant case on his own finding as quoted above in paragraph '8', the Respondent is the owner of small quantum of agricultural land and that ownership disentitles him to be a beneficiary under the W.B. Act, 47 of 1975 as it offends clause (c) as formulated in paragraph '6' above.

(11) The reasoning of the Appellate Authority while affirming the decision of the Revenue Officer appealed against as regards the category to which the Respondent belongs is also queer. He failed to appreciate that the applicant beneficiary must spell out to which category of 'occupier' as defined in Section 2(f) he belongs to and it is not for the appellant to spell out in his memo of the appeal as to which category his adversary belongs. According to the appellate authority the Revenue Officer has mentioned his order that the Respondent belongs to artisan and agri labour category.

(12) If we turn to the order of the Revenue Officer dated 09.03.90 it would be apparent that he had made a passing remark that the "petitioners are poor, landless and artisans and agri-labourers."

(13) The petitions bearing serial nos. 173 and 174 filed by Narayan Mondal and Dharmesti Mondal respectively on 28.02.90 praying for recording their names as beneficiaries under the W.B. Act. 47 of 1975 however is silent as to which category of 'occupier' they belong to.

The petitions bearing serial no. 152 filed on 12.11.87 by the Applicant Nibaran Mondal on the other hand show that he claimed himself to be a landless agricultural labourer.

(14) We were at first wondering why the application filed in November 1987 was taken up for hearing in March 1990 along with the application filed on the last day of February 1990. But as we went through the averments of the three applications dated 12.11.87 and 28.02.90 the whole episode became transparent to us.

(15) In the applications dated 12.11.87 filed by the applicant Nibaran it was alleged that he was occupying .04 acre of land in plot no. 167/645 of mouja Ramakantapur and that one Narasingha Bhakat was the recorded Raiyat of that plot upon which the applicant has erected his own house and using the same as his homestead for the last 20 years. He further alleged that Narasingha being dead his heir Hari Sankar was giving out that he will sale out the said plot upon which the applicant has erected his homestead and that he having no other land or homestead he be conferred the benefit of W.B. act 47 of 1975.

(16) In the other two applications filed on 02.02.90 the applicants Narayan Mondal and Dharmisti Mondal in the same tune alleged that they are in possession of .02 acres of land each in plot no. 167/646 for the last 40 years and that they have erected their respective homestead on the said land of which the present owner is Hari Sankar Bhakat, son of Narasingha Bhakat of Jangipur and that one Nibaran Mondal, son of

Late Gobinda Mondal of Ramakantapur is threatening to dispossess them.

(17) The Revenue Officer in his order date 09.03.90 has mentioned that Nibaran Mondal is in occupation of plot no. 167/645 while Narayan and Dharmisti are in occupation of plot no. 167/646 and that Nibaran occupies about .03 acres in plot no. 167/645 while the two others are occupiers of same quantity of land i.e. .03 acre in plot no. 167/646. He further observed that the land possessed by the first petitioner Nibaran is owned by the father of the other two petitioners viz. Narayan and Dharmisti while the land possessed by Narayan and Dharmisti is owned by Nibaran.

(18) From Annexure 'A' to the present application we find that Nibaran by a regd Kobala dated 20.12.89 purchased .04 acres of land in plot no. 167/646 of mouja Ramakantapur from the heir of the recorded owner Narasingha Bhakat. The relevant record is Khatian No. 266, J.L. No. 129. It will however appear from the said record that Narasigha's share in the aforesaid plot was to the extent of 4 annas and as such only one decimal of land was recorded in his name in the said khatian and therefore by virtue of the purchase Nibaran at best acquired title upon that one decimal of land in plot no. 167/646 and not over the entire area of .04 acres.

From Annexure 'B' we find that Dharmisti Mondal by regd Kobala dated 20.06.88 purchased 1/6th share in plot no. 167/645 recorded in Khatian No. 279 of mouja Ramakantapur from the heirs of Dukhipada Mondal viz Srikrishna Mondal and Jamini Mondal. Jamini is the mother of and Srikrishna is brother of Respondent no. 7 Dharmisti.

(19) From the copies of notices dated 01.03.90 produced from the office of the Block Land and Land Reforms Officer, Raghunathganj, through the Govt. Representative some peculiar features have been noticed by us which unequivocally point to non-application of mind and also manipulation and or fabrication of documents.

In the first notice the name of the applicant is Nibaran Mondal, the relevant plot no. is 167/645 and the name of the recorded owners are Arati Mondal and 7 others though Nibaran claimed that the land he occupies belonged to Hari Sankar Bhakat. This notice was issued on 19.02.90 i.e. before the other two applicants Narayan and Dharmisti filed their applications on 28.02.90. The date of issue as originally written had been scored through and the date 01.03.90 had been written and time for holding the spot enquiry had been fixed at 8.30 a.m on 09.03.90.

The other two notices in which Narayan Mondal and Dharmisti Mondal respectively are the applicants show that they had applied for recording their names as Bargadar in plot no. 266 having an area of .54 acres which stood recorded in the name of one Rakhal Ch. Mondal as the Raiyat. In these two notices the time for spot enquiry had been mentioned as 9.30 A.M. and not 8.30 A.M. on 09.03.90 and plot no 167/646 of which Narasingha Bhakat was the recorded raiyat but the area of the plot has not been mentioned, appeared to have been subsequently added. The first notice was served upon the owners Arati Mondal & Ors and the other two notices were served upon Rakhal Ch Mondal in whose land barga right had been allegedly claimed as per the contents of the said notices.

The above discussion of the state of the records produced by the Government Representative raises suspicion as to the bonafides of the Revenue officer who initiated the proceeding and that his recklessness is manifest on the faces of these notices.

The Revenue Officer recorded a statement of Nibaran but not that of Narayan and Dharmisti and to meet his purpose obtained the L.T.I. of the later two on recorded statement of Nibaran. He did not record separate statements of local witnesses but obtained the signature of three local witnesses on a plural statement recorded singly.

For all these reasons as set out above, we are satisfied that the Revenue Officer not only acted arbitrarily but also in a reckless and irresponsible manner and has fabricated documents and as such the orders passed by him in Homestead Beneficiary Case Nos. 152, 173 and 174 of 1987-1990 cannot be sustained and the order of the Appellate Authority dated 06.07.99 is also hereby set aside and L.R. Khatian Nos. 835, 836 and 837 are hereby quashed.

With the aforesaid observation the application is disposed of .

K.L. Mukhopadhyaya
P. K. Ghosh

<http://wbllroa.in>