

23. CIRCULARS ON TEA GARDEN

From Board of Revenue File No. 631/60-E.A.

Subject. – The West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954) – Section 6(3)— Resumption of land by the State Government – (i) Whether the rights of all classes of intermediaries in the different tea estates have vested; (ii) If so, whether any amendment of the Act is necessary to ensure that all tea estates are allowed to be held subsequent to the Government’s decision under section 6(3), under the terms and conditions similar to those provided in Form “C” appended to Chapter V, Part II, of the Bengal Waste Lands Manual; and (iii) Whether the conditions mentioned in clause 14(4)(3) of the aforesaid Form “C” can still be retained in view of the provisions of the Constitution that there cannot be any acquisition of property without payment of compensation.

Additional Deputy Legal Remembrancer’s opinion

(i) (a) The rights of several classes of intermediaries [as defined in section 2(i) of the West Bengal Estates Acquisition Act, 1953] in different tea estates have vested in the State upon publication of notification under section 5 of the Act.

(b) With regard to the vesting of interests of lessees holding leases under the Government, the question is not free from difficulty. It seems that the interests of such lessees would be “estate” within the meaning of section 2(f) of the West Bengal Estates Acquisition Act, 1953, read with section 3(4) of the Bengal Tenancy Act, 1885. The “estate” according to the said section 3(4) of the Bengal Tenancy Act, 1885, means land included under one entry in any of the General Registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Collector of a district and includes Government Khas Mahals and revenue-free lands not entered in any Register.

It appears from rules 27, 40 and 42 of Chapter V of the Bengal Waste Lands Manual that every lease with regard to tea cultivation whether it is a preliminary lease or a lease of Jote lands converted for tea cultivation or transfer or amalgamation of tea leases, is to be entered as a separate Government estate in Tauzi Roll in Register 32, Part III.

Therefore, the said leases should be considered as “estates” within the meaning of the West Bengal Estates Acquisition Act, 1953, and so the interests of the lessees had vested in the State upon publication of notification under section 5 of the Act.

But what would be the position of such lessees after their interests have vested in the State is not clear from the provisions of the said Act. Such a lessee may be considered as a “tenure-holder” under section 5(5) of the Bengal tenancy Act, 1885, if the area held by him exceeded 100 bighas, and consequently he would be an intermediary within the meaning of section 2(i) of the West Bengal Estates Acquisition Act, 1953. He will thus be entitled to retain lands to the extent it is allowed under section 6(1) of the Act and shall hold it under conditions provided by section 6(2) of the Act. The proviso to the said section will have no application in his case.

The point regarding the vesting of such lessees’ interests and the rights of the lessees after such vesting needs clear provision in the Act and, I think, the Act should be suitably amended therefor.

(c) With regard to interests of “lessees” under the intermediaries, it seems that their interests have not vested in the State. Section 2(i) [as amended] defines “intermediary”. It means a proprietor, tenure-holder, under-tenure-holder or any other intermediary above a raiyat or a non-agricultural tenant and includes a service tenure-holder and, in relation to mines and minerals, includes a lessee and sub-lessee. The

above definition clearly indicates that lessees or sub-lessees under the intermediaries except in relation to mines and minerals, are not "intermediaries".

Under section 5(a) of the Act, the estates and rights of intermediaries in the estates only vest in the State. Consequently interests of such lessees would not vest under the provisions of the Act.

But such lessees would, under the proviso to sub-section (2) of section 6 of the Act, after the vesting of the rights of intermediaries, hold such leases under the State Government on the same terms and conditions as they were immediately before such date.

(ii) Under the proviso to sub-section (2) of section 6 of the West Bengal Estates Acquisition Act, 1953, the lessees under leases granted by ex-intermediaries shall hold tea garden, as has been stated already, on the same terms and conditions as before the date of vesting. The said proviso having thus made specific provision as to the terms and conditions, I do not think that such terms can be modified and brought under conditions uniform with those in "C" Form lease of the Waste Lands Manual, without the consent of such lessees or unless that proviso is suitably amended.

(iii) Clause 14(4)(3) of the "C" Form of lease provides (inter alia) that the demised lands or any part thereof, which may at any time be required for public purpose, may be resumed by the Government without any compensation. I do not think that such provision can now be incorporated in the lease in view of Article 31 of the Constitution of India which requires provision of compensation being made for property acquired for public purpose.

Legal Remembrancer's opinion

I agree with the Additional Deputy Legal Remembrancer that the lands covered by the leases will be considered as estates.

When the holder of any tea garden is recorded as a tenure-holder, an under-tenure-holder or a riyat, there is no difficulty regarding vesting as the normal provisions of the West Bengal Estates Acquisition Act, 1953, will apply. If any holder is not an intermediary as defined in the Act, then his position is that of a lessee within the meaning of that expression as used in the Act. Now, section 6(1) says that notwithstanding the vesting, an intermediary can retain certain classes of lands. It is specifically stated there that the provisions will apply except in the cases mentioned in the proviso to section 6(2). The proviso to section 6(2) deals, among other things, with tea gardens and lays down that if a tea garden was held immediately before the date of vesting under a lease, such lease shall be deemed to have been given by the State Government. Further, the explanation added at the end of sub-section (3) of section 6 lays down that the expression "land held under a lease" will include any land held directly under the State under a lease. It is clear, therefore, that though the holder may not be an intermediary but just a lessee, he will be governed by the provisions of the Act and will continue to hold the land as a lessee and the State Government will have the right to resume surplus land. Such surplus land can only be resumed after payment of compensation. It will not be possible to resume any such land without payment of compensation relying on any conditions in any lease.

I, therefore, agree substantially with the opinion of the Additional Deputy Legal Remembrancer except that the only amendment which may be necessary is to provide that for purposes of assessment of compensation, a lessee of a tea garden land will be deemed to be an intermediary as in the case of a lessee of any forest land.

Confidential

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

No.1332 - G.E.
195/90

Dated, Calcutta, the 25th May, 1990.

From : Shri N. K. Raghupathy, I.A.S.,
Secretary,
Board of Revenue, West Bengal,
Writers' Buildings,
Calcutta - 700 001.

To
The Collector,
Jalpaiguri / West Dinajpur / Cooch Behar / Darjeeling / Malda.

Sub : Guidelines to regulate extension of tea cultivation by the existing tea gardens and setting up of new tea gardens in the North Bengal districts.

The undersigned is directed to say that the State Government is considering a suitable policy and a set of guidelines to regulate the extension of tea cultivation by the existing tea gardens and new tea cultivation in the North Bengal districts. While the details of the guidelines are being worked out by the Government, it has been decided that the extension of existing cultivation or new cultivation will not be permitted in lands covered by the command area of the multipurpose Teesta Barrage Project and forest lands.

He is requested to instruct the field officers to maintain constant vigil so that pending issue of details guidelines, agricultural lands in his district are not put into use for tea cultivation. Action under Section 4D of the W.B.L.R. Act should be immediately initiated in cases where such conversion has been made without permission from the Collector in contravention of the provisions of Section 4C of the Act.

The Board of Revenue may be kept informed of the action taken.

N. K. Raghupathy,
Secretary,
Board of Revenue, West Bengal

————— • —————
GOVERNMENT OF WEST BENGAL
LAND AND LAND REFORMS DEPARTMENT
LAND REFORMS BRANCH

RESOLUTION

No.552-L. Ref.

Dated, Calcutta, 11th June, 1990.

WHEREAS a number of interested parties have recently approached the Government with proposals to establish new tea gardens in areas hitherto not under tea plantations or not earmarked for tea plantations ;

AND WHEREAS it has come to the notice of the Government that a number of speculators are already in the process of creating land transfers in order to bring new areas under tea cultivation;

AND WHEREAS it has come to the notice of the Government that a number of raiyats are in the process of altering the mode of use of lands held by them in order to bring such lands under tea cultivation;

AND WHEREAS the State Government is concerned that such uncoordinated efforts to bring fresh areas under tea cultivation may create serious socio-economic problems in these areas ;

AND WHEREAS the State Government wishes to ensure that new tea plantations are developed in conformity with development objectives being pursued by the Government and the Panchayats in these areas;

AND WHEREAS the State Government feels that it is necessary to ensure that the benefits from such new tea plantations accrue to the inhabitants of these areas equitably;

AND WHEREAS the State Government feels it necessary to adopt guidelines to deal with such proposals to establish new tea plantations in Darjeeling, Jalpaiguri, West Dinajpur, Malda and Cooch Behar districts;

It is hereby resolved that the following guidelines may immediately be followed in this regard :-

- 1) Proposals from existing tea gardens for such new tea plantations in any area may be considered only after such tea gardens have ensured that lands retained by them specifically for the purpose of tea plantations in future have been, in the meantime, brought under tea ;
- 2) Proposals from existing tea gardens and from others who may not have tea plantations at the time of submission of the proposals may be considered only after specific recommendations are received from the Tea Board.
- 3) Areas that may be considered should not include lands covered by the command areas of the multi-purpose Teesta Barrage Project or forest lands or prime agricultural lands or agricultural lands owned by tribals or agricultural lands which have already been settled with persons eligible under Sec. 49 of the W.B. Land Reforms Act, 1955 or agricultural lands under barga cultivation ;
- 4) Proposals should be accompanied by detailed submissions on offer of employment or subsistence allowance to such families as may be affected or displaced due to extension of tea cultivation or due to bringing of new areas under tea cultivation;
- 5) Areas being considered for tea plantations are to be planned to be developed in a manner which does not adversely affect existing facilities of drainage, irrigation, marketing, roads, communications, fisheries etc., enjoyed by the local population in the surrounding areas ;
- 6) All such proposals for new tea plantations should be examined by a District Level Committee consisting of the Collector of the district, the Sabhadhipati of Zilla Parishad and the District Land and Land Reforms Officer concerned and the committee's recommendations sent to the Commissioner of Jalpaiguri Division for the latter's examination and transmission to the Land & Land Reforms Department ;
- 7) The Land & Land Reforms Department, in consultation with the Commerce & Industries Department, will decide as to whether each such specific proposal is to be cleared in whole or in part; and
- 8) Only after such clearance is issued by the Land & Land Reforms Department, the Collector of the concerned district will issue necessary directions for land transfers to be effected and registered, mutations to take place and conversion of land use to be allowed under the existing Acts and Rules in force.

ORDER

Ordered that the Resolution be published in the Calcutta Gazette and copies be forwarded to the officers and Departments of the State Government concerned, Ministry of Commerce, Government of India and the Tea Board.

By order of the Governor,
T. C. Dutt.
Chief Secy. to the Govt. of West Bengal.

No. 553(24)-L.Ref.

Dated, Calcutta, the 11th June, 1990

Copy forwarded to :-

- 1) The Secretary,
Commerce & Industries Department, Govt. of West Bengal.
- 2) The Board of Revenue, Govt. of West Bengal,
- 3) The Secretary to Chief Minister, Govt. of West Bengal.
- 4) The Chairman, Tea Board,
Brabourne Road, Calcutta.
- 5) The Commissioner, Jalpaiguri Division,
P.O. & Dist. – Jalpaiguri.
She is also requested to circulate copies to all recognised associations of tea plantations. Copies of the resolution may be circulated to all concerned.
- 6) The District Magistrate & Collector,
- 7) The District Land & Land Reforms Officer,
- 8) The Superintendent of Police,
- 9) The Director General of Police, West Bengal.
- 10) The Deputy Inspector General of Police,
Jalpaiguri Range,
P.O. & Dist. – Jalpaiguri.

Sd/- Illegible
Secretary, Board of Revenue
& Joint Secretary,
Land & Land Reforms Department

●

Government of West Bengal
Office of the Board of Revenue, West Bengal
Section – AI : Branch – GE

No. $\frac{3257(5) - GE}{31/91}$

Dated, Calcutta, the 25th April, 1991.

To
The District Land & Land Reforms Officer,

Sub: Unauthorised cultivation of tea – action to be taken.

The undersigned is directed to refer to Resolution No.552-L. Ref dt. 11.6.90 of Land and Land Reforms Department on extension of tea cultivation and to state that the aforesaid resolution inter – alia envisages that –

- (i) unauthorised conversion of agricultural land for tea cultivation shall not be allowed and
- (ii) such conversion shall not be permitted if the land is under barga cultivation or if it is held by tribal raiyats or if it constitutes land at the disposal of the government distributed to eligible persons u/s 49 of the W.B. Land Reforms Act, 1955.

The following provisions of the W.B.Land Reforms Act, 1955 are brought to his/her notice in this context –

- A. Sec. 4(4) provides for vesting of the holding of a raiyat if he has used the land comprised in the holding for any purpose other than that for which it was held by him or settled by the State.
- B. Sec. 4C empowers the Collector to grant permission for change of use of land. Any unauthorised conversion is an offence under Sec. 4D and the Collector or an officer authorised by him should prefer a complaint regarding unauthorised conversion if any, to the Court having jurisdiction in the area. Prosecution u/s 4D and action u/s 4(4) are mutually exclusive.
- C. Sec. 14E authorises the Revenue Officer to set aside transfer by tribal raiyats if such transfers are violative of the restrictions imposed on alienation of land by tribal raiyats by Chapter II *ibid*.
- D. According to Sec. 19A(2), termination or attempt to terminate the cultivation of the land by a bargadar is an offence and such an offence is cognizable u/s 19A(3).
- E. When land at the disposal of the Government is settled with a person under Sec. 49, he shall not be entitled to transfer such land and in the event of such transfer, the settlement or the transfer or both, may be annulled by the Revenue Officer u/s 49(2).

It is requested that the above provisions of the W.B.Land Reforms Act may be utilised for effective enforcement of the provisions of the Resolution dt.11.6.90.

K. P. Sandilya
Special Secretary,
Board of Revenue, West Bengal.

Memo No. 3257/1(17) – GE
31/91

Copy to :-

1. Divisional Commissioner, Jalpaiguri.
2. Collector.
For information and necessary action.

Dated, Calcutta,
The 25th April, 1991.

K. P. Sandilya
Special Secretary,
Board of Revenue, West Bengal.

**The
Calcutta Gazette
Extraordinary
Published by Authority**

VADRA 18]**TUESDAY, SEPTEMBER 9, 1997****[SAKA1919]**

PART 1 – Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury etc.

**GOVERNMENT OF WEST BENGAL
Land & Land Reforms Department
L.Ref. Branch**

NOTIFICATION

No.8542-L, Ref.

Dated, Calcutta, the 8th Sept., 1997

In exercise of the power conferred by section 60 of the West Bengal Land Reforms Act, 1955 (West Bengal Act X of 1956), the Governor is pleased hereby to make after previous publication as required by sub-section (1) of the said section, the following amendments in the West Bengal Land Reforms Rules, 1965, as subsequently amended (hereinafter referred to as the said rules), namely

Amendments

In the said rules, -

(1) after rule 14G, insert the following rule :-

“14GG. Form and manner of submission of proposal for acquisition of land in excess of the ceiling limit :

(1) A person, as defined in the Explanation to Section 14Y of the Act, intending to establish a tea-garden, mill, factory or workshop, livestock breeding farm, poultry farm, or dairy, or township in accordance with the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979, and requiring land in excess of the ceiling limit of Section 14M of the West Bengal Land Reforms Act, 1955, shall have to apply to the State Government in the Land and Land Reforms Department for previous permission, in writing to acquire and hold land in excess of the ceiling limit, in Form No.7C or in any other Form, substantially similar thereto.

(2) The application shall contain such particulars and shall be accompanied by such documents as are mentioned in Form 7C.

(3) The State Government may also call for from the applicant any other information that may be required for the purpose of considering the application.

(4) The State Government in the Land and Land Reforms Department may, after due consideration, grant such permission in respect of so much of land as, in the opinion of the State Government would be sufficient.

(5) A person having been permitted to retain land in excess of the ceiling limit prescribed under section 14M of the West Bengal Land Reforms Act, 1955, shall hold such Land from such date as may be specified in the order issued by the State Government in the Land and Land Reforms Department.

(6) The land shall be used strictly for the purpose for which permission for retention in excess of ceiling limit has been given;”

(2) after Form No.7B insert the following Form :-

FORM 7C
[See sub-rule (1) of rule 14GG]

FROM DATE.....
.....
.....
(State Name and Address of the applicant(s))

To
The Secretary,
Land and Land Reforms Department, West Bengal

Sub : application for permission to hold land in excess of the ceiling limit.

Sir,

I/We intend to set up and require land for the purpose of I/We , therefore, request you to grant permission u/s 14Y of the W.B.L.R. Act for acquisition and holding of land in excess of the ceiling limit under section 14M of the said Act.

In support of the application, I/We, enclose herewith the following particulars and documents for your consideration:

- A) A project profile
B) Particulars of the Land.
(i) Mouza with J.L. No., Khatian No. and Plot No.
(ii) Police Station.
(iii) District
(C) A plan showing the detailed use of the land proposes to be acquired.

I/We hereby declare that the information given above and in the enclosures are correct to the best of my/our knowledge and belief.

Yours faithfully,
By Order of the Governor,
R. N. De
Secy. to the Govt. of West Bengal.

————— ● —————
Government of West Bengal
Office of the Commissioner, Jalpaiguri Division
Jalpaiguri.

Memo No. 345/LMR

Dated 17.04.1998

From : Commissioner,
Jalpaiguri Division,
Jalpaiguri.

To
The District Land and Land Reforms Officer,
Darjeeling.

In continuation of this office Memo.No.211/L.M.R. dated 24-2-98 regarding conversion of agricultural land into tea Factories in Siliguri Sub-Division, it is

further clarified that permission for conversion of land may be sought by three categories of applicants –

- (i) Existing lease-hold Tea Gardens may seek permission to use Tea Garden land for establishment of captive Tea Factories.

In such an event, the applications will have to be disposed of in terms of the lease granted to the Tea Gardens.

- (ii) Tea Gardens which have come up unauthorisedly in the past few years may apply for conversion of agricultural land into captive Tea Factories.

Such applications will have to be disposed of in terms of guidelines issued by the Land and Land Reforms Department in respect of extension / expansion of tea cultivation in new areas.

- (iii) Applications may be received from entrepreneurs who want to establish Tea Factories without any captive tea plantation.

In such cases since there do not appear to be any guidelines issued by the Land and Land Reforms Department regarding grant / refusal of permission for conversion, these applications can be disposed of on merit and in terms of West Bengal Land Reforms Act, 1955 and Rules made thereunder.

It is requested that appropriate action may be taken accordingly. Land and Land Reforms Department is being apprised of these instructions.

N. K. Raghupathy
Commissioner, Jalpaiguri Division,
Jalpaiguri.

Memo No.345/1(4)LMR

Dated 17.04.1998

- Copy to :
- (1) The Principal Secretary to the Government of West Bengal, Land and Land Reforms Department, Writers' Buildings, Calcutta – 700 001 for information.
 - (2) District Land and Land Reforms Officer, Jalpaiguri for information and necessary action with reference to his Memo. No.136/LMS-I/DLLRO/Jal. Dated 1.4.98.
 - (3) District Land and Land Reforms Officer, Uttar Dinajpur / Cooch Behar for information.

N. K. Raghupathy
Commissioner
Jalpaiguri Division,
Jalpaiguri.

●

Government of West Bengal
Land and Land Reforms Department
Land Reforms Branch
Writers' Building, Block – IV & V (1st floor)
Calcutta – 700 001.

No.2052(8)-L. Ref.

Dated, Calcutta, the 21st August, 1998.

From: Joint Secretary
to the Govt. of West Bengal.

- To**
- 1) The District Magistrate & Collector,
Uttar Dinajpur,
P.O. Karnajhora (Raiganj),
District : Uttar Dinajpur.

- 2) The District Magistrate & Collector,
Darjeeling,
Post Office & District – Darjeeling.
- 3) The District Magistrate & Collector,
Jalpaiguri,
Post Office & District – Jalpaiguri.
- 4) The District Magistrate & Collector,
Cooch Behar,
Post Office & District: Cooch Behar.
- 5) The District Land & Land Reforms Officer,
Uttar Dinajpur,
Post Office – Karnajhora (Raiganj),
District – Uttar Dinajpur.
- 6) The District Land & Land Reforms Officer,
Darjeeling,
Post Office & District – Darjeeling.
- 7) The District Land & Land Reforms Officer,
Jalapaiguri,
Post Office & District – Jalpaiguri.
- 8) The District Land & Land Reforms Officer,
Cooch Behar,
Post Office & District – Cooch Behar.

A number of new tea-gardens have recently come up in the districts of Uttar Dinajpur, Darjeeling, Jalpaiguri and Cooch behar. It appears that in many cases there have been deviations from the guidelines issued by the Department on June 11, 1990 and September 27, 1993 regarding the establishment of new tea-gardens. After detailed field study and careful examination of the issues relating to those new gardens vis-a-vis the relevant provisions of the West Bengal Land Reforms Act, the Government have decided to treat the case of each tea-garden separately and take actions as detailed below.

2. The first and foremost task is to prepare a complete account of the total land possessed by a new tea-garden. Expectedly, the Land & Land Reforms officials at the Block Level have already completed the exercise as per instructions issued by the Department vide No.3879(4)-T.G., dated the 16th June, 1994. If such assessment as to the total quantum of land, held by any tea-garden has not yet been completed, the assessment for the left out tea-gardens should now be completed on priority basis within a time frame of 3 (Three) months. The tea-garden for which assessment of the total quantum of land was made sometime ago, may have recently purchased/taken possession of additional land. Such a tea-garden may be asked to file a schedule of additional land with copies of supporting purchase deeds and/or other documents in favour of possession so as to enable the Revenue Officer concerned to arrive at the correct determination of the quantum of land in possession of the tea-garden.

3. Once the assessment of the total quantum of land held and possessed by a tea-garden is over, the Revenue Officer shall carefully scrutinise each and every plot of the land schedule to ascertain whether the plot or part thereof is vested, whether the plot was cultivated by a recorded bargadar (sharecroper), or whether the plot or part thereof has been purchased from the raiyat or raiyats belonging to the Scheduled Tribes.

4.1. In respect of vested land in occupation of the tea-garden which has not been distributed, the land should be treated as land at the disposal of the Government. Purchase, if any, of such land by the tea-garden should be declared null and void.

4.2. In respect of vested land which has been distributed and patta issued, the patta should be annulled by a suo-moto proceeding as the pattaholder has contravened the provision of Section 49(1A) of the West Bengal Land Reforms Act, 1955 and the land involved shall be brought back at the disposal of the Government. Purchase, if any, of such land by the tea-garden shall be treated as void.

4.3. For the land at the disposal of the State Government as in paras 4.1 and 4.2 above, the tea-garden owner concerned apply for long term settlement of 30 (Thirty) years. The application should be dealt with under Section 49(5) of the West Bengal Land Reforms Act, 1955 read with Rule 20A(6) of the West Bengal Land Reforms Rules and provisions of Chapter XV of the West Bengal Land Reforms Manual. In other words, the District Land & Land Reforms Officer should initiate the proposal for settlement of vested land following the normal procedure.

5. If the tea-garden has acquired land which was cultivated by a bargadar enquiry should be made to find out if the bargadar has been suitably rehabilitated. If the finding is in the affirmative, the case should be treated as one of "surrender" and as the land is no longer in use for the purpose for which the bargadar was ordinarily recorded, no action need be taken under Section 20B(4). However, if the bargadar has not been suitably rehabilitated action should be taken under Section 20B(3).

6. In respect of land belonging to a Scheduled Tribe and now in occupation of the tea-garden, it should carefully be enquired whether permission under the first proviso to Section 14C of the West Bengal Land Reforms Act was obtained before transfer of land to the tea-garden. If the transfer has been made in contravention of Section 14C of the West Bengal Land Reforms Act, action should be taken under section 14B of the Act by moving the empowered Revenue Officer for declaration of the transfer as void.

7. After taking the aforesaid actions by drawing up appropriate proceedings in all cases the area of validly purchased land held by a tea-garden has to be determined. If the tea-garden holds more than 7 hectares (24.20 acres) of land, it should be asked to apply to the State Government through the District Land & Land Reforms Officer concerned under Section 14Y of the Act for permission to hold land in excess of the ceiling limit. The State Government shall grant permission imposing terms and conditions similar to those in Form I under Schedule F of the West Bengal Estates Acquisition Rules, 1954 with such modifications as may be necessary.

8. Rent for land to be settled for 30 (Thirty) years to the tea-gardens shall be fixed according to the provision of Rule 223(i) of the West Bengal Land & Land Reforms Manual – 4 (Four) percent of the market value. Rent for the land validly purchased and owned and allowed to be retained under Section 14Y of the West Bengal Land Reforms Act, has to be realised for the time being at the rate at which the raiyats from whom the tea-garden has purchased the lands, were paying. The Block Land & Land Reforms Officer concerned should prepare a Rent Roll for each tea-garden showing the quantum of land and rent realisable per annum under two heads- (a) land leased out and rent thereon; (b) land validly owned and allowed to be retained and rent thereon. No change either in quantum of land or in the amount of rent shall be effected without the permission in writing from the District Land & Land Reforms Officer concerned.

9. After determination of the quantum of land as in para 7 above if it is found that a tea – garden owner holds land within the ceiling i.e. within 24.20 acres, if the owner is a company, or within the ceiling as applicable to an individual according to the size of his family if such owner is not a company, the question of application under Section 14Y does not arise. Hence the terms and conditions that shall be imposed on big tea-gardens cannot be imposed on the small ones owning and holding land within ceiling. In order to enable the small tea-garden owners to get recognition as cultivators of tea and for facilitating the district authorities to keep full account of the tea-gardens within the district, certification is necessary. The tea-garden owners may apply to the District Land & Land Reforms Officer concerned for certification. On receipt of such applications the D.L.&L.R.O. shall cause an enquiry as to the correctness of the land statement and determine rent as provided in para 8 above and issue a certificate in the form appended.

10. For the purpose of preparing full accounts of land held by each tea-garden and for noting the facts as mentioned in para above, the D.L.&L.R.O. may use the formats enclosed. Once the full account of the land held by a tea-garden is prepared, the Revenue Officer will proceed to take actions as detailed below.

11. As soon as the case of a tea-garden is finally settled, the details of schedule of land owned and allowed to be retained and the details of vested land settled with the tea-garden for 30 (thirty) years should be entered in a Register and the rent payable for each category of land should be mentioned below the said land schedule of each category. There should be at least 10 (Ten) blank pages in the Register against each tea-garden so that future addition or alteration both in respect of land and also in respect of rent can be incorporated. It is advisable to maintain two sets of Register; one for the big tea-gardens and another for the small tea-gardens with land below the ceiling Limit. As soon as a small tea-garden owner acquires land in excess of the ceiling limit with permission from the Government under Section 14Y of the West Bengal Land Reforms Act, the details of such tea-garden shall be transferred to the Register meant for the big tea-gardens.

12.1 In the matter of preparation of Record-of-Rights for the tea-gardens, the normal procedure for recording the land on long term basis and raiyati land shall be followed. Records for a particular tea-garden pertaining to a particular mouza shall be framed at the stage at which the records of the concerned mouza are lying at the relevant time. However, for the purpose of sequential studies, the old and new classification should be shown as numerator and denominator i.e. if any high vegetable growing land is now used for tea-cultivation, the noting in the classification column should be **(Bengali Matter)** and the like.

12.2 Separate khatian should be opened for Government vested land settled with a tea-garden on long term basis following the usual procedure and mentioning the G.O. number and lease period ----- **Bengali Matter**----- in the remark column of the khatian. Such khatian shall be placed just below the raiyati khatian of the tea-garden. If the raiyati Khatian is numbered 121, the number of the lease khatian should be 121/1. Besides, one copy of the Govt. Order settling the land with the tea-garden shall be kept pasted in the appropriate place of the Register to avoid misplacement.

12.3 For the tea-gardens which have been permitted to retain land in excess of ceiling under Section 14Y of the West Bengal Land Reforms Act, the Record-of-Rights must reflect the fact of such permission. On every page of raiyati khatian to be opened for such tea-garden, the Govt. Order number with date whereby such permission has been accorded must be written in the remark column. There shall also be a noting below the G.O. No. to the effect “----- **Bengali Matter** -----” A copy of the G.O. also be kept pasted in the appropriate place of the Register meant for the tea-garden.

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

Particulars in respect of “new” tea-gardens.

1. Name of the Garden with address :
2. Name of the Owner / Promoters :
with address
3. Total land held by the tea-garden :
4. How the tea-garden has come to :
acquire the land? Details to be
furnished in Annexure – A, B, C, D
and E

5. Utilisation pattern of the land held :
by the Company should be shown
in Annexure – F.
6. A sketch map showing the land :
held by the tea-garden showing
therein the utilisation pattern of
land using different colour should
be furnished.
7. A report in detail as to how the tea- :
garden is operating at present and
how it proposes to operate in
future should also be furnished.

— • —

**GOVERNMENT OF WEST BENGAL
FINANCE (TAXATION) DEPARTMENT.**

No.215(18)-F.T.

Calcutta, the 25th January, 1999

From : Shri N. Barman Roy,
O.S.D. & Ex-officio Dy. Secy. to the
Government of West Bengal.

**To
The District Magistrate,**

Sub : Rent & Cess for Leasehold lands of Tea Gardens in W.B.

Sir,

I am directed to state that in terms of clause (a) of sub-section (2) of section 4 of the West Bengal Rural Employment and Production Act, 1976 rural employment cess shall be levied annually in respect of land, except when a cess is leviable and payable under clause (b) or clause (c) or sub-section (2A) of section 4 of the aforesaid Act, at the rate of six paise on each rupee of development value thereof. Sub-section (2A) of the said section 4 provides that the rural employment cess shall be levied annually on a tea estate @ 08 paise for each kilogram of green tea leaves produced in such tea estates. Since levy of cess on tea estates is provided in sub-section (2A) of section 4, the same cannot be levied under sub-section (2) of section 4 of the Act. The prescribed authority for the purpose of assessment and collection of rural employment cess on tea estates under sub-section (2A) of section 4 is the Commissioner of Agricultural Income-Tax, West Bengal in terms of rule 18 of the West Bengal Rural Employment and Production Rules, 1976. Hence, the rural employment cess on tea-estates under sub-section (2A) of section 4 of the West Bengal Rural Employment and Production Act, 1976 can be levied and collected by the Commissioner of Agricultural Income-Tax and not by the Collector under sub-section (2) of section 4 of the Act. Similarly, in terms of the provisions of section 78 (2A) of the West Bengal Primary Education Act, 1973 the education cess shall be levied annually on a tea-estate @ 4 paise for each kilogram of green tea leaves produced in such tea estates. The prescribed authority for assessment and collection of education cess is also the Commissioner of Agricultural Income-tax, West Bengal in terms of rule 2(b) of the West Bengal Primary Education (Levy of Cess on Tea Estates) Rules, 1984. Sub-section (2) of section 78 of the aforesaid Act provides for levy of education cess in respect of land other than a tea-estate at the rate not exceeding 10 paise on each rupee of the annual value thereof.

It has come to the knowledge of the Government that some of the District Magistrates are sending notice to the tea-estates demanding rent and cess including rural employment cess and education cess on annual rent of the tea gardens. As

explained earlier, collection of rural employment cess and education cess on tea-estates by the District Magistrate under the West Bengal Rural Employment and Production Act, 1976 and the West Bengal Primary Education Act, 1973 respectively is not valid in as much as separate provisions have been made in the said two Acts for those levies. The District Magistrate can validly collect road cess @ 6%, public work cess @ 25% and rural employment surcharge @ 15% of the rent.

The above position is being brought to your notice for information and guidance.

Yours faithfully,
N. Barman Roy
Officer-on-Special Duty & Ex-Officio
Deputy secretary to the Govt. W.B.

No.215(18)/1(1)-F.T. dt. 25.1.99.

Copy forwarded to the Commissioner of Agricultural Income Tax, West Bengal for information with reference to his IDR No.14. dt. 6.11.98. He is requested to furnish a report on the action taken by him in the matter of realisation of dues from tea-estates.

N. Barman Roy
Officer-on-Special Duty & Ex-officio
Deputy Secretary to the Govt. W.B.

————— ● —————
Government of West Bengal
Land & Land Reforms Department
L.R. Branch
Writers' Buildings, Kolkata - 1

No. 3334-LR/3M-105/01-GE(M)

Dated 6.8.2001

From : The Dy. Secy. to the Govt. of West Bengal.

To
The District Magistrate & Collector, Darjeeling,
P.O. & Dist. Darjeeling.

Sub : Gazette Notification No.553-L.Ref. dated 14th March, 2001.

The undersigned is directed to refer to his memo No.349/TG dated 1.7.2001 on the above subject and to say that land revenue of all old tea gardens as fixed at Rs.6.50/- per acre should be re-assessed and charged at the rate of Rs.30/- per acre with effect from the 1st day of Baisakh, 1408 B.S. corresponding to 14th April, 2001 in accordance with the provisions of the West Bengal Land Reforms Act, 1955 amended by the West Bengal Land Reforms (Amendment) Act, 2000 (West Bengal Act XXX of 2000).

Sd/- Illegible
Dy. Secy. to the Govt. of West Bengal

No.3334/1(8)-L.R.

Dated 6.8.2001

Copy forwarded for information and necessary action to the :-

- 1) Commissioner, Jalpaiguri Division, P.O. & Dist. Jalpaiguri;
- 2) District Magistrate & Collector.
- 3) District Land & Land Reforms Officer,

Government of West Bengal
Land and Land Reforms Department
Land Reforms Branch
Kolkata – 700 001

No.3186(8)-L.Ref/1M-14/98

Dated, Kolkata, 23rd July, 2001

From : Spl. Secretary to the Govt. of West Bengal.

- To** :
- 1) The District Magistrate & Collector,
Uttar Dinajpur,
P.O. Karnajhora (Raiganj),
District – Uttar Dinajpur.
 - 2) The District Magistrate & Collector,
Darjeeling,
Post Office & District – Darjeeling.
 - 3) The District Magistrate & Collector,
Jalpaiguri,
Post Office & District – Jalpaiguri.
 - 4) The District Magistrate & Collector,
Cooch Behar,
Post Office & District – Cooch Behar.
 - 5) The District Land & Land Reforms Officer,
Uttar Dinajpur,
Post Office: Karnajhora (Raiganj),
District – Uttar Dinajpur.
 - 6) The District Land & Land Reforms Officer,
Darjeeling,
Post Office & District – Darjeeling.
 - 7) The District Land & Land Reforms Officer,
Jalpaiguri,
Post Office & District – Jalpaiguri.
 - 8) The District Land & Land Reforms Officer,
Cooch Behar,
Post Office & District: Cooch Behar.

In view of the amendment of the West Bengal Land Reforms Act by the West Bengal Land Reforms (amendment) Act, 2000 (West Bengal Act XXXI of 2000) and in view of decision of the Government regarding purchase of land belonging to tribal raiyats by the tea gardeners, some of the paras of earlier Circular No.2052(8)-L.Ref. dated, the 21st August, 1998 is hereby amended and a few new provisions are also added as detailed below for regularisation of new tea gardens.

1. (a) Para 5 of the circular will be substituted by the new para 5 which is as below :-

“5. If the tea garden has acquired land which was cultivated by a Bargadar, tea gardener shall pay to the Bargadar Compensation under the Land Acquisition Act, 1894 and the Rules made thereunder. Tea Gardener may approach the ADM (Land Acquisition) with details of land that was under barga cultivation and obtain assessment of compensation required to be paid to the Bargadar. On receipt of such assessment, the tea gardener shall pay assessed compensation to the Bargadar, and obtain receipt of payment from him and submit a photo copy of the same to the concerned BLLRO. The BLLRO shall obtain written confirmation from the Bargadar

to the effect that the compensation has actually been paid to him and make the confirmation as part of the case record.”

(b) In para 6 of the circular the following be added :-

“However, if the tea gardener purchases equal quantum of land in the vicinity of the land earlier owned / held by the tribal raiyat and transfers the same to the tribal raiyat by a registered deed and hands over the registered deed and possession of the land to the tribal raiyat and if the tribal raiyat accepts the same willingly, the acquisition of tribal land by the tea gardener need not be declared void u/s 14B of the Act. In this case also the DLLRO shall obtain a written confirmation from the tribal raiyats if necessary after hearing him / her /them personally – that land for land compensation has been concluded to the satisfaction of the tribal raiyats. Such arrangement will be treated not as a violation of Section 14B of the WBLR Act, but as a mere shifting of holding from one place to another.”

(c) In para 8 of the circular the sentence “rent for the land validly purchased and owned and allowed to be retained were paying” will be substituted by the following :-

“Rent for the land validly purchased and owned and allowed to be retained u/s 14Y of the West Bengal Land Reforms Act has to be realized at the rate of Rs.30/- per acre with effect from the 1st Baisakh, 1408 B.S. corresponding to 14.4.2001. However, for the period prior to the 1st Baisakh, 1408 B.S. rent has to be realized at the rate at which the raiyats from whom the tea gardener has purchased the land, were paying”.

2. In terms of the recent amendment of Section 4C of the WBLR Act, plantation of tea is no longer an agricultural operation. This amendment has been made effective with effect from 7.8.1969. Therefore, all the new tea gardens which have come up on and after 7.8.1969, will have to apply to the Collector for obtaining conversion u/s 4C of the WBLR Act. After the mutation and conversion are completed the tea gardener shall apply to the Government through Collector concerned for being allowed to hold land u/s 14Y of the Land Reforms Act as has been explained in para 11 of the Circular.

3. By an order No.339-L. Ref. dated 26.2.99 the Department fixed 31.12.98 as the cut off date for the purpose of regularization of the existing new tea gardens in terms of circular No.2052(8)-L. Ref. dated Cal., the 21st August, 1998. It is found that even thereafter, there has been expansion of tea gardens in some newer areas. However, as the tea cultivation was an agricultural operation until the amendment of the Land Reforms Act as notified under No.553-L. dated 14th March, 2001, the officers in the field could not take any effective action for checking such expansion. In view of considerable irrigation potential created by the Teesta Irrigation project, agricultural operation now appears to be economically more gainful both in terms of food production and also in terms of employment generation. Besides, it is necessary to maintain appropriate environmental balance in the life and the livelihood in the area. In view of this and now that the amendment of the WBLR Act is in place, the Government fixed 30.6.2001 as the cut off date for tea nursery and tea plantation in new area. Any attempt to expand tea cultivation or tea nursery in new area beyond the cut off date will be viewed very seriously and appropriate legal action will be taken against the offender.

P. Banerjee
Special Secretary to the
Government of West Bengal.

Copy forwarded for information and necessary action to :-

The Director of Land Records & Surveys, West Bengal,
Survey Buildings, 35, Gopal Nagar Road,
P.O. Alipore, Kolkata – 700 027.

The Commissioner, Jalpaiguri Division,
P.O. & Dist. Jalpaiguri.

The Joint Secretary – Cum – Committee Officer,
West Bengal Legislative Assembly, “Assembly House”,
Kolkata – 700 001.

P. Banerjee
Spl. Secretary to the Govt. of West Bengal.

●

Government of west Bengal
Land & Land Reforms Department,
L.R. Branch

No.3432(9) – L.R./3M-97/01 GE(M)

Dated : 13.08.2001

From : The Deputy Secretary to the
Government of West Bengal.

- To** :
- 1) The Commissioner,
Jalpaiguri Division, P.O. & Dist. – Jalpaiguri.
 - 2) The District Magistrate and Collector,
Uttar Dinajpur, P.O. – Raigunj, Dist. -Uttar Dinajpur.
 - 3) The District Magistrate and Collector,
Darjeeling, P.O. & Dist. – Darjeeling.
 - 4) The District Magistrate and Collector,
Jalpaiguri, P.O. & Dist. – Jalpaiguri.
 - 5) The District Magistrate and Collector,
Cooch Behar, P.O. & Dist. – Cooch Behar.
 - 6) The District Land and Land Reforms Officer,
Uttar Dinajpur, P.O. Raigunj, Dist. – Uttar Dinajpur.
 - 7) The District Land and Land Reforms Officer,
Darjeeling, P.O. & Dist. – Darjeeling.
 - 8) The District Land & Land Reforms Officer,
Jalpaiguri, P.O. & Dist. – Jalpaiguri.
 - 9) The District Land & Land Reforms Officer,
Cooch Behar, P.O. & Dist. – Cooch Behar.

Sub : Matters pertaining to regularisation of new tea gardens.

The undersigned is directed to refer to this Department Circular No.3186(8)-L.Ref. dt. 23.7.2001 on the above subject and to say that if any new tea garden or tea

nursery is set up / expanded beyond the cut off date fixed as 30.6.2001, F.I.R. should be lodged against the offender under section 4C of the W.B.L.R. Act, 1955 as amended upto date. All Revenue Inspectors should be instructed to inspect regularly and constantly in their respective areas in this regard.

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

●

**GOVERNMENT OF WEST BENGAL
LAND & LAND REFORMS DEPARTMENT
WRITERS' BUILDINGS : KOLKATA - 700 001.**

No.3377(4)-L.R/3T-11/02 GE(M)

Dated: 14th November, 2002.

From : Shri P. Ray, IAS,
L.R.C. & Principal Secretary to the Govt. of West Bengal.

To : **Sri Rajib Kumar,
A.D.M. & D.L.L.R.O.,
Jalpaiguri.**

C I R C U L A R

Sub : Survey and issue of NOC to the small tea growers who have undertaken tea cultivation between 31.12.99 and 30.6.01 and also survey regarding Bought Leaf Factory.

In a meeting held on 23.10.2002 under the Chairmanship of Minister-in-Charge, Commerce & Industries Department, various Small Tea Growers' Associations and other participants raised the problem that previously the Land & Land Reforms Department fixed 31.12.99 as cut off date for survey and regularization of new tea gardens with subsequent extension of the date up to 30.6.01. A good number of small growers who planted tea in between 31.12.99 and 30.6.01 could not file application for regularization / NOC due to the confusion of two cut off dates and also lack of knowledge about the final decision of the Government. It was also mentioned in the meeting that Survey already conducted by the Land Reforms wing in the districts is not comprehensive. After careful consideration of the issue and in consultation of the records in the Department, the DLLRO is hereby requested to carry on survey of all the new gardens which have been set up in the period between 31.12.99 and 30.6.01 in the format in which the new tea gardens have been surveyed so far. It is, however, clarified that no tea garden or Nursery, which has been raised after 30.6.01 shall, under any circumstances, be taken up for survey. Every petition of new tea gardener should be properly investigated into to ascertain if the garden has come up prior to 30.6.01. Being sure of its date of coming up, it should be taken up for survey. The evidence of surrounding people and other methods may be taken recourse to for determining the timing of the coming up of the tea garden. If it is found in detailed investigation that the tea garden has come up after 30.6.01 in violation of Department's instruction, action should immediately be taken in terms of Section 4D of the West Bengal Land Reforms Act as amended in the year 2000.

2. The small tea gardens having land below ceiling should be issued NOC quickly after necessary mutation of the records if mutation has already not been done provided the gardener does not occupy any Government land and has not purchased any land belonging to Tribal Land owner without prior permission from the empowered Revenue Officer. In such cases, 'No Objection' will be issued after settlement of Government land is concluded and land for land compensation is arranged by the gardener for the Tribal landowner.

3. The survey of all the left out tea-gardens which have been planted upto 30.6.01 shall be completed within 31.12.02 and a Comprehensive Survey report submitted in the Department.

4. Regarding survey of Bought Leaf Factory, a separate proforma is being sent to the Divisional Commissioner for submission to Commerce & Industries Department.

Prasad Ranjan Ray
Land Reforms Commissioner & Principal Secretary
to the Government of West Bengal.

No. 3377(4)/1(7)-LR

Dated : 14th November, 2002.

Copy forwarded to :

1. Shri H. Mohan, D.M. Darjeeling / Shri C. Sinha, D.M., Cooch Behar / Shri S. Gupta, D.M., Jalpaiguri/Shri Aariz Aftab D.M., Uttar Dinajpur.
2. Shri D. Choudhury, D.L.R. & S & Joint L.R.C., West Bengal.
3. Shri D. Chakraborty, IAS, Divisional Commissioner, Jalpaiguri Division with request to ensure that the survey is completed within 31.12.2002
4. Shri Jawhar Sarkar, IAS, Principal Secretary, Commerce & Industries Department, Government of West Bengal. This has reference to his letter No.4361/CIS/2002 dated 24th October, 2002.

Prasad Ranjan Ray
Land Reforms Commissioner & Principal Secretary
To the Government of West Bengal.

————— ● —————
Government of West Bengal
Land and Land Reforms Department
Land Reforms Branch.

ORDER

No.280-LR/3T-13/02

Dated: 28.01.2003

Whereas it has been observed in the recent past that whether as part of overall economic slow down in the national or international scenario or for other reasons, the tea market has started suffering reverse ;

And whereas different Tea Associations have been strongly representing before the State Government that, on the one hand the cost for tea production has been on the rise, on the other hand the prices of various grades of tea have been steadily falling ;

And whereas the State Government, pursuant to the representation of the said Associations, have formed a Committee for fresh examination of the issue of salami which is payable by a transferee (individual /company) of a tea garden other than a transferee by inheritance at the rate of Rs.15,000.00 per hactare for entering into fresh lease after expiry of the unexpired period of transferred lease of the land comprised in a tea garden as allowed to be retained under sub-section (3) of section 6 of the West Bengal Estates Acquisition Act, 1953 and for new tea garden, it is payable by individual / company at the rate of 40% of the market value for long term settlement of Government land;

And whereas the said Committee, on examination of the matter in the context of present scenario in the tea market, have submitted its recommendation before the State Government ;

Now, the Governor, after careful consideration of the recommendation so made by the said Committee, is pleased to direct that in all transfer cases, the base rate of salami chargeable at Rs.15,000.00 per hactere is to be maintained and in view of current market situation prevailing, a rebate of 40% is to be granted in respect of the transfer cases for the period ending on March 31, 2004. A further rebate of 50% is, however, to be granted in respect of transfer cases of sick tea gardens ascertaining on a normative basis and such tea gardens is to be allowed to pay this reduced salami in 3 (three) equal annual instalments.

The Governor is further pleased to direct that for settlement of Government land, all new tea gardens, big or small, should pay salami at the rate of Rs.15,000.00 per hactare and land revenue at the rate prescribed in the West Bengal Land Reforms Act, 1955 as amended upto date.

The Governor is also pleased to direct that the cases where salami at the usual rate has already been charged and realised should not be reopened in any circumstances.

By Order of the Governor.

Prasad Ranjan Ray
Secretary to the Government of West Bengal.

No.280/1(12) – LR

Dated : 28.01.2003

Copy forwarded for information & necessary action to the:

- 1) Pr. Secy. to the Govt. of W.B., Finance Deptt.
- 2) Pr. Secy. to the Govt. of W.B., Commerce & Industries Deptt.
- 3) Chairman, Tea Board.
- 4) Commissioner, Jalpaiguri Division.
- 5) District Magistrate & Collector, Darjeeling / Jalpaiguri / Uttar Dinajpur / Cooch Behar.
- 6) District Land & Land Reforms Officer, Darjeeling / Jalpaiguri/Uttar Dinajpur / Cooch Behar.

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

●
Govt. of West Bengal
Land and Land Reforms Department
L.R. Branch

Memo No.734(4)-LR/1M-14/98

Dated: 15.03.2004

From : The Deputy Secretary to the Government of West Bengal

To

**The District Land and Land Reforms Officer,
Jalpaiguri / Darjeeling / Cooch Behar / Uttar Dinajpur.**

Sub: Regularisation of new tea gardens existed before the cut-off date.

The undersigned is directed to refer to the above subject and to say that it has been decided to complete the regularization process of all new tea gardens, big or small, within a time bound manner. It has also been decided that a team from this Deptt. will visit the four districts in this regard shortly, the programme of which follows .

He is, therefore, requested to make the case records of all the new tea gardens ready along with Proforma report of the respective tea gardens as per format given below by 31.03.2004 so as to place the same before the team for finalisation of all the cases.

FORMAT

Name of the tea garden with address	Name of the owner of the tea garden with address	Description of raiyati land under possession of the tea garden					
		P.S.	Block	Mouza with J.L. No.	Plot No.	Area in acre	Quantum of recorded land held by each raiyat from whom land was acquired
1	2	3a	3b	3c	3d	3e	3f

Description of Vested land under possession of the tea garden							
P.S.	Block	Mouza with J.L. No.	Plot No.	Area in acre	Date of possession	Manner of ascertaining the date of possession	Valuation of land as on the date of possession
4a	4b	4c	4d	4e	4f	4g	4h

Description of tribal land under possession of the tea garden							
P.S.	Block	Mouza with J.L. No.	Plot No.	Area In Acre	Date of possession	Whether transfer was made in contravention of Sec.14C	Whether land for land compensation concluded
5a	5b	5c	5d	5e	5f	5g	5h

Description of patta land under possession of the tea garden							
P.S.	Block	Mouza with J.L. No.	Plot No.	Area in acre	Date of possession	Order no. & date of annulment of patta	Valuation of land as on date of possession
6a	6b	6c	6d	6e	6f	6g	6h

Description of land cultivated by bargadar under possession of the tea garden							
P.S.	Block	Mouza with J.L. No.	Plot No.	Area in acre	Date of possession	Whether bargadar has been properly compensated	Whether written confirmation from bargadar has been obtained.
7a	7b	7c	7d	7e	7f	7g	7h

Description of R.R. & R Deptt's land under possession of the tea garden									
P.S.	Block	Mouza with J.L. No.	Plot No.	Area in acre	Date of possession	Manner of acquisition	Whether acquired from free hold title deed holder and such document has been produced by the tea gardener concerned.	Valuation of land as on the date of possession	Total land of the tea garden
8a	8b	8c	8d	8e	8f	8g	8h	8i	9

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

No.734(4)/1(6)-LR.

Dated: Kolkata, the 15.03.2004

Copy forwarded for information and taking necessary action to the:

- Secretary to the Govt. of West Bengal, Commerce and Industries Deptt., Writers' Buildings, Kolkata.
- Commissioner, Jalpaiguri Division, P.O. & Dist. Jalpaiguri.
- District Magistrate and Collector, Jalpaiguri / Darjeeling / Cooch Behar / Uttar Dinajpur.

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

Government of West Bengal
Land and Land Reforms Department
L.R. Branch
Writers' Buildings, Kolkata - 1.

O R D E R

No.921-L.R./2C-8/02(Pt.I).

Dated : 30.03.2004

Whereas the State Government decided to charge reasonable amount of fees for processing the cases of mutation of land whenever any transfer is effected as well as for processing the cases of conversion of land whenever change of classification takes place;

2. And whereas the State Government, pursuant to the said decision, prescribed different rates of such fees for processing the cases of mutation and conversion of land ;

3. And whereas it has been brought to the notice of the State Government that the fees realised at the rate so prescribed is causing problem in the field of tea industry in so far as its present crisis is concerned;

4. And whereas the State Government has considered it necessary to re-examine the matter in the case of tea garden where mutation and conversion fees are applicable;

5. Now, the Governor, after careful examination of the matter, is pleased to direct that mutation fees shall be realised at the rate of Re.1/- per decimal for tea garden land and conversion fees shall be realised at the rate of Rs.60/- per acre of the land for use for tea garden purpose irrespective of area and classification of land.

6. The Governor is further pleased to direct that mutation and conversion fees so fixed may be reduced to such an extent as may be decided by the State Government on case to case basis in respect of sick tea gardens for its revival.

7. The Governor is also pleased to direct that the cases where mutation and conversion fees at the previous rates have already been charged and realised should not be reopened in any circumstances.

8. This issues in modification of this Department's circular no.7907-M&M dated 30th October, 2002 and no.8280-M&M dated 20th November, 2002.

By Order of the Governor,
Sukumar Banerjee
Jt. Secy. to the Govt. of West Bengal

————— ● —————
Government of West Bengal
Land and Land Reforms Department
L.R.Branch

No.2376(4)-L.R./1M-14/98 GE(M)

Dated: 12.8.04

From : The Jt. Secy. to the Govt. of West Bengal.

To
The District Land & Land Reforms Officer,

Sub : Regularisation of new tea gardens existed before the cut-off date.

The undersigned is directed to refer to the above subject and to request him to –

(i) prepare case records of all big and small tea gardens individually with field enquiry report in the manner as laid down in G.O. Nos. 2052(8)-L.Ref. dated 21.8.1998

and 3186(8)-L.Ref. dated 23.7.2001 along with proforma report of the respective tea gardens as per format given in memo. No.734(4)-L.R. dt. 15.3.2004;

(ii) ascertain the exact number of all small and big tea gardens need be regularised for existence before the cut-off date;

(iii) identify all small tea gardens involving only raiyati land and not land of any other category;

(iv) issue prescribed tea cultivation certificate to the provisional certificate holders in respect of the tea gardens as mentioned in (iii) above in modification of the provisional certificate issued by him as well as realise necessary conversion fees and mutation fees as applicable in respect of all such tea gardens; and

(v) issue prescribed tea cultivation certificate in respect of all the remaining small tea gardens involving only raiyati land and also realise necessary conversion fees and mutation fees as applicable.

He is also requested to complete the process as above within one month from the date of receipt of this memorandum and to report to this Department accordingly for the next visit of the special team of this Department so as to finalise the cases of rest of the tea gardens.

S. Banerjee
Joint Secretary to the
Govt. of West Bengal.

No.2376(4)/1(5)-L.R.

Dated : 12.8.04

Copy forwarded for information & necessary action to the :-

- 1) Commissioner, Jalpaiguri Division, P.O. & Dist. Jalpaiguri.
- 2) District Magistrate and Collector, _____

S. Banerjee
Joint Secretary to the
Govt. of West Bengal.

_____ ● _____
Government of West Bengal
Land & Land Reforms Department
L.R. Branch

No. 3510(4) LR/1M-14/98 GE(M)

Dated 30.11.04

To
The District Land & Land Reforms Officer,
Jalpaiguri / Darjeeling / Coochbear / Uttar Dinajpur.

Sub: Regularisation of new tea gardens existed before the cut-off date.

The undersigned is directed to refer to the above subject and to request him to furnish to this Department the details of all new tea gardens as per format given below:-

FORMAT

Serial No.	Name of the tea garden with address	Name of the owner of the tea garden with address	Quantum of raiyati land under possession of the tea garden	Quantum of vested land under possession of the tea garden	Quantum of tribal land under possession of the tea garden	Quantum of patta land under possession of the tea garden	Quantum of barga cultivated land under possession of the tea garden
1	2	3	4	5	6	7	8

Quantum of R.R.& R Dept. land under possession of the tea garden.	Total land of the tea Garden	Remarks if any.
9	10	11

He is also requested to report the number of cases ready by this time for the special team as asked for in this Deptt's Memo. No.2376(4)-LR. dated 12.8.2004 immediately.

H. Rahaman
Joint Secretary, L & LR Department,
West Bengal.

No.3510(4)/1-(5)-LR

Dated 30.11.04

Copy forwarded for information & necessary action to the :

1. Commissioner, Jalpaiguri Division, P.O. & Dist: Jalpaiguri.
2. District Magistrate & Collector, Jalpaiguri / Darjeeling / Coochbehar/Uttar Dinajpur.

H. Rahaman
Joint Secretary, L & LR Department,
West Bengal.

————— ● —————
Government of West Bengal
Land & Land Reforms Department
L.R. Branch
Writers' Buildings, Kolkata – 700 001.

Memo No.2952(19)-L.Ref/3T-1/98

August 24, 2005.

RESOLUTION

Subject:- Policy, Principles and Guidelines for allowing Tourism activities within the Tea Garden Land.

Whereas, the old tea gardens of North Bengal are being run on the land vested to the State under the WBEA Act, 1953, taking long term lease for the shortest period of 30 years only, renewable from time to time, and such lease has been granted **only for the purpose of tea cultivation** and tea processing and other activities associated with the tea industry and such vested land is resumable u/s 6(3) of the aforesaid Act, if the lessee

uses the lease-hold tea garden land for any other purpose other than the purpose for which the lease was granted.

Whereas, the tea planters as well as their associations have been requesting the Government to consider commercial use of such land within the lease-hold tea garden lands, which are not used or useable for the purpose of tea plantation and other tea related activities, specially by taking up tourism industries within the tea garden area;

Whereas, the Tourism Department has now officially moved the Land & Land Reforms Department, to whom the old tea garden lands are vested with, and to allow such lease / permission under such terms and conditions as may be legally required, to allow expansion of tourism industry in the vacant lands of the tea garden areas, in the interest of both tourism industry as well as tea industry and general improvement of the economy of North Bengal;

Now, therefore, the Government of West Bengal, in the Land & Land Reforms Department, after careful consideration of the provisions of WBEA Act, 1953, provisions of WBLR Act, 1955 and Rules framed thereunder as well as considering the provision of long term settlement of land as prescribed in West Bengal Land and Land Reforms Manual, 1991, hereby decides the following policy, principles and guidelines for allowing development of tourism industry in the old tea garden areas, as specified hereinafter;

And, for implementation of this revised policy of the Government, in supersession of the existing Government order on the subject issued under Memo No.1475(3)-L.Ref. dated 11th May, 1998 the Governor is hereby pleased to order as follows :

1. Any individual or body corporate running any tea garden on the leasehold land retained under Section 6(3) of the WBEA Act 1953, intending to take up any Tourism Project shall prepare **a project report in details, incorporating the exact land schedule, lay-out plan, activities to be taken up in the Tourism complex, the area to be under structures (actual built up area and super-built up area), showing the source of water supply**, not effecting the water supply of the surrounding habitation and agricultural land and plantation area. The management of the concerned tea garden has to declare and affirm that due to execution of such tourism project, no adverse effect is likely to take place on the tea plantation, tea productivity, quality of the tea leaf and the land proposed to be utilized for tourism purpose is not currently covered under tea plantation or tea related activities and also not required for expansion of the tea garden and/or not fit for tea plantation.
2. The tourism development project shall be submitted to the Collector only after due vetting of the Tourism Department, and such Department if accords vetting shall also recommend the exact quantum of land required for the vetted project. No objection certificate from the Tea Board as well as C & I Department of the Government of West Bengal should be enclosed. In no circumstances, **under the pretext of development of tourism complex, real estate business**, including development of housing estate, permanent shops and other establishment and other commercial activities shall be taken up. The high-rise buildings, if proposed to be constructed on the hilly land, specially on fragile hilly tracks, prone to earthquake, land-slide and other natural calamities, **extra care has to be taken in designing the construction plan**, water supply system, sewerage system, access road construction and such engineering drawing may be duly vetted by Chartered Architect and Engineering firm. If the lease hold rights of the concerned tea garden is mortgaged to any bank or financial institutions, relinquishment proposal may be submitted along with the no objection certificate of the concerned bank / financial institution.
3. On getting a **formal application for long term lease along with all necessary papers and the project report duly vetted by administrative Department** and other concerned department / authorities, the Collector shall process the case for long term settlement for a period of 99 years assessing the salami, being 95% of the current market value of the land and annual lease rent at the rate of 0.3% of the land value as have been fixed under revised provision of the WBL&LR Manual 1991.

4. The long term lease proposal along with assessment sheet shall be sent to the State Government through the Divisional Commissioner of Jalpaiguri Division for clearance of the Land & Land Reforms Department.

5. On getting clearance from the Land & Land Reforms Department the Collector shall execute the long term lease agreement as per prescribed terms & condition and also revise the existing lease agreement of the tea garden, to the extent required for incorporating the change in the land schedule and revision of the rent of the existing lease agreement of the concerned tea garden.

6. It is hereby clarified that it is irrelevant whether the tourism project is to be taken up by the same company which is running the tea garden or the **same company along with other partners in joint venture or by any other company** where on the existing tea garden does not have any share, the long term lease has to be executed by any project authority proposing to establish any tourism project in the tea garden area which is a lease hold land. And in all such cases, the existing lessee of the tea garden land shall officially relinquish the exact quantum of land vetted by the administrative department for diversion to tourism activity and **unless such relinquishment proposal is accompanied with a long term lease proposal for tourism project, such proposal shall not be entertained by the Collector.**

7. For securing of the interest of the existing lessee, it is hereby clarified that, in case, despite proposal of relinquishment, if the tourism project is not ultimately sanctioned with necessary long term lease, **relinquishment proposal shall loose its effect** and the original lessee of the tea garden land shall remain automatically the lease holder of the land relinquished in anticipation in favour of any proposed tourism project.

8. Since under the West Bengal Land Reforms Act 1955, tourism activities are not covered under ceiling exemption clauses prescribed in Section 14Y, and hence **all tourism projects are to be prepared within the prescribed ceiling limit** under Section 14M of the aforesaid Act.

9. For the purpose of setting up any tourism complex within the new tea gardens, which is not established on the vested Government land, the aforesaid procedures shall not apply, **except that prior permission for conversion of land for the purpose of setting up tourism industry** in lieu of tea industry / tea plantation, has to be obtained in writing from the Collector of the district and observe all such necessary statutory provisions as may be required for the same in accordance with any other law currently in force.

This order is issued for guidance of all concerned and it shall come into immediate effect.

S. Bhattacharyya
Joint Secretary to the
Government of West Bengal,
Land & Land Reforms Department.

Memo No.2952(19)/1-L. Ref/3T-1/98

August 24, 2005

Copy forwarded to :

1. Principal Secretary, Commerce and Industries Department.
2. Principal Secretary, Department of Agriculture.
3. Principal Secretary, Department of Environment.
4. Principal Secretary, Forest Department.
5. Principal Secretary, Urban Development Department.
6. Principal Secretary, Cottage & Small Scale Industry Department.
7. Principal Secretary, Tourism Department.
8. Divisional Commissioner, Jalpaiguri Division.
9. Director of Land Records & Surveys.
10. District Magistrate, Darjeeling.

11. District Magistrate, Jalpaiguri.
12. District Magistrate, Cooch Behar.
13. District Magistrate, Uttar Dinajpur.
14. District Magistrate, Dakshin Dinajpur.
15. District Land & Land Reforms Officer, Darjeeling.
16. District Land & Land Reforms Officer, Jalpaiguri.
17. District Land & Land Reforms Officer, Cooch Behar.
18. District Land & Land Reforms Officer, Uttar Dinajpur.
19. District Land & Land Reforms Officer, Dakshin Dinajpur.

S. Bhattacharyya
Joint Secretary to the
Government of West Bengal,
Land & Land Reforms Department.

●

**Government of West Bengal
Land and Land Reforms Department,
L.R. Branch,
Writers' Buildings, Kolkata – 700 001.**

Memo No.2629(4) – LR/3T-13/2002 GE(M)-PT-II

Dated 11.9.06

From : Shri K. Bandyopadhyay,
Joint Secretary to the Govt. of West Bengal.

To
The Additional District Magistrate and
District Land and Land Reforms Officer,
Darjeeling / Jalpaiguri/Uttar Dinajpur / Coochbehar.

Sub : Regularisation of new Tea Gardens --- existed prior to the cut off date.

Sir,

With reference to above I am directed to request you for taking immediate necessary action on the following points on the basis of the Survey Report already prepared after the field survey of the New Tea Gardens :-

1. Preparation of the list of all new tea gardens where there is no patta land, vested land, barga effected land, R.R. & R Deptt. land, the tribal land etc. and the tea gardens holding land below ceiling limit. This list should be sent within fifteen days from the date of receipt of this letter to this department by name to the undersigned.
2. Tea cultivation certificates in the prescribed form should be issued to all the tea gardens so listed within a period of three months from the date of receipt of this letter.
3. Report containing the number of cases so regularised should be sent to this department by name to the undersigned every month within first week of the following month.

Considering the importance of the issue of regularisation of the new tea gardens, a special cell should be formed in your office under the supervision of any Dy. DL & LRO. This team should be given the responsibility to complete the process with a time bound programme not exceeding three months from the date of receipt of this letter.

The cases which are to be placed before the Special Team for finalisation should be processed and be kept ready to place those before the team at the time of their next visit.

Yours faithfully,

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

Copy forwarded for kind information and necessary action to :-

- 1) The Principal Secretary, Commerce & Industries Department,
- 2) The Commissioner, Jalpaiguri Division, P.O. & Dist. – Jalpaiguri.
- 3) The Chairman, Tea Board.
- 4) The District Magistrate & Collector, Darjeeling / Jalpaiguri/Coochbehar/Uttar Dinajpur.

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

●

**Government of West Bengal
Finance (Revenue) Department**

No.1027(18) – F.T.
F.T./O/1T-04/2007-A.I.T.

Kolkata, the 19th July, 2007.

From : Shri N.C. Basak,
Assistant Secretary to the Government of West Bengal.

To
The District Magistrate,

.....

Subject : Rent and Cess for Leasehold lands of Tea Garden in West Bengal.

Sir,

In partial modification in this department letter No.215 (18)-F.T., dated 25-01-1999 on the subject noted above I am directed to state that the District Magistrate can only collect road cess @6%, public work cess @25% and rural employment surcharge @15% of the annual value. The annual value will be Rs.10/- (Rupees ten) only per acre in terms of section 33 of the Cess Act.

Yours faithfully,
N. C. Basak
Assistant Secretary to the Government
of West Bengal.

Memo No.1027(18)/1(2)-F.T.

Dated 19.07.2007

Copy forwarded for information and necessary action to:-

1. The Land & Land Reforms Department, Govt. of West Bengal
This has a reference to their notes in file no. 3M-31/07 GE(M) of the land and land Reforms department.
2. The Commissioner of Agricultural Income Tax, West Bengal
New Secretariate Buildings,
1, K.S. Roy Road, Kolkata-1.

N. C. Basak
Assistant Secretary to the Government
of West Bengal.