

25. INSTRUCTION ON COMPENSATION UNDER WBEA ACT

**Government of West Bengal
Office of the Director of Land Records And Surveys,
West Bengal.**

Memo No. 465/844-851/C/62

Dated, Alipore the 11th February, 1963

From : The D.L.R. & S., West Bengal.

**To
The Settlement Officer**

Subject : Preparation of Compensation Assessment Rolls.

The form of the 'Apportionment Statement III' appended to the 'Draft Supplementary Provisional Instructions on preparation of C.A. Rolls' has been revised in terms of the amended Section 16(1)(a)(ii). A copy of the revised form is sent herewith for taking necessary action.

The plots of a khatian which have vested in the State should be sorted together class by class. The classes coming under the same rate of income under Rule 15 should be noted serially in Col.3, one below another, with the plots under the respective classes in Col. 4. The areas of the plots will be entered in col. 5 and the total struck of the class or classes to be assessed at the same rate. The annual income of the total areas, thus arrived at, will be determined at the rate (fixed in terms of Rule 15) noted in Col. 6 and entered in Col. 7. The sum total of the amounts noted in Col. 7 will be the annual income under Sec. 16(1)(a)(ii) of the entire vested area of the Khatian.

The total vested area (grand total in Col.5) and the total annual income (grand total in Col.7) will then be apportioned among the intermediaries of the khatian, whose lands have actually vested, according to their shares in the vested lands, exactly in the manner of apportionment of rent and cesses, receivable by the intermediaries in Apportionment Statement II.

If in a Khatian there be different groups of intermediaries with different shares in the vested lands, apportionment on the above lines will have to be made separately for each such group.

The apportioned area and the apportioned annual income should be noted in the relevant columns viz. Col. 6(ii)(c) & (e) of the C.A. Roll (form revised by the Directorate) of the intermediary concerned giving reference (in ink) to the Apportionment Statement e.g., A.S III/1,2 etc.. In the cases where apportionment is made, as above, Cols. 6(ii)(b) and (d) of the C.A. Roll will remain blank.

In cases where the shares of some of the intermediaries are very small and the areas cannot be apportioned by decimalization upto two places, that may be done by further decimalization. But this should only be done in the cases where the apportioned annual income of such intermediaries is not less than a pie. In case where the apportion area is less than a cent and the apportioned annual income is less than a pie, attempt for further division should not be made. In the Col. for the area ----**"Bengali"**---- and in the Column for annual income ----**"Bengali"**---- should be noted both in Apportionment Statement and the Compensation Assessment Roll.

S. L. Sarkar
For DIRECTOR OF LAND RECORDS AND SURVEYS,
WEST BENGAL.

From Land and Land Revenue (Land Acquisition) Departement File No. 9R-4/57

Subject : The Land Acquisition Act, 1894 (Central Act I of 1894) — Procedure for making award in respect of lands vested in the State under the West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954), the lands having been declared under section 6 of the former Act.

Joint Legal Remembrancer's opinion :

The judgement of the High Court in Civil Rule No. 207 of 1957 (The State of West Bengal vs. Fanindra Nath Dinda) is as follows :

“It does not follow that the petitioner will get compensation or that the Collector is bound to award the petitioner compensation simply because it is the duty of the Collector to make an award. It is for the Collector to find out whether the petitioner is interested in the land and as such entitled to compensation.”

If the Collector is satisfied that the petitioner has no interest in the land, and, as such, not entitled to compensation, the Collector can make a “nil” award.

●

**GOVERNMENT OF WEST BENGAL
DIRECTORATE OF LAND RECORDS AND SURVEYS, WEST BENGAL.**

MEMORANDUM NO. 497/1568-75/C/64

Dated , Alipore, the 15th March, 1966.

To

The Settlement Officer,

Subject : Compensation for Hats vested in the State.

A question was raised as to if in the case of a ‘hat’ which was in the Khas possession of an intermediary and then has vested in the State, the intermediary would get compensation for the loss of his interest in the land in terms of Sec. 16(1)(a)(ii) or for the loss of ‘Sayer’ income in terms of Sec. 16(1)(a)(iii) or for the both.

The matter was referred to the L.R. He has held that in the case of ‘Sairati’ lands apart from the Compensation payable for the ‘Sairati’ income no other compensation is payable for the land itself. Necessary action may therefore be taken accordingly.

P.K. Das Gupta
For Director of Land Records and Surveys,
West Bengal.

VERY IMPORTANT.

Memorandum No. 13/5402-5422/S/65

Dated, Hooghly, the 23.3.66.

Copy to :

- 1) The Charge Officer, Howrah/Hooghly/Nadia.
- 2) The Compensation Officer, Inter-dist/’B’/’C’ Camp at Chakdah.
- 3) The Officer-in-Charge, Cadastral, Howrah.
- 4) The Hqrs, Asstt. Settlement Officer/Hqrs. Revenue Officer, Hooghly, — for information and strict guidance.

Sd/- Illegible.
For Settlement Officer,
Howrah-Hooghly-Nadia.
At Hooghly.

From Board of Revenue File No. 1361/56 – L.R.C. (E.A.)

Subjects : The West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954)—Section 5(a)(ii), read with section 16(1)(a)(iii) – Vesting of hats, bazars, ferries, forests, fisheries, tolls and other sairati interests – Whether compensation under the Act is payable on account of sayer compensation paid by Government in respect of such interests before the date of vesting – Whether such compensation is payable for a hat not existing on the date of vesting.

Opinion of the Government Pleader, High Court.

The question in this case arises in the following way. Certain persons used to get sayer compensation from the Government for some markets. After the West Bengal Estates Acquisition Act, 1953, came into force, the aforesaid persons are contending that they are entitled to compensation in respect of the aforesaid rights which they previously had. Section 5(a)(ii) of the Act says that Government is taking sairati interest whatever they may be. If the Government is taking such rights, it must pay for those rights.

The history and origin of the said (sayer) compensation is that at the time of Permanent Settlement, it was the policy of the East India Company not to allow the private ownership of hats, bazars and ganjas to remain, possibly with the idea of establishing markets as they existed in England. The Zemindars were not to realise any internal duties. This will be found in section 35 of Regulation 8 of 1793 and Regulation 27 of 1793 as also from section 8, second clause, of Regulation 1 of 1793. The idea further was that the imposition of these internal sayer duties prevented the growth of trade and commerce. But for this reason, the then Government did not like the proprietors to lose that they were getting so long. Accordingly, the Government gave these owners compensation for the loss which they sustained for not being allowed to realise the internal duties. This is the origin of sayer compensation.

This case reported to I.L.R. 19 Cal. P.8 shows the nature of this sayer compensation.

Accordingly, certain compensation was given to certain owners of hats and bazars and the present case relates to one such holder of hat. It is to be stated, however, that the Government found that people had an ingrained habit of paying duties and so the idea of abolition of internal duties was practically abandoned (see 21 W.R. 383 at p. 385 col., para. 2). But before this was abandoned, sayer compensation was given to owners of certain hats and bazars.

I think that the holders of rights to such sayer compensation are entitled to compensation under the West Bengal Estates Acquisition Act, 1953. I.L.R. 19, Cal. 18 shows that sayer compensation has no connection with land. Therefore, this compensation ought to be calculated on a different basis than for land.

Legal Remembrancer's Opinion :

Sayer collections which were abolished were in the nature of taxes and duties. The compensation that was awarded for such abolition remains unaffected by the provisions of the West Bengal Estates Acquisition Act, 1953.

* * * * *

Sayer compensation is a very comprehensive term. Sayer refers to rights in hats, bazars, ferries, forests, fisheries, tolls and other sairati interest (vide sections 5(a)(ii) and 16(1)(a)(iii)) which are existing rights, and interest relate to the estates which have vested. "Sayer" also refers to what is payable in a case like the one dealt with in this file. The payment in this case was in lieu of collections which were in the nature of taxes and duties. The reason for abolition was that imposition of taxes and duties was the exclusive right of the Sovereign. For such abolition, however, compensation was paid. All collections from hats or bazars were not, however, of the nature of taxes and duties. It appears that the lands still exist, that the proprietors' rights therein still continue and

that they are not precluded from realising monthly or annual rent payable by stalls, etc. It further appears that the lands have now vested in the State. Thus, the proprietors are intermediaries and their total income will include sayer compensation and collections of all kinds. Compensation for abolition of sayer in the nature of imports like duties and taxes is also income relatable to existing estates which have now vested. It is stated that the hat has long ceased to exist and even the mauza is not traceable. The person receiving sayer compensation in such a case is not an intermediary and the compensation is not relatable to any existing estate. He is not affected by the West Bengal Estates Acquisition Act, 1953 [Sections 5(a)(ii) and 16(1)(a)(iii)].

●

From Board of Revenue File No. 173/54-E.A.

Subject :- The West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954) – Section 5(a)(ii) read with section 6(1)(c) – Hats and Bazars retained by an intermediary as non-agricultural land — The mode of calculation of gross income from, and fixation of rents of such Hats and Bazars.

Legal Remembrancer's opinion :

With respect to non-agricultural lands comprised in Hats and Bazars retained by an intermediary in his khas possession under section 6(1)(c) of the West Bengal Estates Acquisition Act, 1953, the only right that he is deprived of by the operation of the Act, is his right of ownership to the said lands of which he becomes a tenant under the State from the date of vesting. His right of collecting tolls, etc., from the hats and Bazars remains with him unaffected.

In preparation of the Compensation Assessment Roll, therefore, I think, the gross income of the intermediary under such circumstances, shall consist of the aggregate of rents as laid down in section 16(1)(a)(ii). The provision of section 16(1)(a)(iii) would not apply in the present case, the intermediary having the right to collect tolls, etc. of the Hats and Bazars.

For the purpose of fixation of rent, section 42 of the Act does not lay down any basis except that the rent generally paid for non-agricultural lands of similar description and with similar advantages in the vicinity, should be taken into account by the Revenue Officer. The section gives the Revenue Officer a wide discretion for fixing a fair and equitable rent for such lands. In the absence of any non-agricultural lands with Hats and Bazars in the vicinity, I think, the principle laid down in section 11(3)(c) of the West Bengal Non-Agricultural Tenancy Act, 1949, may be taken as a safe guide for fixation of rent.

●

From Board of Revenue File No. 26/57 – L.R.C.

Subject : The West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954) – Section 5(a)(ii) – Whether structures put up by an intermediary on a hat not retained by him have vested in the State along with the land and whether it would be permissible for Government to collect rent from the persons occupying the structures.

Additional Deputy Legal Remembrancer's opinion :

Under section 5(a) of the West Bengal Estates Acquisition Act, 1953, the “estates” and the rights of the intermediaries therein vest in the “State”. In such rights are included rights in hats, bazars, etc. mentioned in clause (ii) thereto.

The expression “estate” has been defined in section 3(4) of the Bengal Tenancy Act, 1885, as “land” included under one entry in any general register of revenue-paying lands and revenue-free lands, etc.

The West Bengal Estates Acquisition Act, 1953, therefore, relates to “land” and the rights therein.

Further, section 6(1)(b) clearly indicates that the said Act does not apply to buildings and structures, as that clause speaks only of "land" comprised in buildings and structures.

Consequently, under section 5(a)(ii), only the land comprised in hats and the rights of the intermediaries therein have vested in the State and not the structures thereon, Besides, section 16 of the said Act does not provide for payment of compensation for structures standing on any hat, which had vested in the State. The intermediary, therefore, will not get any compensation for the structures. The Government should allow the intermediary to dismantle the structures and remove them from the land where the hat is situated.

The said structures not having vested in the State, the Government cannot realise from the occupants of the structures anything as rent thereof, but it will be within the competence of the Government to realise rent from such occupants for the use and occupation of the land on which the structures stand.

●

Copy of the memo. No. 13005-F.P./234/66 dt. Calcutta the 27th June 1966 from the Special Officer & Ex-Officio Secretary, Board of Revenue West Bengal to the Director of Land Records & Surveys, West Bengal.

Subject : Reconstruction of missing or destroyed Finally published C.A. Rolls.

The Compensation Assessment Rolls which have been lost or destroyed may be treated as cancelled and fresh Compensation Assessment Rolls prepared and finally published denovo.

●

**GOVERNMENT OF WEST BENGAL
OFFICE OF THE DIRECTOR OF LAND RECORDS & SURVEYS
WEST BENGAL.**

Memo No. 186/4391-98/C/66 dated, Alipore, the 26th July, 1966.

From : The Director of Land Records & Surveys,
West Bengal.

To : **The Settlement Officer**

Subject : Reconstruction of missing or destroyed Finally published C.A. Rolls.

A copy of Boards Memo No. 13005F.P./234/66 dt. 27.06.66 is sent herewith for information and necessary action. There should be a formal order of cancellation in terms of para 2(4) of schedule E to the W.B.E.A. Rules in such cases.

2. The Settlement Officer concerned should satisfy himself about the loss or destruction and submit formal proposal for cancellation in the usual manner along with a certificate that it has neither been despatched to the Collector for making payment of Compensation nor has it been taken up for local payment. The Board is also being requested to instruct Collectors to furnish a certificate of non-payment when such a roll is lost or destroyed from their custody and is required to be prepared and published denovo after cancellation.

3. A register under appropriate headings should be kept in S.O's office and Compensation Camps for such cases. The certificates furnished by the Collectors should be preserved in a guard file in the S.O.'s office.

S.K. Sen Gupta
For Director of Land Records & Surveys,
West Bengal.

GOVERNMENT OF WEST BENGAL
Office of the Director of Land Records & Surveys,
West Bengal.

Memo No. 186/4399/C/66

dated, Alipore, the 26th July, 1966.

From : The Director of Land Records & Surveys,
West Bengal

To
The Secretary,
Board of Revenue, West Bengal.

Sub : Reconstruction of missing or destroyed Finally published C.A. Rolls.

Ref : Bd's memo no. $\frac{13005-F.P.}{234/66}$ dt. 27.06.1966

There may be cases where the rolls may be destroyed or lost from the custody of the Collectorates. In such cases the A.D.Ms (E.A.) may be instructed to furnish the following certificates along with a proposal for cancellation to the S.Os concerned who will in their turn submit the formal proposal to the Dte. for issue of orders in terms of para 2(b) of Schedule E to the W.B.E.A. Rules (a) that he (the A.D.M.) is satisfied that the C.A. Roll has been lost or destroyed (as the case may be) and (b) that the payment of final Compensation has not been made.

S.K. Sen Gupta
For Director of Land Records & Surveys,
West Bengal.

Memo No. 186/4400-407/C/66

dated Alipore, the 26th July, 1966.

Copy to the Settlement Officer, for present information.

S.K.Sen Gupta
For Director of Land Records & Surveys,
West Bengal.

Copy of Memo No. 302/5152/C/66 Alipore, the 19th August, 1967, from the Director of Land Records & Surveys, West Bengal to the Secretary, Board of Revenue, West Bengal.

Sub : L.R's opinion about the question of compensation to the transferor when the transfer is held to be not bonafide under Section 5A of the W.B.E.A. Act.

Ref : Board's u/o notes dated 20.2.67 in the L. & L.R. Deptt. File No. 12S-91/66 returned to the Board on 18.4.67.

The opinion of the Legal Remembrancer placed in the file referred to may kindly be recalled. According to the opinion when a transfer has been held to be not bonafide, the transferor is not entitled either to retain the land or to any compensation for the land. This has created some difficulty.

As a consequence of the order declaring the transfer as not bonafide the transfer stands cancelled as from the date on which the transfer was made. On this basis the land has been considered as the Khas land of the transferor and he has been allowed to retain the land if he has chosen to retain or has been allowed to have compensation if he has allowed the land to vest in the State. It is therefore necessary to re-examine the matter before we may proceed to take any action on the opinion of the Legal Remembrancer.

The provisions of Section 5A(7)(i) of the West Bengal Estates Acquisition Act mentions two elements which will either jointly or separately show if the transfer is not bonafide. They are :-

- (i) principally or partially the transfer is made with the object of increasing the amount of land which a person may retain under the Act.
- (ii) principally or partially to increase the amount of compensation under the Act.

It thus appears that the transfer has to be declared as not bonafide when the transfer is benami. This has been the substance of judgement in the C.R. No. 189 of 1962. In fact it is in recognition of the fact that the transfer has been made without change of possession of the land that one comes to the conclusion that the transfer was not bonafide. The cancellation of the transfer naturally mean recognition of the fact of Khas possession of the transferor.

It may be mentioned that :-

- (i) a transfer has been held to be not bonafide when the interest transferred has not changed hands and is still with the transferor, and
- (ii) a transfer has been held to be bonafide when the interest transferred has changed hands to the transferee without any right, title and possession with the transferor.

All action has been taken on this basis.

The purpose of the Act was to restrict the retention of more than what the transferor could otherwise retain or payment of more compensation than he could otherwise have without the transfer. In this regard the provisions in Section 14(3)-proviso and Section 5A(3)(ii) may kindly be referred to. They clearly show what might be the effect of declaration of a transfer as bonafide.

It will thus be evident that the purpose of the Act in relation to the transferor and /or transferee was to restrict the amount of retained land and/or to restrict the amount of compensation. The opinion of the Legal Remembrancer if acted upon will mean in addition a penalty which might not have been implied by the provision. An early instruction is requested.

Memo : No. 302/5534-41/C/66,

Alipore the 31st August, 1967.

Copy forwarded to the Settlement Officer, for present information.

C.A. Rolls involving lands affected by transfer that is held to be NOT BONAFIDE u/s. 5A may now be prepared ignoring such interests till the decision of the Board on the reference, made, is communicated to them. Objection u/s. 15(1)(a) or 15A should be decided by the compensation officers in the light of the opinion expressed by the Legal Remembrancer. If a different view is held by a Special Judge in an appeal under Section 20, that should promptly be brought to the notice of the Directorate, with a copy of the material judgement.

Sd/- Illegible
For Director of Land Records and Surveys,
W. Bengal.

The opinion of the Advocate General on payment of compensation to Sebaitis.

The points involved are not free from difficulty and we have to face these apparent contradictory positions because of somewhat confused drafting of the enactment. To appreciate the correct legal position we should bear in mind the changes effected in the provisions of chapter III of the W.B. Estates Acquisition Act by the amending Acts of 1958, 1960 and 1961. Section 15 as it stood before the substitution of the present Section 15 by the amending Act of 1960 has been incorporated in Section 14 by the said amending Act, but the structure has been changed in material particulars.

The Scheme of the W.B. Estates Acquisition Act, 1953 as amended up-to-date appears to be as follows :-

Upon publication of the notification by the State Government under Section 4 of the W.B. Estates Acquisition Act all estates and the rights of intermediaries in such estates vested in the State Government on and from April 15, 1955.

Section 6 deals with the right of the intermediary to retain certain lands and if the intermediary is a person who holds land in Khas under a trust or an endowment exclusively for religious purpose he can retain possession of such lands and he will be deemed to hold such lands, directly under the State from the date of vesting, as a tenant.

Section 14 provides for preparation of compensation Assessment Roll, and Sub-Section (2) lays down what particulars the Assessment Roll shall contain. Amongst others the C.A. Roll shall contain the gross and the net income of each intermediary from all his estates and interests within the areas and the amount of compensation determined to be payable to him in accordance with the provisions of the Act.

Section 16 lays down the method of compensation of the gross and net income for the purpose of the preparation of the Compensation Assessment Roll by the compensation officer under Section 14. Section 17 lays down the procedure for assessment of compensation payable to each intermediary on the basis of the net income computed under section 16. After the Compensation Officer determines the amount of Compensation payable to an intermediary, he prepares the Roll incorporating therein all the particulars found following the procedure laid down in Sections 16 and 17. Thus the C.A. Roll envisaged under Section 14 of the Act is prepared and completed. Section 15 and 15A provide for filing and disposal of objection to C.A. Roll thus prepared under Section 14 of the Act, and the Compensation Roll prepared on disposal of objections is also a Roll finally prepared under Section 14 (vide Section 15(5)).

The proviso to Section 14(3) excludes transferees of a share in any estate or interest after January 1, 1952 from the operation of Sub-section (3) of Section 14. Sub-section 3 provides that every intermediary who had a share or interest which has vested in the State under Section 5 shall be treated separately for assessment of compensation. The proviso says that a transferee of a share after 1.1.52 shall not be treated separately for assessment of compensation. The effect of the Proviso is that a transferee after 1.1.1952 will not be treated separately from the transferor for assessment of compensation and it appears to follow that such a transferee will not be entitled to a perpetual annuity under the Proviso to Section 17(1) of the Act. Section 16 and 17 lay down the procedure for preparation of the Assessment Roll under Section 14, and as Section 14 excludes a transferee after 1.1.52 from separate treatment for the purpose of assessment of compensation, proviso to Section 17(1) cannot entitle such a transferee to compensation (whether in the shape of perpetual annuity or otherwise), only because he is an intermediary referred to in clause (i) of Sub-Section (1) of Section 6 of the Act. Section 14 is the governing provision and Section 16 and 17 are the procedural provisions in aid of Section 14.

I could not appreciate the view of the proprietors of the Mahisadal Raj Estate were the full owners of the entire estate and had gifted a share or a portion to deities – the Proviso to Sub-Section (3) of Section 14 of the Act will not apply. The vesting took place in 1955. The transferee of a share before 1955 is also an intermediary to the extent of his share and is required to be treated separately for assessment of compensation subject however to this that if the intermediary acquire the share by a voluntary transfer effected after 1.1.52 he will not be considered separately for assessment of compensation. That appears to be the clear import of Section 14(3) and the Proviso to this sub-section.

It appears to have been overlooked that under section 14 each co-sharer has to be treated separately for assessment of compensation payable to him, and the Roll is required to contain besides his gross and net income the amount of compensation determined to be payable to him under Section 17. If by reason of the Proviso to sub-section (3) of Sec. 14 he is not entitled to be shown in the Assessment Roll separately from his vendor and his net and gross income and compensation payable to him are not

required to be determined separately and shown as such, question of the nature and quantum of his compensation required to be determined under Section 17 cannot arise. Section 16 and 17 only lay down the procedure for determining the net and gross income and nature and quantum of compensation payable to each intermediary including co-shares in any estate or interest of an intermediary for the purpose of inclusion in the C.A.Roll to be prepared finally under Section 14 of the Act. The Statute does not contemplate or provide for apportionment in the manner suggested, of compensation for a post - 1952 transferee who has been excluded for separate treatment by the proviso to section 14(3). The post - 1952 transferee's right to compensation, if any, will be a matter interse between him and his vendor but he does not acquire any right against the State apart and separate from his vendor. Section 17(3) does not create a right nor it is an exception to the Proviso to section 14(3) and it only applies to a case where the Proviso to Section 14(3) does not apply. I presume Section 16(1)(a)(v) mentioned in the opinion of my predecessor is a mistake for section 16(1)(b)(v). Section 16(1)(b)(v) has no application to the instant case, as this is not a case where by an instrument in writing or otherwise a charge on the income from the estate or interest of the intermediary has been created. No question of this interpretation of Section 14 vis-a vis section 17 of the Act being repugnant to Art 14 or 31 of the Constitution can arise (Vide Art 31A of the Constitution).

In my opinion no annuity is payable under section 17 in respect of a debuttar estate created in respect of a share or interest in any estate after 1.1.52.

A.K. Dutta
29.8.67.
ADVOCATE GENERAL
WEST BENGAL.

**Copy of Memo No. 25990-AG
417/66 dated, Calcutta, the 2nd Dec. '67 from the Special
Officer & Ex-Officio, Secretary, Board of Revenue, West Bengal.**

Sub: Payment of compensation to the sebaitis of Shri Shri Iswar Modan Gopal Jew.

Ref : His unofficial note dt. the 27th July, 1967 in Board's file No. 417/56-E.A.

The matter has been re-examined in consultation with the Legal Remembrancer and Advocate General. In this connection the opinion of the Advocate General is enclosed herewith for perusal and necessary action. Government have accordingly decided as follows :-

1. Further payment of the ad-interim and final compensation as also debuttar annuities should be stopped.
2. Director of Land Records & Surveys, West Bengal should send up proposals for cancellations of Compensation Assessment Rolls already prepared for issuing Government orders cancelling the rolls.
3. Director of Land Records & Surveys, West Bengal should prepare fresh Compensation Assessment Roll on the basis of the advice now tendered by the Advocate General.
4. After preparation of new Compensation Assessment Rolls adjustment will have to be made between the payments already made and the dues according to the new Compensation Assessment Rolls.
5. Any payment which may have been made in excess will have to be recovered either under the P.D.R. Act or by Civil Suits.

Memo No. 474/8097-8104/C/65

Dated, Alipore, the 13th December, '67.

Copy together with copies of its enclosures forwarded to :-

- 1) *** ***)
- 2) The Settlement Officer, for information.

Sd/- Illegible
for Director of Land Records and Surveys,
West Bengal.

**GOVERNMENT OF WEST BENGAL
LAND AND LAND REVENUE DEPARTMENT
LAND REFORMS BRANCH.**

Memo No. 20698(16)-L. Ref
7P-459/69

dated, Calcutta, the 1st Dec., 1969.

To

The Additional District Magistrate (Estates Acquisition)

Sub :- Payment of compensation money to Pak nationals in respect of landed properties acquired by the State Government under the Estates Acquisition and Tenancy Acts.

The undersigned is directed to forward herewith a copy of the Home (Poll-C.R.) Department Memo No. 545(17) dated the 29th October, 1969 on the above subject. It is requested that instructions contained therein may be strictly followed. Receipt of the memo. may kindly be acknowledged.

Sd/- Illegible,
Assistant Secretary.

No. 20698(16)/1(6) L.Ref.
7P-459/69

dated, Calcutta, the 1st December, 1969

Copy with a copy of the Home (Pol. C.R.) Department Memo forwarded to the Director of Land Records and Surveys, West Bengal.

Sd/- Illegible,
Assistant Secretary.

No. 71/8442/C/69

dated Alipore, the 23.12.69.

Copy together with a copy of the enclosure forwarded to the Settlement Officer, Howrah-Hooghly-Nadia for information and for circulation to all camp offices.

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

**GOVERNMENT OF WEST BENGAL
HOME DEPARTMENT (POLL) CR.**

Memo No. 545(17)-CRS

dated Calcutta, the 29th October, 1969

From : Shri K.C. Basu, IAS,
Joint Secretary, to the Govt. of West Bengal.

To

The District Officer

The Commissioner of Police, Calcutta,

The Land and Land Revenue Department of this Govt.

Sub : Payment of compensation money to Pak Nationals in respect of landed properties acquired by the State Government under the Estates Acquisition and Tenancy Act.

In continuation of Circular No. 693-PP/S-224/66 dated the 31st January, 1969 from the Home (Passport) Department of this Government communicating Govt. of India, Ministry of Commerce's instruction regarding vesting of certain movable properties in India of Pak Nationals in the Custodian of Enemy Properties for India, Bombay, as contained in their letter no. 12/55/65-E.Pty. dated the 1st January, 1969 the undersigned is directed to state that the Govt. of India, Ministry of External Affairs have since informed that any sum due to a Pak National as on the date of declaration of Emergency i.e. 6th September, 1965 and thereafter, vest in the Custodian of Enemy Property and that such sum payable to Pak Nationals have to be paid to the said custodian in terms of para 3 of the Enemy Property (Custody and Registration) Orders, 1962 and para 7 of the Enemy Property Act, 1968. In view of this

payment of compensation money under the Estates Acquisition and Tenancy Act, also is not required to be made to the Pak Nationals but remitted to the Custodian of Enemy Property for India, Kaiser-I-Hind Bldgs., Currimbhoy Road, Ballard Estates, Bombay-1.

It is requested that the above instruction of the Govt. of India may be rigidly followed and the subordinate officers are advised accordingly.

K. C. Basu,
Jt. Secy. to the Govt. of West Bengal.

No. 555/1(49) CRS.

Copy forwarded for information and necessary action to the Secretary, Board of Revenue, West Bengal.

Calcutta,
The 29th October, 1969

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

Memo. No. 23879(17)-Misc.(Comp.)

Copy forwarded to the Director of Land Records and Surveys, West Bengal for information and guidance.

Calcutta,
The 15th November, 1969

K.P. De.,
Asst. Secy. Board of Revenue,
West Bengal.

●

**Government of West Bengal
Office of the Settlement Officer,
Howrah-Hooghly-Nadia
at Hooghly.**

Memorandum No. 29/7261(21)/S/71

dated, Hooghly the 21.7.71.

From: Shri R.N. Chakraborty, W.B.C.S., Settlement Officer,
Howrah-Hooghly-Nadia at Hooghly.

To
The Officer-in-Charge
'B'/'C'/Cadastral Camp

**Sub : Reduction of rent in respect of lands possessed by the persons other than the recorded intermediaries adversely from before the date of vesting and by purchase by registered deeds after the date of vesting viz.
"Bengali"**

In the above matter, a copy of A.D.M (E.A.), Hooghly's memo. No. 1547 (14)/3 E.A. dated 25.06.71 is sent herewith which will speak for itself.

2) Actually the lands recorded as **"Bengali"** should have been vested to the State, as the said lands were not in Khas possession of the recorded intermediaries even if this was within the prescribed ceiling. Moreover, no compensation is payable to the intermediary for these lands but those have to be entered in a C.A. Roll the amount of compensation being nil therefore. As such, as and when the J.L.R.Os concerned refer such cases to any camp or when there come to the notice of the officers, the O/C of the camp concerned in his turn, after proper examination of the case, may correct the records u/s. 44(2a) suo moto by vesting all such lands to the State and reduce the rent payable or make assessment thereof as required.

3) As regards purchase of vested lands by regd. deeds after the date of vesting, the question of reduction of rent does not arise at all because in these cases, either the Govt. will take possession of the lands according to law or as per Board's instruction,

Govt. may recognise him if, the total lands of vendee together with the purchased lands does not exceed 5 acres.

Encl : 1 (one)

Settlement Officer,
Howrah-Hooghly-Nadia at Hooghly.

Memo No. 29/7261/21(9)/S/71

Dated, Hooghly, the 21.7.71.

Copy to :

- 1) A.D.M.(E.A), Hooghly for information with ref. to his memo. no. quoted above.
- 2) Charge Officer, Howrah/Hooghly/Nadia for information and necessary action. A copy of A.D.M. Hooghly's memo no. 1547(14)/3 EA dt. 25.6.71 is enclosed
- 3) Director of Land Records & Surveys, West Bengal for information together with a copy of A.D.M. (E.A.) Hooghly's memo no. 1547(14)/3 E.A. dt. 25.6.71.
- 4) A.D.M. (E.A.) Howrah for information
- 5) A.D.M.(E.A.) Nadia for information.

Sd/-Illegible
Settlement Officer,
Howrah-Hooghly-Nadia at Hooghly.

**Government of West Bengal
Office of the Collector, Hooghly,
Estate Acquisition Deptt.**

Memo No. 1547(14)E.A.

Dated 25th June, 1971.

From: The Additional District Magistrate (EA)
Hooghly.

To
The J.L.R.O.

Sub :- Correction of R.S. Records containing entries showing adverse possession and possession by purchase by registered deeds after the date of vesting (viz ----- Bengali-----)

Instances have come to the notice of the undersigned of cases where the recorded Raiyats, the tenancies of whom have been shown as recorded (either in col. 23 or col. 13 of the Khatian) in favour of adverse possessors and persons who purchased the same by regd. deeds after the date of vesting, are claiming abatement of rents on the grounds that as they are not in actual possession of the area appertaining to their khatians they are liable to pay the rent for the same to the Government.

The matter has since been discussed with the Settlement Officer, Howrah-Hooghly-Nadia and he has kindly agreed to make necessary corrections in all such R.S. Records after reviewing cases.

All the J.L.R.Os are, therefore, requested to refer all such cases direct to the officers-in-charge of the Settlement Camps concerned and take further action on receipt of the necessary replies from these camp officers.

Sd/- Illegible.
Addl. Dist. Magistrate (E.A)
Hooghly.

Memo No. 1547(14)3 E.A.

Dated. 25.6.1971.

Copy forwarded to the Settlement Officer, Howrah-Hooghly-Nadia, Jiban Paul's Garden, Hooghly for information and necessary action.

- 2) The S.L.R.O for information.

Sd/- Illegible,
Add. Dist. Magistrate (E.A.)
Hooghly.

**Government of West Bengal
Directorate of Land Records and Surveys
West Bengal.**

Memo No. 396/3532/C/71

Dated, Alipore, the 5th August, '72.

**To
The Settlement Officer,
Howrah-Hooghly-Nadia.**

**Sub : Working procedure in connection with reconstruction of lost/destroyed/
damaged C.A.Rolls as per amended Schedule "E" of the W.B.E.A Rules.**

Ref: His memo No. 112/2347/S/66 dt. 25.2.72.

A formal proceeding should be drawn up in this case too as in the case of reconstruction of lost/damage/destroyed finally published Records of rights as per amended Schedule 'C' of W.B.E.A. Rules, A specimen order sheet is enclosed.

Reconstruction of lost or damaged or destroyed C.A. Rolls also involves similar items of work as shown below : -

- a. Preparation of draft C.A. Roll on the basis of available materials, (G.R. of C.A. Rolls, Case Register, Chalan for despatch of C.A. Rolls to the Collector, Apportionment statements, R.O.Rs concerned, copy of the Roll, if available etc.)
- b. Giving of opportunity to person/persons interested in such C.A. Roll to inspect such draft C.A.Roll and to file objection.
- c. Giving of opportunity to person/persons, who may file objection, of being heard and after considering such objection and documents that may be filed by such person/persons and making the draft C.A. Roll final with or without modification.
- d. Furnishing of a certificate by the Compensation Officer concerned in so reconstructed C.A. Roll certifying it to be true copy of such finally published C.A. Roll.
- e. In every case the Collector should be asked to furnish a certificate to the effect that no payment has been made on the Roll which is being reconstructed.

The above mentioned items of work may be implemented in the following manner:-

- a. Draft C.A. Roll may be prepared on the basis of copy of C.A. Roll, if available from the party, and examination of G.R., Records of Rights, apportionment statement etc.
- b. Draft C.A. Roll so prepared, shall then be kept open for a month (to be specified by mentioning from and to) to give opportunity to the person/persons interested in such C.A. Roll to inspect the same and to file objection, if any, within the said period of one month by issuing notice u/s. 57 to such interested person/persons only and also the A.D.M. (Compensation).

(A specimen of notice is enclosed)

- c. In this case too the parties may file objection in plain paper without any court fee as reconstruction of C.A. Roll is required for no fault of the parties concerned. While taking up hearing of objections so filed, notices should be issued in usual manner only to the persons who have filed objection, persons who may be mentioned in the objection petitions, as parties and the A.C.O./D.C.O. on behalf of the Collector (Compensation) for a hearing and to adduce evidence, if any, documentary or oral. In special case, notice to any other person may be issued if it is considered necessary by the Compensation Officer, hearing the Objection. This is a case of reconstruction of lost/damaged/destroyed C.A. Roll and not that of preparation of any C.A. Roll afresh, so question of giving any opportunity for filing an appeal against the decision made in the objection does not arise and there is no provision also in the amended Schedule "E" for such appeal.

d. After disposal of all the objections filed, the Compensation Officer shall make such draft C.A. Roll final with or without modification by affixing a certificate on the body of the C.A. Roll so reconstructed (Specimen certificate is noted below).

“Certified to be true copy of Compensation Assessment Roll finally published under Sub-Section (1) of Section 21 of the W.B. E.A. Act reconstructed as per Sub Para (c)” of Para 2 of Schedule “E” of the W.B.E.A. Rules.

Compensation Officer”

N.P. Bagchee,
Director of Land Records and Surveys,
West Bengal.

Memo No. 396/3533-39/C/71

dated, Alipore, the 4th Aug. '72

Copy forwarded to:- The Settlement Officer for guidance.

K.L. Sarkar,
For Director of Land Records and Surveys,
West Bengal.

ORDER SHEET

(Rule 129 of the Records Manual, 1917)

Order Sheet dated from to

District Case No. of 19.....

Nature of the Case :- Proceeding under sub para “(c)” of para 2 of Schedule “E” of the W.B.E.A Rules for reconstruction of Compensation Assessment Rolls.

**Sl .No. &
date of order**

Order and signature of Officer.

1. Whereas it appears that the finally published C.A. Roll no..... of “C” Camp. is lost/destroyed/damaged and whereas it is necessary to reconstruct the C.A. Roll concerned the Peshkar is therefor, directed to put up before me along with other available materials, records, corollary papers etc. if any for my examination.

Compensation Officer.

2. Perused the available materials and thereby prima facie it appears that the lost/destroyed/damaged C.A. Roll concerned could be reconstructed on the basis of the available materials. The C.A. Roll concerned has accordingly been reconstructed (enclosed) which shall be kept open for one month from to in Settlement Camp at for inspection by the interested person or persons who may file objection, if any, thereto , the last date for which will expire on

Inform the interested person or persons.

Compensation Officer.

3. Notices duly served and service return filed with the records.

Compensation Officer.

4. The period for one month to keep the draft reconstructed C.A. Roll open for inspection by the interested person/persons has expired on and it appears that no objection has been filed by any body. Reconstruction of the C.A. Roll concerned is therefore final and the C.A. Roll so reconstructed is deemed to be the true copy of C.A. Roll finally framed and finally published u/s 21(1) of the W.B. E.A. Act reconstructed as per sub para “(c)” of para 2 of schedule E of the W.B.E.A. Rules.

Compensation Officer.

OR

4. The period of one month to keep the draft reconstructed C.A. Roll open for inspection by the interested person/persons has expired on and it appears that objections have been filed. Put up after disposal of all the objections.

Compensation Officer.

5. All the objections have been disposed of. No modification is necessary/Necessary modification has already been incorporated in the draft reconstructed C.A. Roll, as per decisions in the objection cases (the record of which are included in the proceeding herein as a part). Reconstruction of the C.A. Roll concerned is final and the C.A. Roll so reconstructed is deemed to be the true copy of the C.A. Roll finally published u/s. 21(1) of the W.B.E.A. Act reconstructed as per subpara (c) of para 2 of Schedule “E” of the W.B.E.A. Rules.

Compensation Officer.

Notice U/s. 57 of the W.B.E.A. Act read with Schedule “E” of the W.B.E.A. Rules.

----- Bengali -----

Government of West Bengal
Office of the Director of Land Records and Surveys,
West Bengal.

Memo No. No. 588/7589-96/C/76

Dated, Alipore, the 16th July, 1976.

From : Shri B. K. Sarkar, I.A.S.
Director of Land Records and Surveys,
West Bengal.

To
The Settlement Officer,
.....

The attention of all Settlement Officers is drawn to this office no. 302/1806/C/66 dated 13th April, 1967, with which was enclosed a copy of the opinion of the then L.R. on the subject compensation payable to lands vested consequential to an order declaring a transfer as not bonafide under section 5A. The L.R. has opined that no compensation was payable to the transferor who had transferred lands by sale if the lands vested on the transfer been declared not bonafide.

2. The question of the legality of this decision was raised by this Directorate and the matter has been under correspondence with the Government since then. Meanwhile requests for an early decision in the matter have been received from all Settlement Officers on this issue.

3. The matter was placed before the present L.R. and the Advocate General. The L.R. & the Advocate General have both recorded the opinion in Board's file no. 21/76-MISC(Comp) that under the law compensation cannot be denied to a person whose lands have vested as a consequence to an order declaring transfer as not bonafide.

4. All Settlement Officers are directed to follow the above principle which superseeds the earlier decision conveyed by Memo. No. 302/1806/C/66 dated 13th April, 1967.

B.K. Sarkar,
Director of Land Records and Surveys,
West Bengal.

●

Government of West Bengal
Office of the Board of Revenue, West Bengal.
Section - C.I., Br. Misc. (Comp).

Memo. No. 22248-Misc. Comp.
77/76

Dated, Calcutta the 22nd Dec./ 18th January, '77.

To
The Additional District Magistrate (LR)
Malda.

Sub: Payment of perpetual annuity under Sections 17(1) of the W.B.E.A.Act.

Ref : His memo no. 466 FC(A) dt. 30.7.69.

The matter was referred to the Law Officers of Govt. for opinion. The points referred and the replies thereto are as follows :-

Points referred

i) Will it be open to Govt. to stop payment of annuity because the Shebait does not discharge his duties. ?

ii) Is it permissible for the Settlement Officer to correct records and bring in the actual Shebait as the annuetant ?

Replies :

No.It is not the duty of the Govt. to see that the Sebait or Matwali discharges his duties properly.

No.

2. The **defacto** Shebait may, if he so likes, file a suit in a Court of competent jurisdiction and obtain an order of injunction restraining the Govt. from making payment to the Shebait whose name is on record.

In view of the above nothing can be done unless a Court of Competent Jurisdiction passes an order in this regard.

Sd/- Illegible
Deputy Secretary.
Board of Revenue, West Bengal.

Memo No. 22248/1(19) Misc. Comp.

Copy with a copy of memo no. 466 FC(A) dt. 30.7.69 of the ADM(LR), Malda forwarded to the Director of Land Records & Surveys, West Bengal for information.

Sd/- Illegible.
Deputy Secretary,
Board of Revenue, West Bengal.

Memo No. 489/712-19/C/77

dated, Alipore, the 29th January, 1977.

Copy with a copy of enclosure forwarded to the Settlement Officer,, for information & guidance.

K.L. Sarkar
for Director of Land Records and Surveys,
West Bengal.

Copy of memo. no. 466 FC(A) dated 30.07.69 from the Additional Collector, Malda E.A. Compensation (Final) to the Secretary, Board of Revenue, West Bengal, Writers' Building.

Sub : Regarding payment of perpetual Annuity u/s. 17(1) of E.A.Act, 1953

It appears from C.A. Roll No. 800 Gazole "C" that perpetual Annuity @Rs.17.68 paise only per year has been awarded with effect from 1362 B.S. in favour of "Sebayet Dang" Kishori Mohan Ghosh (since deceased) and 6 others.

The local enquiry report shows that the recorded sebayets do not perform any Seba puja after vesting of State. But one Jarman Murmu s/o Durga Murmu is managing the Seba puja as representative of the villagers in the absence of recorded proprietors who live in the district of West Dinajpur. The Local people have also submitted representation in support of payment of annuity in favour of the present managing agent.

In view of claim advanced by the said Jarman Murmu the recorded annuitatns were served with notices for hearing. None of the recorded Sebayets turned up nor they filed any objection.

In the above backgrounds, the payment of annuity may be made to the present managing agent after mutation of his name as "Hal-Sebayet Dang". But the existing Rule stands in support of mutation in the event of death of the annuitant only (vide rule 51(11) of the E.A. Rules, 1954).

As the party is pressing very hard for payment, it may kindly be instructed if payment may be made to the present managing agent, secretary of the Seba puja Committee, in others words subject to execution of Indemnity Bond as referred to in rule 19(5) of schedule "A" of the E.A.Ruales, 1954.

Board's instruction in the matter may kindly be communicated very early date.

— ● —

Government of West Bengal
Office of the Board of Revenue, West Bengal.
Section – C, Branch – Comp.

No. 15714(30)-Estt.(Comp).

Dated, Cal, the 3rd Dec. '79.

To

1) The Addl. District Magistrate (LR)(Comp)/

2) The District Compensation Officer,

Sub : Simplification of procedure for payment of Compensation to the low and middle income group of intermediaries under the Estates Acquisition Act.

The undersigned is directed to say that Government have decided to simplify the procedure for payment of compensation to the low and middle income group of intermediaries i.e. whose net annual income did not exceed Rs.5,000/- (i.e. total compensation Rs.70,000/-).

2. The Board of Revenue has accordingly been pleased to lay down the following procedure for making payment of compensation to the intermediaries whose net annual income did not exceed Rs.6,000/-.

(i) Instead of obtaining information and details of all arrear Government dues, viz., land revenue, cesses, taxes, etc. recoverable under sec. 7 in respect of an intermediary, a certain percentage of the total compensation excluding interest charges may be deducted viz., the 2% of the total compensation in the case of net annual income not exceeding Rs.250 and 5% of the total compensation in the case of net annual income exceeding Rs.250 but not exceeding Rs.5,000/-.

(ii) The amount so deducted shall be credited by Treasury Challan by the Compensation Officer to the Land Revenue Receipt Budget (029-Land Revenue) and not in the Suspense Account. A certificate of such deductions shall be communicated to all concerned.

(iii) Priorities for such adjustment shall be as laid down in Section 26(2) of the Estates Acquisition Act.

(iv) Such payments shall, however, be made subject to execution and registration of an Indemnity Bond by the Intermediary to the effect that if there be any balance of arrear Government dues left unrecovered from him, Government shall have the right to recover the balance amount as an arrear of land revenue under the Public Demands Recovery Act. The Indemnity Bond shall be presented before the Compensation Officer for acceptance before registration. Payment need not be held up till receipt of the original registered bond, such payment being made on the basis of the certified copy of the bond. Further, where the total compensation does not exceed Rs.250, Indemnity Bond need not be insisted upon.

(v) The above procedure shall not apply to the cases :-

(a) Hit by Civil Rule or Civil Suit, (b) cases covered by proviso to section 7(1) and (c) cases with net annual income above Rs.5,000.

(vi) In respect of the Compensation Assessment Rolls covered by surplus vested land and not hit by Civil Rule/Civil Suit, payment need not be deferred till receipt of the possession certificate from the Junior Land Refoms Officer.

(vii) Payment shall be made after the ex-intermediary concerned have duly sown Affidavit and also executed a registered Indemnity Bond stating that – (a) he has surrendered possession of the lands as per schedule shown in the Compensation Assessment Roll; (b) he has not filed any Civil Suit or Civil Rule nor he shall ever file any rule or suit challenging vesting of such land and (c) he has not settled or transferred any portion of such land with any one else after the date of vesting which may attract the provisions of Section 25(3A) of the Estates Acquisition Act.

(viii) Indemnity Bond need not be insisted upon where total compensation does not exceed Rs.250/-.

(ix) The form of Affidavit and Indemnity Bond has been settled by the Board of Revenue. Indemnity Bond shall be presented before the Compensation Officer for acceptance before registration.

(x) Damage fee in respect of surplus land shall be assessed by the Compensation Officer acting as Collector @ Rs.10 per acre upto the date of enforcement of amended Section 10(6) of the Estates Acquisition Act, i.e., upto 29th June, 1975 and realised from the compensation money.

(xi) There may be cases where such lands were taken possession of or yet to be taken possession of (after 29.6.75). With a view to safeguarding the interest of Government an Indemnity Bond may be obtained from the intermediary to the effect that the damage fee, if any recoverable, shall be realised from him as a public demand under the Public Demands Recovery Act. The form of Indemnity Bond has been settled by the Board of Revenue.

(xii) Ad-interim payments already made to such intermediaries shall be adjusted against the compensation money in the manner laid down in section 12 of the Act. In order to expedite payments of final compensation after adjustment of ad-interim payments made, a statement shall be prepared by the District Compensation Officer in respect of AI Camp intermediaries i.e. Inter-District Intermediaries including those against which final payment has already been made. The statement shall show the name and other particulars of the Intermediary, case number, roll number, net annual income and the total gross income of the roll and the amount of ad-interim payments made, with T/V number and date/ dates of delivery of the bill and circulated amongst all the District Compensation Officers of the State. The District Compensation Officers concerned shall prepare an alphabetical index on receipt of such statements, verify Compensation Assessment Rolls of each district and if it is found that another roll in the name of the same intermediary has been published in his district thereby affecting the slab, a reference shall be sent to the District Compensation Officer of the district wherefrom the AI Camproll had been published along with other reports, such as attachment objection, etc. Where the slab is not affected payment shall be made from the respective district after adjustment of the ad-interim payment made with intimation to the district concerned. The statement should be verified and checked by the Compensation Officer himself and also authenticated by the District Compensation Officer. This work should be completed within 31st December, 1979.

3. The Form of the Indemnity Bond and the Affidavit settled by the Board of Revenue is sent therewith.

4. Sufficient copies of the circular along with the Indemnity Bond and Affidavit forms are enclosed for circulation amongst all concerned.

5. A monthly progress report of disposal of cases in the enclosed proforma should reach the Board by the 31st January 1980.

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

Copy of Memo No. 9415(33)-Mice/Comp. 12/90 Dated, Calcutta, the 6th/23rd October, 1990 from the Special Officer & (ex-officio) Secretary, Board of Revenue, West Bengal to (1) * (2) the District Land & Land Reforms Officer, South 24-Parganas, Alipore, Calcutta - 700 027.**

Sub : Application of Section 24 of the W.B.E.A. Act.

The undersigned is directed to state that Section 24 of the West Bengal Estates Acquisition Act provides that if any intermediary entitled to receive compensation against vested interests under the Estates Acquisition Act is a person incompetent to alienate such interest, the compensation officer shall keep the amount of compensation payable

for such interests whether in cash or bonds with Collector, and the Collector shall invest the cash and the income from the bonds in the purchase of Government or other approved securities and shall direct payment of income from such investment to the intermediary.

This Section confers on the Collector, the responsibility of investing the sum of compensation on behalf of a particular type of intermediaries. It can reasonably be said that the need to invest the amount punctually and prudently is implied in the law.

It has come to the notice of the Board of Revenue that such investment is sometimes not made in time. In fact, cases have come to notice of the Board where such investment has been kept pending for years. This causes loss to the intermediary whose interests are to be protected by the Collector under the Law. Further, sometimes the investment is in term deposits, and reinvestment is delayed indefinitely when the term is over. This again causes loss to the intermediary due to omission by the district officers of the Board of Revenue. Such delays may please be avoided.

It is also reasonable for the intermediaries to expect that the details of investment or reinvestment should be made known to them. The undersigned is directed to request that intimation may be sent to the intermediaries at the time of each investment or reinvestment giving full details of such investment or reinvestment.

●

**Government of West Bengal
Board of Revenue, West Bengal,
Section - CI, Branch-Comp.**

No. 1661-Misc/Comp
9/92

Dated Cal the 12th March, 1993

ORDER

1) The undersigned is directed to invite a reference to the provisions laid down in para (4) of Schedule "A" [Rule 19(1)] of the West Bengal Estates Acquisition Rules, 1954 in terms of which the financial power to accord sanction to the payment of compensation under the West Bengal Estates Acquisition Act, 1953, was delegated to the concerned officers at the district level under the administrative control of the Board of Revenue, W. Bengal upto the limit prescribed in the said Rules.

2) In view of the devaluation of money in the recent years and also in the interest of expeditious disposal of compensation cases under the W.B.E.A. Act, 1953, the question of raising the limit of existing financial powers of the District Officers was under consideration of the government for some time past.

3) After careful consideration of all aspects of the matter and in exercise of the power conferred by Sub section (2) of Section 53, read with sub-section (2) of Section 54 of the West Bengal Estates Acquisition Act, 1953 (West Bengal Act, I of 1954), the Governor has been pleased to raise the limit of financial powers of the concerned district officers in each case of payment of compensation, in partial modification of the limit of financial power laid down in para (4) of Schedule A (Rule 19(1)) of the West Bengal Estates Acquisition Rules, 1954, as mentioned in the following Table :-

TABLE

Officers	Amount upto which bills & cheques may be drawn in each case
1.	2.
Collector	Without Limit
Additional Collector/ Additional Dist. Magistrate/ Dist. Land & Land Reforms Officer in charge of Estates Acquisition.	Without Limit

4) Relevant provisions laid down in the West Bengal Estates Acquisition Rules, 1954 shall be amended in due course.

5) The order shall take immediate effect.

6) This issues with the concurrence of Finance Deptt. vide their u/o No.43 Gr-DII dtd. 10.3.93.

Sd/- Illegible
Member, Board of Revenue, West Bengal
& Secretary to the Govt. of West Bengal,
Land & Land Reforms Department.

Memo : No. 1662(60)-Misc./Comp.

Copy forwarded for information and necessary action to the Director of Land Records & Surveys, W.Bengal.

Sd/- Illegible
Spl. Officer & Ex-Officio, Secy, Board
of Revenue, W.B. & (Ex. Officio),
Jt. Secy. to the Govt. of W.B.

Memo No.31/1976-2000/C/92

dated Alipore, the 5th May, 1993.

Copy forwarded for information and necessary action to :

1. The Dist. Land & Land Reforms Officers,
- 2-8)

M.K.Sarkar
for Director of Land Records & Surveys and
Jt. Land Reforms Commissioner, W.Bengal.

GOVERNMENT OF WEST BENGAL
Office of the Director of Land Records and Surveys &
Joint Land Reforms Commissioner, West Bengal
35, Gopalnagar Road, Calcutta - 27.

CIRCULAR

No. 178/4940/C/91,

dated, Alipur, the 27th September, '94.

The West Bengal Estates Acquisition Act, provides that the State Government shall pay compensation in the prescribed manner for vesting of any land in the State under the provision of the Act to the person or persons having any interest therein. It is within the knowledge of the District Land and Land Reforms Officers that for want of information in respect of taking over possession of vested land under W.B.E.A.Act, a huge number of Compensation Rolls are pending for payment for a long time. It is needless to say that delay in disposal of C.A Rolls has led to very adverse criticism of the Government. This delay is also injustice to the compensation payees and hence calls for immediate attention.

It has been brought to the knowledge of this Directorate that the District Compensation Officers all over the State have reported that their letters asking for informations, receive least attention from the Block Land and Land Reforms Officers. It is known to all that except in cases where vested land could not be taken over by the Collector as a result of Court Cases, most of the vested lands have been distributed. It is therefore, obvious that possession of such land had been taken over. So it is not understood why the B.L. & L.R.Os fail to furnish the required information to the D.C.Os. A little application of mind and spending of time may solve the problem. In case no information either from the possession taken proceeding or from the Register VIII are traceable even after reasonable diligence, the B.L.& L.R.O may cause an investigation to

ascertain the date and the date to be so ascertained may be communicated to the D.C.Os as date of possession.

It has also been alleged that a number of Compensation Assessment Rolls were sent back to the erstwhile Settlement Wing and also to the present B.L.&L.R.Os for correction but it is really unfortunate that only a few number of C.A. Rolls has been returned to the District Compensation Officer after effecting necessary correction. There is no iota of doubts that such C.A. Rolls are lying unattended and gathering dust in the offices of B.L.& L.R.Os. It is often argued that for absence of any knowledge and roll knowing persons and also for non-availability of records, correction/reconstruction of Rolls are not taking off. Though there is substance in such arguments, but they do not finally last. We still have Roll knowing personnel posted here and there. Assistance of such rightly experienced personnel may be garnered through concerned S.D.L.& L.R.O./D.L.& L.R.O. There are various sets of records like R.S. Record-of-Rights, 1st copy of Record-of-Rights and G.R.available. If one set is torn and tattered other sets are available. Party concerned may also be asked to produce the copy of Roll. The Directorate is of the view that one set of Record-of-Rights or the other will be available and correction/ reconstructions will not be difficult if will to do is not tattered. B.L.& L.R.Os may please be requested to make a special drive for the work. S.D.L.&L.R.Os and D.L.&L.R.Os are also requested to monitor the work during their visits/inspection as a matter of routine so that work progresses at a normal speed.

It should be noted that B.L.&L.R.O. who will fail to achieve the target fixed up should be asked to explain/ justifying their inability in reaching the target. Action should be taken against erring hands to gear up the performance of the district as a whole. While writing ACRs performance on this item amongst others should be taken into account.

D.L.& L.R.Os may also send specific proposal for taking action against the worst defaulters in accordance with law.

The undersigned will be thankful if the above instructions are kept in mind and followed strictly.

Copy of this Circular is being endorsed to all District Compensation Officers.

P. Bandyopadhyay
Director of Land Records & Surveys &
JT. LRC. West Bengal.

Memo no. 178/4941-46/C/91,

dated Alipur, the 27th Sept. '94.

Copy forwarded to :-

1. The Special Officer & (Ex-Officio) Secretary, Board of Revenue, W.B. This has reference to his D.O. No. 5568 (Estt.)/Comp. dated 30.08.94/1.9.94. Extra copies ment for the B.L.&L.R.Os are enclosed for circulation and strict compliance.
2. The District Land and Land Reforms Officer, for strict compliance. Extra copies meant for S.D.L.& L.R.Os are enclosed for circulation & strict compliance.
3. The D.C.O. for information.
4. File No. 87/C/88.
5. Guard File "C" Group
6. Sri S. Saha, S.R.O.-II

A.L. Brahmachari
for Director of Land Records & Surveys and
Jt. L.R.C., West Bengal.

**The Calcutta Gazette
Extraordinary
Published by Authority.**

VAISAKHA 14)

THURSDAY, MAY 4, 1995

(SAKA 1917)

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

**GOVERNMENT OF WEST BENGAL
L & L.R. DEPARTMENT
Land Reforms Branch**

NOTIFICATION

No. 485-L.Ref

Dated, Calcutta the 28th April, 1995.

In exercise of the power conferred by section 59 of the West Bengal Estates Acquisition Act, 1953 (West Bengal Act I of 1954), 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 Estates Acquisition Rules, 1954, as subsequently amended (hereinafter referred to as the said rules) namely,

Amendments

In the second proviso to paragraph (5) of Schedule A appended to the said rules,

- i) after the words "if the amount of compensation involved", insert the word "in respect of the share of each such heir",.
- ii) In clause (a), for the letters and figures "Rs.500" substitute the letters and figures "5,000".
- iii) In clause(c) , for the words, letters and figures, "exceeds Rs.500, but does not exceed Rs.5,000", substitute the words letters and figures "exceeds Rs.5,000 but does not exceed Rs.20,000".
- iv) In clause (d), for letters and figures "Rs.5,000", substitute the letters and figures "Rs.20,000".

By order of the Governor
Sd/- A.K. Majumdar
Secy. to the Govt. of West Bengal

●
**Government of West Bengal
Office of the Board of Revenue, West Bengal
Section - CI : Br-Comp.**

No. 6019(36)-Estt/Comp.

Dated, the 5th Sept, 1995.**To**

- 1. The District Land & Land Reforms Officer,**
- 2. District Compensation Officer,**

Sub : Further simplification of procedure for payment of compensation to the intermediaries under the Estates Acquisition Act.

Under Board of Revenue No. 15714(30)-Estt. Comp. dated 03.12.1979 guidelines were issued simplifying the procedure for payment of compensation to the intermediaries whose net annual income did not exceed Rs. 5,000/-. Final payment could be made in respect of a considerable number of C.A. Rolls as a result of this simplification of

procedure. In order to liquidate the remaining unpaid C.A. Rolls the need for further simplification of the procedure has been stressed by all the districts.

2. The Board of Revenue has been accordingly pleased to lay down the following procedure in modification of the circular No.15714(30) Estt. Comp. dated 3.12.1979 for making payment of compensation in respect of all the pending C.A. Rolls :

(i) Without waiting indefinitely for the details of the arrears of land revenue, cesses, taxes, etc. recoverable from an intermediary under section 7 of the Act. in respect of his share a certain amount as shown below may be deducted from the total amount of compensation excluding interest charges :

- a) 2% of the total compensation when the net income does not exceed Rs.250/-
- b) 5% of the total compensation when the net income does not exceed Rs5,000/-
- c) 8% of the total compensation when the net income does not exceed Rs.10,000/-.
- d) 10% of the total compensation when the net income does not exceed Rs.15,000/-.
- e) 15% of the total compensation when the net income does not exceed Rs.20,000/-.
- f) 20% of the total compensation when the net income is Rs.20,000/- or above.

The amount so deducted shall be credited by Treasury Challan by the Compensation Officer to the Land Revenue Receipts Budget (029-Land Revenue) and NOT in the Suspense Account. A certificate of such deduction shall be communicated to all concerned.

Priority of deduction as laid down in Section 26(2) of the Act shall be followed.

(ii) A registered Indemnity Bond to the effect that if there be any balance of arrear Government Dues left unrecovered from him the Government shall have the right to recover the balance amount as an arrear of land revenue under the Public Demands Recovery Act, shall be obtained from the intermediary.

The Indemnity Bond shall be presented before the Compensation Officer for acceptance before registration. Payment may be made on the certified copy of the Bond without waiting for the original. No Indemnity Bond is required when the total amount of compensation does not exceed Rs.5,000/-.

(iii) No payment shall be made when the intermediary or any person interested in the C.A. Roll has challenged the calculation and assessment in C.A. Roll in a court of law before disposal of the case.

(iv) No payment shall be made in respect of cases coming within the purview of Proviso to section 7(1) of the Act, except on specific approval of the Board of Revenue.

(v) Payment shall not be held up for want of possession certificate in respect of the C.A. Roll involving vested land. However, payment shall not be made when vesting of surplus land has been challenged in any court of law.

(vi) For payment in such cases the intermediary will be required to submit a duly sworn affidavit and a registered Indemnity Bond to the effect that (a) he has surrendered all the vested land as shown in the compensation assessment roll; (b) he has not challenged vesting of any of the plot of surplus land in any court of law, nor shall he challenge vesting of any such land in any court of law; and (c) he has not transferred any kind of the surplus vested land included in the C.A. Roll in violation of section 25(3A) of the Act.

(vii) Indemnity Bond is not required when the total compensation does not exceed Rs.5,000/- The existing form of Affidavit and Indemnity Bond as settled by the Board of Revenue shall continue with modifications that may be necessary to incorporate the changes made in the present circular. The Indemnity Bond shall be presented before the Compensation Officer for acceptance before registration.

(viii) The existing instructions in circular No. 15714(30) Estt. Comp dt. 3.12.1979 on realization of damage fee in respect of surplus / vested land; acceptance of Indemnity Bond for protecting the interest of the Government in respect of unrecovered damage fee, if any; and adjustment of ad-interim payment, if made, shall continue as before.

3. Paragraph (5) of Schedule A appended to the W.B.E.A., Rules 1954 has been amended to facilitate payment to heir or heirs of the intermediary who is reported to be dead. A copy of the Gazette Notification No. 485-L.Ref. dt. 28.4.95 is enclosed for necessary action.

4. Under Board of Revenue memo. No. 5644(39)-Estt. Comp. dated 26.5.92 it has been stipulated that the District Land and Land Reforms Officers should be in immediate charge of supervising both the preparation and payment of the compensation assessment rolls.

5. Now that all the obstacles to the speedy disposal of the Compensation Assessment Rolls as pointed out by the Compensation Officers of almost all the districts have been removed in this Circular the District Land & Land Reforms Officers and the Compensation Officers should make an all-out attempt to make all the pending C.A. Rolls ready for payment within this financial year.

K. L. Mukhopadhyay
Sp. Officer & Secretary
Board of Revenue, West Bengal.

No. 6019/1(18)-Estt. Comp.

Dated, the 5th Sept., 1995.

Copy to :-

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

2. The District Magistrate,
.....

K. L. Mukhopadhyay
Sp. Officer & Secretary
Board of Revenue, West Bengal.

————— ● —————
Government of West Bengal
Office of the Board of Revenue, West Bengal
Section C. I : Comp. Branch

No. 7392-Estt./Comp.
5/87

Dated, Cal. the 29th Nov. 1995.

To
The District Land & Land Reforms Officer,
South 24-Parganas. Alipur,

Sub : Deduction of compensation money for 'Bandh' Lands.

Ref : His Memo No. 613/EADC dated 20.09.95.

A question has been raised as to what will be the mode of deduction of compensation amount for 'Bandh' lands from the net income of an intermediary, or whether separate pro-rata deduction on this account is necessary.

The undersigned is directed to refer to the Board's instructions contained in para 2(i) of Memo No. 6019 (36)-Estt. Comp. dated 5.9.95 wherein the mode of deduction of

compensation money on account of non- availability of reports on “the arrears of land revenue, cesses, taxes, etc.” has been prescribed.

The undersigned is directed to say that the deduction prescribed on these counts also includes the deduction of compensation of ‘Bandh’ lands. Any separate deduction for ‘Bandh’ land, will not be necessary.

All pending cases may be disposed of accordingly.

Sd/- Illegible
Deputy Secretary,
Board of Revenue, West Bengal.

Memo No. 7392/1(54)-Estt.

Copy for necessary action to:-

The Collector,
The District Land & Land Reforms Officer,
The District Compensation Officer,
The D.L.R. & S. West Bengal.

Dated, Calcutta
the 29th Nov. 1995.

Sd/- Illegible
Deputy Secretary,
Board of Revenue, West Bengal.

————— ● —————

<http://wbllrca.in>