

37. INSTRUCTION ON CERTIFICATE CASE

**GOVERNMENT OF WEST BENGAL
OFFICE OF THE COMMISSIONER, JALPAIGURI DIVISION
JALPAIGURI.**

Memp No.181(5)/L.M.R.

Dated 19.2.1990

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

Subject : Granting of certificate powers to officers in the Integrated Set up for Land Reforms Administration.

Sanction is hereby accorded u/s 3(3) of the Bengal Public Demands Recovery Act, 1913 (Bengal Act III of 1913) to the appointment by the Collector to all officers of the categories given below of the Integrated set up of Land Reforms Administration as Certificate Officer under the said Act to deal with Certificate cases within their respective areas of jurisdiction.

Category of Officers :

1. District Land & Land Reforms Officers.
2. Deputy District Land and Land Reforms Officers.
3. Sub-divisional Land & Land Reforms officers.
4. Block Land & Land Reforms Officers.
5. Revenue Officers in the Integrated set up of Land Reforms Administration.

If the Officers have had no previous experience of Certificate Works, they should be given adequate training before they are entrusted with Certificate work.

K. Chaudhuri
Commissioner,
Jalpaiguri Division.

**GOVERNMENT OF WEST BENGAL
OFFICE OF THE COMMISSIONER, PRESIDENCY DIVISION
11, NETAJI SUBHAS ROAD, CALCUTTA - 700001.**

ORDER

No. 612 R.L.

Dated, Calcutta, the 30th July, 1990.

In exercise of the power conferred by section 3(3) of the Public Demand Recovery Act, 1913 (Bengal Act III of 1913) sanction is hereby accorded to the appointment of the undermentioned officers of the Integrated set up of Land Reforms Administration working in the Districts of South 24-Parganas/North 24 Paganas/Howrah/Nadia /Murshidabad under the collectors of the respective districts within Presidency Division as a Certificate officer under the said Act to deal with the Certificate cases for the purpose of recovery of Govt. dues within their respective jurisdiction.

1. District Land & Land Reforms Officers.
2. Deputy District Land and Land Reforms Officers.
3. Sub-divisional Land & Land Reforms officers.
4. Block Land & Land Reforms Officers.
5. Revenue Officers in the Integrated set up of Land Reforms Administration.

The officers should undergo three weeks training under a Certificate Officer before assuming charge as a Certificate Officer if they have no previous experience in exercising such powers.

This has a reference to Board of Revenue's Memo.No.507(3)CP/G/87 dated 18/25-1-90.

Sd/- Illegible
COMMISSIONER
PRESIDENCY DIVISION

Memo No.613(6)/RL

Dated, Calcutta, the 30/7/1990.

Copy submitted/forwarded to :-

1. Board of Revenue, West Bengal for information.
2. The Collector, 24-Parganas South/24-Parganas North/Nadia/Murshidabad/Howrah for information and necessary action.

Sd/- Illegible
For Commissioner,
Presidency Division

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GOVERNMENT OF WEST BENGAL
OFFICE OF THE COMMISSIONER, BURDWAN DIVISION

Memo. No. 1078(6) R.G.

Dated : Chinsurah, the 08.11.1990

To
Shri P. S. Kathiresan, IAS,
District Magistrate,
Purulia.

Sanction u/s 3(3) of PDR Act is hereby accorded to the appointment of the following categories of officers of integrated set up of Land Reforms Administration in his district to act as certificate officer.

Category of officers : -

1. District Land & Land Reforms Officer
2. Deputy District Land & Land Reforms Officers
3. Sub-divisional Land & Land Reforms Officers
4. Block Land & Land Reforms Officers
5. Revenue Officers

Sd/- Illegible
Commissioner
Burdwan Division

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GOVT. OF WEST BENGAL
OFFICE OF THE DIRECTOR OF LAND RECORDS AND SURVEYS
AND JOINT LAND REFORMS COMMISSIONER, WEST BENGAL
35, GOPALNAGAR ROAD, ALIPUR, CALCUTTA-700027.

Memo No.8/495-511/C/96

Dated, Alipur the 10th February'96

To
The District Land and Land Reforms Officer,

A copy of an exhaustive note on Certificate cases on P.D.R. Act as well as guide line and model order sheet, prepared by the D.L.& L.R.O. Hooghly are enclosed.

He is requested to kindly look into the matter and circulate the same among S.D.L.&L.R.Os/B.L.&L.R.Os of his district so as to enable them to initiate certificate proceedings without much effort.

A.K. Bhattacharjee
for Director of Land Records and Surveys
And Jt. Land Reforms Commissioner, West Bengal.

Model Order Sheet

Certificate Case No...../year
Name of the Certificate Debtor.....
Nature of Case.....i.e. Defaulter of Royalty/Rent/Cesses Etc.
Name of Mouza.....
J.L. No.....
P.S.....
Amount involved.....

1/Date: Requisition for initiation of certificate case has been received from under memo dated Certificate duly signed as the demand is due. Notice u/s 7 of P.D.R. Act issued under memo No..... dt

Issue notice u/s 7 of P.D.R. Act with a copy of the Certificate Debtor to deposit Rs. (Rupees)
only within one month from the date of receipt of the notice.
To date

C.O

2/Date: Service Return received and filed with case record. Certificate Debtor(C.D.) neither filed any objection nor turned up to pay the dues within the statutory period. S.R. received

Issue reminder warning notice u/s 7 of P.D.R. Act asking C.D. for payment of the said amount by positively. Warning notice issued.
Put up on

OR

2/Date: S.R. received and filed with the case record. C.D. filed objection u/s 9 of the P.D.R. Act denying his liability. Objection filed u/s 9 of P.D.R. Act. Issue notice to the C.D. to appear before the C.O. (i.e. Certificate Officer) on at for hearing of his objection. Notice for hearing.

2A/Date: Reminder notice served & S.R. filed with the case record. C.O.
Put up on

3/Date: Notice for hearing duly served and S.R. filed with the case record. C.O.
Put up on.....

4/Date: The case record is put up today. In spite of reminder notice issued the C.D. did neither pay his dues nor applied for time. C.O.

Issue last warning notice asking for payment of the dues by failing which D.W. will be issued.
Put up on.....

C.O.

OR

4/Date: The C.D. appeared today and filed hazira. The case is taken up today for hearing. Heard the C.D. Heard C.D. and case disposed of.
Statement of C.D.
Findings of C.O.

5/Date Even the last warning notice duly served, the C.D. did D.W. issued not turn up though he was given opportunity, Hence ordered that I issue D.W. upon the C.D.
C.O.

NOTE

1. **What is a Public Demand ?**

Ans: Public Demand means any arrear or money mentioned or referred to in Schedule-I and includes any interest which may by law, be chargeable upto the date on which a Certificate is signed.

2. **Who is a Certificate Debtor ?**

Ans: Certificate Debtor is a person named as debtor in a Certificate proceeding and includes any person whose name is substituted or added as debtor by the Certificate Officer.

3. **Who is a Certificate Holder ?**

Ans: Certificate Holder means the Government or person in whose favour a certificate has been filed and includes any person whose name is substituted or added as a Creditor by the Certificate Officer.

4. **Who is a Certificate Officer ?**

Ans: In terms of sub-section (3) and (3a) of Section 3 of the Act, the Collector, A.D.M. & the S.D.Os are Certificate Officers and such other Officers as the Collector may appoint after sanction by the Divisional Commissioner. (At the Integrated set-up all the officers have duly been empowered as C.O.)

5. **Who can file the Certificate Requisition before the Certificate Officer ?**

Ans: Any one, including any Govt. Officer can file Certificate Requisition before the Certificate Officer, in West Bengal Form No.1027 with details (Sec.4 & 6) along with Register IX and Register X is maintained in Certificate Office to keep all records like particulars of C.D. demand, stage of proceeding etc. until it is finally disposed of.

6. **Whether any stamp-duty (Court Fee) is required to file any Certificate Requisition?**

Ans: In the matter of filing of certificate on account of Public Demand payable to the Collector (Sec.4) and that to any person other than the Collector (Sec.5 & 6), in respect of the former the Certificate Officer can straightway sign the Certificate and file in his office for which no stamp-duty is required, while in respect of other verified requisition is required from the person claiming it, alongwith advalorem Camp fee under the Court Fee Act, 1870.

7. After receipt of Requisition, notice u/s 7 (W.B. Form No.1029) is issued to Certificate Debtor and notice u/s 43 to legal heirs if C.D. (W.B. Form No.1037) is dead before or after filling of cases, fixing more than 30 days. It is issued by post with Regd. with A/D or by process server, keeping a note in order sheet about the mode of action as well as in Forward Diary for follow up.

8. The case is generally pursued on fixed date according to Forward Diary. If C.D. files objection u/s 9 (W.B. Form No.1031) denying liability within 30 days from the date of receipt of notice then programme of hearing u/s 10 is drawn up after 30 days from the date of giving notices to both parties and supplying a copy of objection to C.H. (Certificate Holder) for his comment and reply by the date of hearing.

9. Both parties are given full opportunity of being heard and ex-parte decision is being taken after two warning to the party on 3rd day of hearing to avoid delay in hearing.

10. When all attempts as stated above, fail, then D.W. is issued through Nezarath Department. Instruction on overleaf of notice is followed up in execution of D.W. Generally it is executed without help of police, but with help of C.H. In exceptional cases, where there is apprehension of breach of peace, or C.D. may resist/obstruct in execution of D.W. police help is taken.

D.W. is refunded to Nezarath Deptt. through Register No.XI. And Nazir will serve the same within 60 days by process Server. Checking of Register and issue of Reminder etc. are done after 60 days from the date of issue.

Of Course, S.R. has been received earlier, action is being taken earlier, with adjustment in forward-diary.

11. **Execution of D.W.** It is done by actual seizure by Nazir or his subordinates with attachment slip and keep the attached property in the custody of C.D. or any responsible villager, who agrees to undertake responsibility, although, Nazir is responsible for safer custody of attached property under Rule 15 of P.D.R. Act. Seizure list is prepared in triplicate with two witness.

But difficulties is experienced, in some cases, where custodian does not produce attached articles before execution of sale date. In that case, bidding fails. Law is also silent about any action against delinquent Custodian.

12. **Sale Notice u/r 46 :** Immediately after receipt of S.R. notice is issued to C.D. fixing date with wide publicity as prescribed in P.D.R. Act. If C.D. does not pay or pray for any instalment with undertaking, sale of property is being conducted.

Sale remains adjourned or stopped on part payment, subject to condition that it will be re-issued in default of payment of any instalment granted to him on his prayer.

After each adjournment or stop of sale, fresh notice u/r 46 for sale proclamation is required.

If demand is not being fully satisfied by sale of movable property then sale is conducted on immovable property of C.D. To realise entire demand proceeding will be continued until it is fully satisfied.

13. **Refusal to accept the notice u/r 46 :-**

Refusal is a good service, that indicates the ill motive of the C.D. Accordingly, such cases are dealt very properly and seriously to create good impact in realisation.

14. **Setting aside the sale of immovable property :-**

There are various provisions for setting aside the Certificate sale of immovable property. Application may be made to the C.O. by any person whose interest is affected by the sale, within 30 days from the date of the sale by depositing the amount mentioned in the proclamation of sale with 6¼% interest upto the time of deposit, 5% of the purchase money as penalty to be paid to the purchaser and all outstanding charges due to Govt. whether in respect of the property sold or not (Sec 22).

An application u/s 23 of the P.D.R. Act may be filed by C.D., C.H. or any other person affected by the sale, to the C.O. within 60 days from the date of sale of immovable property on the ground of non-service of notice u/s 7 or on the ground of irregularity and the sale can be set aside by the C.O. if the following conditions are present.

- (1) Notice u/s 7 was not served.
- (2) There was material irregularity in the Certificate proceeding.
- (3) There are material irregularity in publishing and conducting sale.
- (4) The applicant sustained substantial injury by reason of the material irregularity:

15. **Provision of Appeal:**

Section 51 provides for appeal against the order of the C.O. to the Collector where the C.O. is subordinate to the Collector, within 15 days and when C.O. is Collector, to the Commissioner within 30 days. There is no provision for appeal against order u/s 22 for setting aside the sale by the C.O.

No. 2nd appeal lies in Certificate cases (Sec 52) but the Collector can revise any order passed by subordinate Certificate Officer. The Commissioner can revise the order passed by the Collector. The B.O.R. may revise the order passed by the Commissioner.

Time limit for filing revision petition is 30 days but on good and sufficient reason the time can be extended by the revising authority. The Revising authority shall interfere when the Certificate Officers –

- a) have exercised jurisdiction not vested by law;
- b) have failed to exercise a jurisdiction so vested or;
- c) have acted illegally or with such material irregularity as have occasioned a substantial failure of justice.

Review is permitted by the C.O. or his successor in office on account of mistake or error (Sec.54)

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**GOVERNMENT OF WEST BENGAL
OFFICE OF THE COMMISSIONER, JALPAIGURI DIVISION
JALPAIGURI.**

MEMO NO.684/LMR.

DATED 19.7.2000.

To
The Director of Land Records & Surveys
And Joint Land Reforms Commissioner, West Bengal,
35, Gopalnagar Road, Alipore,
Calcutta-700027.

Sub : Empowering Officers for Certificate Cases.

Ref : D.L.R&S and Jt. L.R.C., W.B.'s Memo No.31/2999-3001 /C /99 /
dt.7/12.06.2000.

With reference to above this is to inform that Commissioner's sanction empowering the officers of Integrated set-up upto the rank of R.O. has been accorded vide this office memo. No.181(5) LMR dt.19.02.90 in terms of erstwhile Board's Order No.507(3) -C.P./6/87 dt.18/25.01.90. Copy of Commissioner's above sanction order was again sent to the Collectors vide this office memo. No.510(6)/LMR dt.12.08.99 for information and taking necessary action.

D. Baragaon,
Commissioner,
Jalpaiguri Division,
Jalpaiguri.

Government of West Bengal
Office of the Director of Land Records & Surveys
& Jt. Land Reforms Commissioner, West Bengal
35, Gopalnagar Road, Calcutta-700 027.

Memo No.7/4765-82/C/2000

Dated, Alipur the $\frac{14^{\text{th}}}{16^{\text{th}}}$ August, 2000

From: S. Suresh Kumar, IAS
Director of Land Records & Surveys &
Jt. Land Reforms Commissioner, W.B.
And Director, Urban Land Ceiling, Calcutta.

To: The District Land & Land Reforms Officer,
Bankura/Bardhaman/Birbhum/Darjeeling/Haora/Hugli/
Jalpaiguri/Kochbehar/Malda/Medinipur/Tamluk/
Murshidabad/Nadia/Purulia/North 24-Parganas/South 24-Parganas/Dakshin
Dinajpur/Uttar Dinajpur.

Sub : Appointment of Certificate Officers U/S 3(3) of the Bengal
Public Demands Recovery Act, 1913.

Officers upto the rank of Revenue Officers have been appointed as Certificate Officers in view of the erstwhile Board of Revenue's Order No.507(3)-C.P./6/87 dated 18/25.01.1990. Commissioners have in turn appointed all officers upto the rank of Revenue Officers as Certificate Officers. The concerned notifications are enclosed for guidance.

Revenue Officer who has been allotted the management subjects or is functioning as Revenue Officer (Management) should be selected by the SDL&LRO. All these Revenue Officers should get at least training for 5(five) working days without fail. They should be trained with the case records, notices and registers during this time. After training the necessary quantity of registers and forms should be supplied by the DL&LRO without fail.

They shall however deal only with cases relating to recovery of govt. dues relating to the functions of the L&LR Department only and not with any requisitions for Certificate. The DL&LROs should not handle any Certificate case on their own as they have been vested with the powers of Addl. Collector and shall have to function as an appellate authority under the PDR Act, 1913.

Adequate seriousness should be associated with this activity and it should be monitored and the individual performance of the Officer should be assessed. The recovery of govt. dues is being repeatedly stressed by the CAG and it is high time that this issue is taken up with some seriousness.

Encl: as mentioned above.

S. Suresh Kumar
Director of Land Records & Surveys and
Joint Land Reforms Commissioner, W. Bengal.

Memo No.7/4783-84/C/2000

Dated, Alipur, the 14th/16th August, 2000

Copy forwarded for information and necessary action to:

- 1) The Principal Secretary, Land & Land Reforms Deptt. and Land Reforms Commissioner, West Bengal.
- 2) The Joint Secretary, Land & Land Reforms Deptt., West Bengal.

S. Suresh Kumar
Director of Land Records & Surveys &
Jt. Land Reforms Commissioner, W.B.

Government of West Bengal
Office of the Additional District Magistrate
And Dist. Land & Land Reforms Officer, South 24-Pgs
New Treasury Building(8th floor), Alipore, Cal-27.

ORDER

In exercise of the power conferred by Section 3(3) of the Bengal Public Demand Recovery Act, 1913(Bengal Act III of 1913) and in compliance with Commissioner, Presidency Division's order no.612-R.L. dt.30.07.1990 read with B.O.R. order no.507(3)-C.P. dated 18.01.1990 the following categories of officers of integrated set-up are appointed as Certificate Officers under the said Act, to deal with the certificate cases within their respective jurisdiction for the purpose of recovery of all kinds of Government dues as mentioned in Schedule-I of the Act in the district of South 24-Parganas.

- 1) District Land and Land Reforms Officer,
- 2) Deputy Dist. Land & Land Reforms Officer,
- 3) Sub-Divisional Land & Land Reforms Officer/Alipore/Baruipore/Diamond harbour/Kakdwip/Canning.
- 4) All Block Land & Land Reforms Officers in the district.
- 5) All Revenue Officers in the integrated set-up of land reforms administration.

S. Banerjee
Addl. Dist. Magistrate,
And Collector under PDR Act.

Memo No.XVIII/152(150)/L.R.

Dated 19.01.2001

Copy forwarded for information and necessary action to:-

- 1) Dy. D.L. & L.R.O. at Survey Building.
- 2) S.D.L. & L.R.O., Alipore/Baruipore/Canning/Diamond Harbour/Kakdwip.
- 3) B.L. & L.R.O.....
- 4) All R.Os. in the integrated set-up of Land Reforms Administration.

S. Banerjee
Addl. Dist. Magistrate And
Dist. Land & Land Reforms
Officer, South 24-Parganas.

Memo No.XVIII/153(2)/L.R.

dated. 19.01.2001

Copy forwarded to:

- 1) The Commissioner, Presidency Division, for favour of information with reference to his memo no.613(6)-R.L. dt.30.07.1990.
- 2) The Collector, South 24-Parganas for kind information.

S. Banerjee
Addl. Dist. Magistrate &
Dist. Land & Land Reforms
Officer, South 24-Parganas.