77. **Clarification regarding change of classification of land classified as communal.**
(Revenue & Disaster Management Deptt. No.GE(GL)-S-15/2014-25616/R&D.M., Dated.27.08.2014)

I am directed to invite a reference to this Deportment's Letter No.44485/R, Dated 5.10.1991 on the aforementioned subject and to say that doubts have been entertained at certain quarters as to whether permissive possession can be accorded for utilisation of the land recorded as communal or Sarbasadharana in the settlement records for industrial/ development purposes in the context of the judgement rendered by the Hon'ble Apex Court in the case of ***Jagpal Singh & others Vrs. State of Punjab & others*** wherein it has been directed interalia to protect the common rights of the villagers and evict the illegal/unauthorised occupants from the land burdened with communal characteristics.

2. This matter was discussed with the Law and Industries Departments. After detailed deliberations, it was decided that, if such communal lands are absolutely necessary for use by the requisitioning authority, the said authority shall have to provide equal extent of suitable land for the same purpose which can be reserved under Rakhit khata/Sarbasadharana khata and utilised for the common benefits of the villagers.

3. Keeping in view the interest of the public at large and the observations of the Hon'ble Supreme Court as indicated *supra*, Government have been pleased to issue the following guidelines which shall be followed, in the matter concerning lands classified as comrnunal or sarbasadharana in the settlement records.

(a) Where the entire land of the village along with the habitation is required for industrial/ development purposes by the requisitioning authority, there is no need to reserve land for communal purpose, In that case the classification of the land may be changed and recorded under Abada Ajogya Anabadi Khata alienated/ acquired in favour of the concerned requisitioning authority.

(b) Where the Road/Danda etc. is confined to the compact area to be acquired/alienated and does not extend beyond its limit, and the same is not required for the use of the villagers, the classification of the land may be changed under Rule 34 (e) of the Odisha Survey & Settlement Rules, 1962.

(c) If the Road/Danda etc. is a portion of a continuous path extending beyond the limit of such compact area to be acquired or alienated, the requisitioning authority shall have to provide alternate road/Danda for the common use of the villagers.

(d) If a Tank/ bandha/ Kata and Aadi is within the compact area and are found surplus and required by the requisitioning authority, those may be dereserved as per the provisions of the Odisha Government Land Settlement Act, 1962.

(g) Where no surplus Gochar lands are available and where the Gochar lands are absolutely necessary for the project, the requisitioning authority shall have to provide equal extent of suitable private land in exchange of the Gochar land to be dereserved/ acquired for industrial/ development purpose. In addition, the requisitioning authority shall have to provide a common passage to the Gochar land to be reserved for the purpose of Gochar, if not available.

(h) If other communal lands like Melana Padia, Hata-Pada etc. are absolutely necessary for the project, the requisitioning authority shall have to provide equal extent of suitable alternate sites having similar facilities as are available in the existing sites.

(i) Where the land is recorded as 'Nala', 'Mahara', 'Nayanjori' etc. and is absolutely required for development/industrial purpose, the requisitioning authority shall have to provide adequate drainage facilities for smooth discharge of water without causing any obstruction.

(j) Where the land is recorded as smasana/burial ground / grave yard etc., in the record of rights and the same is absolutely required for the project, the requisitioning authority shall have to provide equal extent of suitable alternate sites having similar facilities as are available at the existing sites. The classification of land required by the requisitioning authority may be changed under the provisions of Rule 34(e) of the Odisha Survey and Settlement Rules, 1962.

4. The Collector of the District shall ensure that all the conditions as enumeroted above are fulfilled before alienation/sanction of lease in fovour of the requisitioning authority.

5. The instruction issued by the erstwhile Revenue & Excise Department vide No.44485/R., Dated 05.10.1991 is hereby withdrawn.

6. All concerned may please be informed accordingly.

78. **Diversion of**