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GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
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No. RDM-LRA-MISC-0008-2023 44414 /R&DM dated 17 DEC 2024

From

Shri Sashadhar Nayak, IAS

Additional Secretary to Government

To

The Collector, Mayurbhanj/ Sundargarh/ Koraput/ Nawrangpur/ Rayagada/ Malkangiri/ Kandhamal/ Ganjam/ Keonjhar/ Sambalpur/ Balasore/ Kalahandi/ Gajapati

Sub:- Safeguarding land rights of the Scheduled Tribes (STs) in Scheduled Areas of the State under Orissa Scheduled Areas Transfer of Immovable Property (OSATIP) (by Scheduled Tribes) Regulation, 1956.

Sir,

In inviting a reference to the above subject, I am directed to say that to protect and safeguard the land rights of STs in Scheduled Areas of the State and to control and check transfer of their immovable property in the Scheduled Areas, State Government have promulgated Orissa Scheduled Areas Transfer of Immovable Property (OSATIP) (by Scheduled Tribes) Regulation, 1956 and brought Amendment Regulation, 2000 which prohibit transfer of land belonging to ST persons to non-ST with effect from 4th September, 2002.

2. Clause 3(A) of the OSATIP mandates that where a person is found to be in unauthorized occupation of any immovable property of a member of the Scheduled Tribes by way of trespass or otherwise, the Competent Authority may, either on application by the owner or any person interested therein, or on information received from the Gram Panchayat or on his own motion, and after giving the parties concerned an opportunity of being heard, order ejectment of the person so found to be in unauthorized occupation and shall cause restoration of possession of such property to the said member of the Scheduled Tribe or to his heirs.

3. Clause 3(B) of the Amendment Regulation provided that non-ST persons in possession of agricultural land acquired from the ST person

between 4th October,1956 and 4th September, 2002, shall have to furnish a declaration to the Competent Authority stating circumstance and manner of possession of land. The declaration has to be furnished within two years from 4th September, 2002. In case the declaration is found to be unsatisfactory or the possessor fails to furnish declaration, the agricultural land shall be reverted back to the original tribal owner.

4. The State Government have appointed Sub-Collectors and Officers on Special Duty (Land Reforms) under OSATIP Regulation to perform functions of Competent Authorities of the respective Sub-Divisions within the Scheduled area located in different districts of the State. C&AG's draft report on "Land management in the Scheduled Areas of the State" for the year 2022 for the State of Odisha has pointed out that the Competent Authorities are not taking effective steps for disposal of cases in a time bound manner. Many cases are pending for disposal for periods beyond ten years and inordinate delay in disposal of cases has been detrimental to the protection of the land rights of the ST members under the provisions of the OSATIP Regulation, 1956.

5. Manner of conducting enquiry and process of adjudication by Competent Authorities are detailed under rules made under the Regulation-2 of 1956 which are as follows :-

(a)Either on receipt of information u/s-3(B) as prescribed under the rule mentioned supra, or on receipt of petition from ST persons or submission of report by RI/Tahasildar, ADWO/DWO, the Competent Authority shall cause the material particulars to be entered in a register, number the forms, start a case record and fix a date of hearing not later than 30(thirty) days from the date of registration of the case.

(b) The Competent Authority then shall issue a notice to the person who submitted the information to appear on the date fixed for hearing with all his documents and material witness if any, in support of his claim. He should also issue notice to the concerned Opposite Parties.

(c) The Sub-Collector may also issue notice to any other person, whom he considers qualified to depose before him to arrive at a correct finding.

(d) The Sub-Collector may also serve a public notice on the

village in which the land is situated, inviting their comments and views, if any, on the information within a period of 15 days from the date of service of notice.

(e) The Sub-Collector may, if considered necessary, call for any information from the Registration and other offices of the State for a proper appreciation of evidence before him.

6. The Competent Authority also shall seek a report from concerned Tahasildar for hearing of the case. After examination of documents submitted by parties concerned and the report submitted by the Tahasildar, the Competent Authority shall pass an order for restoration where ST land has been sold/occupied unauthorisedly. Thereafter, the Competent Authority shall issue restoration warrant to the Tahasildar. The concerned Tahasildar shall execute restoration warrant within the time prescribed in the warrant and report regarding restoration of land to the Competent Authority after which the case will be shown as finally disposed of. It is reiterated that the Competent Authority conducts only summary enquiry and cases should be disposed within a time limit.

7.It is noticed that many Sub-Collectors are allowing cases for hearing for indefinite period. Adjournments are given in a routine manner. No limit has been fixed on the maximum number of time-petitions to be allowed, the maximum time by which the cases are to be disposed of. The cases are lingering for years for disposal. Non receipt of inquiry reports from concerned Tahasildars in time also causes delay in disposal. Instance has come to the notice of the Government where the petitioner failing to get his grievances addressed by the Competent Authority under OSATIP Regulation, moved to the Hon'ble High Court, Odisha seeking redressal of his grievance.

8. In many cases, despite receipt of enquiry reports from the concerned RIs/ Tahasildars intimating unauthorized possession of ST land, the cases have not been disposed of by the Adjudicating Authorities.

9. It is also noticed that no register/ consolidated statement showing restoration warrants issued, executed and returned by the Tahasildar is maintained by the Competent Authorities/ Tahasildars. While OSATIP regulations aimes at protecting landed property right of STs, non-execution of warrants by the Tahasildars defeats the very purpose of the Regulation. No responsibility is being fixed by the Competent Authorities on Tahasildars for non-execution of restoration warrants, Tahasildars are not executing the warrant timely and execution of warrant depends upon their convenience.

The Sub-Collectors, as Competent Authority, fail to dispose the cases timely and fail in securing the execution of warrants issued by them.

10. In many cases, even after restoration of land to STs, RoRs are not corrected; as a result RoRs continue in the name of non-STs who subsequently transfer the land belonging to STs.

11. Against the backdrop of above circumstances and for prompt disposal of cases filed under OSATIP Regulation, the following guidelines are issued which should be followed scrupulously :

a. Case under 3(A) & 3(B) should be instituted forthwith after receipt of intimation from concerned source.
b. Notice should be issued to concerned parties within a week of the institution of the case without fail.
c. The field enquiry report by RI/Tahasildar should be furnished within a month.
d. The hearing of the case should start within a month.
e. Maximum 3 (three) adjournments may reasonably be given with intimation to the concerned parties.
f. The case is to be disposed within 3(three) months. The Competent Authorities should exhibit promptitude in disposing the pending cases at the earliest for the benefit of the ST population.
g. If ST land is illegally occupied, the restoration warrant is to be issued promptly.
h. Sub-collector shall see to it that the warrant issued by him is executed by Tahasildar within fortnight, if there is no stay.
i. If it is not executed within a fortnight, a reminder may be issued. Despite issue of such reminder, if the warrant is not executed promptly, show cause may be issued to the defaulting officer. The Tahasildars who had not executed the warrants issued by the Competent Authorities for restoration of land should be made accountable for such lapses.
j. Both Sub-collector and Tahasildar should maintain warrant registers.
k. After restoration, the Tahasildar shall correct the RoR and enter the same in Bhulekh.
l. The Government has been placing great emphasis on actual restoration of land to lawful owner. It is necessary that 10% of restored cases in the field should be checked by Collectors / ADMs and 20% cases by Sub-Collectors concerned.
m. Grievance petitions particularly on restoration of Govt. Land should be verified in the field for immediate action.

The above matter shall be reviewed by RDCs in every three months. Collectors shall review the matter in monthly revenue meeting. The matter shall be reviewed the Department in the next state level review meeting. There shall be no deviation from the above guidelines. The Monthly Progress Report (MPR) should be furnished in the prescribed format enclosed as **Annexure-'A'**.

Yours faithfully,

17/12/2024

Additional Secretary to Government

Memo No. 44415 /R&DM Dated 17 DEC 2024

Copy forwarded to all Revenue Divisional Commissioners for information and necessary action.

17/12/2024

Additional Secretary to Government

Memo No. 44416 /R&DM Dated 17 DEC 2024

Copy forwarded to all ADMs/ all Sub-Collectors/ all Tahasildars for information and necessary action.

17/12/2024

Additional Secretary to Government

Annexure 'A'															
Name of the District	Category of the cases	Pending before the month		No. of cases detected during the month		No. of cases disposed during the month		No. of cases disposed till the month		No. of cases in which land was restored to STs		No. of cases rejected		No. of cases pending	
		No.	Area	No.	Area	No.	Area	No.	Area	No.	Area	No.	Area	No.	Area
	3(A)														
	3(B)														
	Total														