GOVERNMENT OF ORISSA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
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No.GE(GL)-S- 58/10- 48395 / R & DM. Dtd.26.11.2010

From
Shri R. K. Sharma, IAS
Commissioner-cum- Secretary to Government

To
The Secretary, Board of Revenue, Orissa, Cuttack.

Sub: Principles for determination of the basis for fixation of premium, interest and penalty for occupation of Government land before/after sanction of formal lease.

Sir,

I am directed to say that the principle for determining the basis for fixation of premium, interest and penalty for occupation of Government land before/after sanction of lease/ alienation is being presently regulated by erstwhile Revenue & Excise Department G.O. No. 5914 dated 2.2.1966.

2. However, formulation of a revised principle for determination of the same was under active consideration of Government for some time past. Government, after careful consideration of the matter and in supercession of the existing principles as laid down in the G.O. cited above, have been pleased to decide as follows:-

(a) In respect of the cases where land is to be occupied after formal sanction of lease, the market value of the land as on the date of recommendation of the Tahasildar for sanction of lease should be charged, provided that a period of more than one year has not lapsed from the date of such recommendation to the date of submission of the proposal to the authority competent to sanction the lease. Wherever a period of more than one year has lapsed from the date of recommendation of the Tahasildar, the authority competent to sanction the lease may direct the Tahasildar to reassess the market value based on recent sale statistics.

(b) In the cases where the lands are occupied by way of advance possession with the permission of competent authority, the market value of the land should be determined as on the date of taking over advance possession or occupation by the applicant. The arrear land revenue and cess at the prescribed rates shall also be payable for the entire period of occupation. The interest on premium and arrear land revenue and cess for the entire period of occupation shall also be payable at the prevailing rate of interest i.e. 6% per annum up to 27.11.1992 and 12% after that date.

(c) In the cases where land has been occupied without prior approval of the competent authority, it should be treated as encroachment and will be liable to eviction. However, in the exceptional cases, where the Government, due to certain good and sufficient reasons, consider to settle the land with the occupier, the occupier will be required to pay:

i) Premium calculated at the market value of the land as on the date of occupation and interest thereon for the entire period of occupation, or the market value as applicable in the cases where the land is to be occupied after formal sanction of lease, whichever is higher.

ii) An amount equal to the penalty as would have been payable under the provisions of the OPLE Act and Rules, and

iii) Arrear ground rent and cess with interest, based on market value prevailing during the relevant period.

3. In respect of cases under 2(c), the benefits of concessional rates of premium, if any, available under any policy of Government for the specified purpose will not be applicable to such cases where the land has been occupied unauthorisedly without formal sanction of lease or without grant of advance possession by an authority competent to sanction the lease.

4. The interest on premium and arrear ground rent and cess will be calculated at the prevailing rates of interest, i.e. 6% per annum up to 27.11.92 and 12% per annum thereafter.

5. These principles will also be applicable to all the pending cases where lease / alienation is yet to be sanctioned. The cases where lease / alienation has already been sanctioned need not be re-opened.

All concerned may be intimated accordingly under intimation to this Department.

Yours faithfully,

Commissioner-cum- Secretary to Government.

Memo No. 48396 /R&D.M. dtd. 26.11.2010

Copy forwarded to All RDCs/Director, Land Records, Surveys & Consolidation, Orissa, Cuttack/ All Collectors for information and necessary action.

Commissioner-cum- Secretary to Government.

Memo No. 48397 /R&D.M. dtd. 26.11.2010

Copy forwarded to all Departments of Government for information and necessary action.

Commissioner-cum- Secretary to Government

Memo No. 48398 /R&D.M. dtd. 26.11.2010

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

Commissioner-cum- Secretary to Government

Memo No. 48399 /R&D.M. dtd. 26.11.2010

Copy forwarded to P.S to Minister, Revenue & D.M. for kind information of Hon'ble Minister.

Commissioner-cum- Secretary to Government

Memo No. 48400 /R&D.M. dtd. 26.11.2010

Copy forwarded to LR&GE(A)/(B)/(C)/ CH&S Branch/Registration Branch/LR (A)/(B)/Budget (B) Branch/OIC, IMU Cell of Revenue & D.M. Department for information and necessary action.

26.11.10

Under Secretary to Government

Dy. No-137(L) Dt-07-05-2020

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By Fax/ e-Mail

GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT
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No. RDM-LRGEA-CTC-0028-2019- 13090 / R&D.M Dated 18 MAR 2020

From

Avaya Kumar Nayak, OAS (SAG),
Additional Secretary to Government

To

Collector, Cuttack

Sub: Clarification regarding payment of premium, Ground Rent & Cess of Govt. land in village-Sankarpur under Salipur Tahasil by OPTCL for construction of 132/33 KV Grid Sub-station .

Ref: - Letter No. 2353/Rev. dated 23.07.2018 of A.D.M, Cuttack

Sir,

With reference to the subject noted above, I am directed to say that Para 10.1 of Part II of the IPR, 1992 during the operational period of which advance possession of Ac.3.568 of govt. land in Mouza- Sankarpur under Salipur Tahasil was sanctioned by Collector, Cuttack in favour of erstwhile Orissa State Electricity Board (OSEB), provided as follows:

"Government land wherever available will be allotted for industrial projects including power projects and sub- stations of OSEB at pre-determined rates as notified from time to time."

2. The aforesaid Para also prescribed the area rate per acre at which govt. land would be allotted for such projects.

3. After receipt of the letter under reference of ADM, Cuttack, Industries Department was consulted by this Department as to whether there was any restriction in force during the year 1994 regarding the maximum extent of govt. land which OSEB would be eligible to get at concessional rate of premium prescribed under IPR, 1992 like the restriction which was prescribed by Industries Department vide G.O No. 3017/I dated 27.02.2009 and subsequently revised vide G.O No. 5532/I dated 16.11.2013. Industries Department has clarified that there was no such restriction at that time.

4. So, as per Para 10.1 of Part II of IPR, 1992, allotment of govt. land in favour of OSEB for construction of Grid Sub- stations would be made at

concessional rate of premium stipulated in the said IPR and as per clarification given by Industries Department, there was no restriction on extent of govt. land which OSEB would be eligible to get at the said IPR rate of concessional premium.

5. Further, this Department, at Para 2 (b) of the G.O No. 48395/R&DM dated 26.11.2010 which lays down the principles for determination of premium, interest and penalty for occupation of govt. land by way of advance possession with the permission of the competent authority, specifies as follows:-

> "In the cases where the lands are occupied by way of advance possession with the permission of the competent authority, the market value of the land should be determined as on the date of taking over advance possession or occupation by the applicant. The arrear land revenue and cess at the prevailing rates shall also be payable for the entire period of occupation. The interest on premium and arrear land revenue and cess for the entire period of occupation shall also be payable at the prevailing rate of interest i.e. 6% per annum up to 27.11.1992 and 12% after that."

6. Para 3 (ii) of this Department G.O No. 47403/R&DM dated 11.12.2013 which lays down the principles under which govt. land is to be allotted to OPTCL (the present incarnation of OSEB), also specifies that in the cases where land has been occupied by OPTCL after sanction of advance possession by the competent revenue authority, the concessional rate of premium will be determined as per the IPR prevalent on the date of taking over advance possession.

7. Thus, Collector, Cuttack had rightly imposed land premium as per the policy of State Government in vogue at that time while sanctioning advance possession of land in favour of erstwhile OSEB.

8. However, the G.O dated 26.11.2010 also speaks about payment of arrear land revenue and cess and also interest on premium and arrear land revenue and cess for the entire period of occupation.

9. In the present case, the erstwhile OSEB had paid the entire premium amount. So, no interest on premium can be levied on OPTCL. However, it shall be liable to pay arrear land revenue and cess and interest on both the components for the entire period of occupation, if not paid.

10. In view of the above, I am directed to request you to take appropriate steps for sanction of lease of the aforesaid govt. land in favour of OPTCL to regularize the advance possession without claiming for any further amount towards premium of the land or any interest on the premium amount. However, before processing of proposal for regularization of the same, it should be ensured that no other due prescribed in Para 2 (b) of this Department G.O No. 48395/ R&DM dated 26.11.2010 like arrear land revenue and cess as well as interest on both the components for the entire period of occupation should be outstanding against OPTCL. You are further requested to comply the audit objection in the above light.

This has the approval of Government in Revenue & D.M Department.

Yours faithfully,

17/3/2020

Additional Secretary to Government

Memo No. 13091 /RDM Dated 18 MAR 2020

Copy forwarded to Sub- Collector, Sadar Cuttack/ Tahasildar, Salipur/ Company Secretary, Odisha Power Transmission Corporation Ltd. (OPTCL), Janpath, Bhubaneswar- 751022 for information and necessary action with reference to Memo No. 2354/Rev. dated 23.07.2018 of ADM, Cuttack.

17/3/2020

Additional Secretary to Government