## Government of Orissa
### Revenue and Excise Department

No. GE(GL)-S-41/91-44485 / R.,
Dated, Bhubaneswar, the 5-10-1991

From :

Shri B. B. Pattanaik, O.A.S., (I)
Deputy Secretary to Government.

To,

The Secretary to R.D.C. (ND) Sambalpur.

**Sub. : Clarification regarding change of classification of land classified as communal.**

Sir,

I am directed to invite a reference to your D.O. letter No. 587 dated 21-4-1990. On the above subject and to say that the question of making available lands having communal characterstic for different projects was under consideration of Government for sometime. Government after careful consideration have been pleased to issue the following guidelines which shall be followed in the matter concerning lands classified as communal or Sarbasadharan in the Settlement records.

Lands classified as Nala, Mahara, Adi, Jalasaya, Tank Nayanjori etc having Communal / Sarbasadharan Character.

2. The Sarbasadharan / Communal lands classified as 'Nala' Mahara', Adi, Jalasaya, Tank, Nayanjori etc. in case those come within the compact area taken over by the requisitioning authority and are absolutely necessary for use by the requisitioning authority, they may be permitted for use of the same subject to the condition that such permission shall not affect or infringe the communal rights like irrigation, drinking and bathing facilities of the people of the locality in any manner and shall not cause any obstruction to drainage facility.

Lands recorded as Rasta, Danda etc.

3. (a) The lands classified and recorded as Rasta, Danda etc. shall also be permitted for use by the requisitioning authority subject to the condition that these shall continue to be recorded as such and its use by the requisitioning authority shall not infringe the existing communal rights of the people of the locality.

(b) Where, however, such lands come within a compact area under use by the requisitioning authority, the following guidelines should be followed :-

(i) If such Rasta /Danda etc. is a portion of a continuous path extending beyond the limits of such compact area taken over by the requisitioning authority, there shall be no infringement of the communal / sarbasadharan rights existing thereon and.

(ii) where the said Road /Danda etc. is confined to the compact area taken over and does not extend beyond its limit, its classification may be changed in due course after it has lost its communal character and use as Rasta, Danda etc. by the people of the locality as clarified in this Deptt. letter No. 19834, dt. 31-3-1987.

Gochar land

4 (i) Where Gochar lands are found surplus and are required by the requisitioning authority, those may be dereserved as per the provisions of the Orissa Government Land Settlement Act, 1962 and Rules framed there under.

(ii) Where no surplus Gochar lands are available and where the Gochar lands are absolutely necessary for the project, those lands may be acquired under the Land Acquisition Act by providing equal extent of suitable private land in exchange for being used as Gochar.

Other communal lands like Melan Padia, Hata-pada etc.

5. The other communal lands like Melan Padia, Hata-Pada etc. which are absolutely necessary for the requisitioning authority, may be acquired under the Land Acqusition Act by providing equal extent of suitable alternate sites having similar facilities as are available at the existing sites.

All concerned are being informed.

Your's faithfully

5·10·91

Deputy Secretary to Government

Memo No. 44486/R., dt. 5.10.1991

Copy forwarded to the Secretary, Board of Revenue, Orissa, Cuttack / R.D.C. (CD) Cuttack/ R.D.C. (SD) Berhampur for information and necessary action.

5·10·91

Deputy Secretary to Government

Memo No. 44487/R., dt. 5.10.1991

Copy forwarded to All Collectors for information and necessary action.

5·10·91

Deputy Secretary to Government

Memo No. 44488/R., dt. 5.10.1991

Copy forwarded to All Sub-Collectors for information and necessary action.

5·10·91

Deputy Secretary to Government

Memo No. 44489/R., dt. 5.10.1991

Copy forwarded to All Tahasildars for information and necessary action.

5·10·91

Deputy Secretary to Government

Memo No. 44490/R., dt. 5.10.1991

Copy forwarded to All Assistants of LR-GE (A), (B), (C) Branches for information and guidance / G.A (B) Branch for compilation / 50 spare copies to the LR & GE (A) Branch.

5·10·91

Deputy Secretary to Government

## Government of Orissa
## Revenue and Excise Department

No. G. E. (GL) S-150/89 (Pt)- 61269/R., dated 28.8.89

To

The Secretary, Board of Revenue,
Orissa, Cuttack.

**Sub. : Instructions for reservation of Government lands for specific purposes in rural areas.**

Ref. : Government letters.

(1) No. 73063 dated 7.12.64
(2) No. 4898/R., dt. 28.1.66
(3) No. 3410/R., dt. 19.1.66
(4) Paragraph 3 of Government letter No. 30656/R., dt. 5.6.1970.
(5) Paragraph 2 of Government letter No. 7880/R., dated 3.2.65.

Sir,

I am directed to say that instructions were issued in the Government letters cited above regarding reservation of Government lands for specific purposes in rural areas. Where settlement operations were not taken up earlier or where the Settlement Authorities have not reserved lands for various purposes in course of Settlement operations, reservation is done by the Tahasildar. In areas where Consolidation operations are in progress, reservation of land is made under Section 8 (2) (a) of the O.C.H. and P.F.L. Act, 1972 (Act 21 of 1972) read with Rule 17 of the O.C.H. and P.F.L. Rules, 1973. After the coming into force of the Orissa Government Land Settlement Act, 1962 (Act 33 of 1962), reservation of lands for different purposes is made U/s. 3 (1) (a) of the said Act read with instructions communicated in Government letter No. 7880/R., dt. 3.2.1965.

2. According to the normal procedure of reservation, lands reserved for homestead purposes for future is recorded in the Abad Jogya Anabadi Khata in the Kisam "Basti Jogya". Similarly, lands reserved for future use of the community or for development purposes are recorded in Kisam "Sarva-sadharan Jogya or "Unati Jojana Jogya" respectively. But all lands reserved as "village forests" were being recorded in the kisam "Gramya jungle".

3. Therefore, Government have been pleased to decide that all lands which are reserved for being used as village forests in future should not be recorded as Gramya jungle, but should be recorded as "Gramya Jungle Jogya".

Yours faithfully,
Sd/-
Addl. Secretary to Government

Memo No. 61270/R, dt. 28.8.89

Copy to all R.D.Cs /C.L.R.S, Orissa, Cuttack/ D.L.R.S., Orissa, Cuttack/ Director, Consolidation, Orissa, Cuttack / All Collectors/ All Settlement Officers/ All Deputy Directors of Consolidation, for information and necessary action.

Sd/-
Addl. Secretary to Government

**Government of Orissa**
**Revenue & Excise Department**

No. GE (GL)-E-28/89- 31124/R.,
Dated, Bhubaneswar, the 20th May, 89.

From

Rai Charan Das,
Additional Secretary to Government.

To

The Collector, Cuttack.

**Sub. : Settlement of Government land for homestead purpose in favour of homesteadless persons.**

Ref : Your letter No. 598/Rev., dt. 2.2.1989.

Sir,

I am directed to invite a reference to the correspondence cited above and to say that doubts have been expressed about the scope of O.P.L.E. (Amendment) Act, 1987 (Act 10 of 1988) which amended Section 7 of the parent Act. In this connection I am to state that Section 7 (1) of the O.P.L.E. Act lays down the general provision that the encroacher should be summarily evicted. Section 7 (2) of the Act enjoins that if the encroacher is either a "homesteadless person" or a "landless person" then the encroached land should be settled with him, within certain limits. For the purpose of this Sub-Section, "landless person" and "homestead less person" would have the same meaning as defined in Section 3 (a-1) and Section 3 (a-2) of the Act respectively.

2. The first proviso of Section 7 (2) of the Act lays down what constitutes "objectionable encroachment". If the encroachment is objectionable, then even if the person is landless or homesteadless, the land cannot be settled with him. The amending Act, 1987 added a new Sub-Section (2-a) after sub-section 2 of Section 7. In terms of sub-seciton (2-a) encroachments on some categories of lands which were earlier treated as objectionable under the first proviso would no longer be treated as objectionable if the encroachers a homesteadless persons and has constructed a house thereon on or before 10.3.85 and is actually residing therein. In such cases the land should be settled with the encroacher. The land settled with him shall not exceed one twentyfifth of an acre. The position is explained in the table furnished below.

| | |
|---|---|
| Objectionable. | Encroached by a "homesteadless" persons who is using it as homestead and residing thereon by actually constructing a house on or before 10.3.1985. |

| Provisio to Section 7 (2) (Pre-amendment) | Proviso to Section 7 (2) after Amendment | |
|---|---|---|
| | Objectionable | Unobjectionable |
| (1) | (2) | (3) |
| (a) Lands recorded as Gochar, Rakhit or Sarbasadharan in any RORs prepared under any law. | Gochar, Rakhit or Sarbasadharan and | ... |
| (b) Which are set apart for (i) Common use of villagers | Used as burial ground, tanks, roads. | Place set apart for other purposes of common use (exced those in col. 2) used as house site. |

| (1) | (2) | (3) |
|---|---|---|
| (ii) Used as house site, backward, or temple site whether or not recorded as such in the ROR. | Public places of worship. | ... |
| (iii) Likely to be required for any development scheme and declared as such by the State Govt. by a notification. | Government premises | Other places likely to be required for any development scheme and are declared as such by the State Govt. by a notification. |
| and | | |
| (c) belonging to an estblishment, undertaking owned, controlled or managed by | .... | belonging to an estblishment, undertaking or managed by |
| (i) State Govt./ Deptt. of Government | ..... | (a) State Govt./ Deptt. of Govt. |
| (ii) Company in which not less than 51% of the share capital is held by Government. | .... | (b) Company |
| (iii) Corporation established by Law which is owned, controlled or managed by Government. | ... | (c) Corporation (as in Col. 1) |

3. The position can be summarised as follows :–

(a) Prior to amendment, all encroachments on land mentioned in Col. No. 1 of the statement above were treated as objectionable and hence no such land could be settled with the encroachers even if they are homesteadless or landless persons.

(b) After the amendment i.e. w.e.f. 3.5.1988, the encroachments on lands mentioned in Col. 2 of the statement above are also treated as objectionable and no such land can be settled with homestedless / landless encroachers.

(c) If a homesteadless / landless person has encroached upon any category of land mentioned in Col. 3 of the statement above and has constructed a house thereon, on or before 10.3.85 and is actually residing therein then the same can be settled with him so however that the extent of land shall not exceed 1/25th of an acre.

4. This may be brought to the notice of all concerned.

Yours faithfully,

Addl. Secretary to Government

**Memo No. 31125 /R., dt. 20.5.89**

**Copy forwarded to Secretary** to Board of Revenue, Orissa, Cuttack / All R.D.Cs/ All Collectors **(except Cuttack)/ D.L.R.S., Orissa,** Cuttack / Director of Consolidation, Orissa, Cuttack for information **and necessry action.**

Addl. Secretary to Government.

**Memo No. 31126 /R., dt. 20.5.89**

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

Addl. Secretary to Government.