

No. RD 364 LRM 79

Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated: 16-7-1979CIRCULAR

Sub:- Land Reforms - Lands relating to regrant cases of Village Officers pending before the Tribunals - Procedure to be followed - Instructions regarding -

It has come to the notice of Government that some problems are being faced by Tribunals in the disposal of cases pertaining to the lands of Ex-Village Officers.

2. The problems faced and the procedure to be followed by the Tribunals in the disposal of cases are indicated below for guidance of the Tribunals.

- (1) Regrant case decided, but Tribunal case is pending;
(A) Case pertaining to lands of Ex-inferior village official.

The Special Pansildar should verify, in addition to the various facts required for filling up the check-list, the additional fact whether after the regrant, the Assistant Commissioner has also given permission to alienate the land under the relevant provisions of the Village Offices Abolition Act. He should also examine the R.T.Cs of the land for the period between the date of the re-grant order and the commencement of the 1974 Act (1-3-1974). Further, if the regrantee has claimed that there was no tenancy, the applicant must be called upon to produce documentary evidence, if any, as to the basis on which he has claimed tenancy. Apart from this special verification, the case is identical to a normal case of tenanted land. In case a lawful tenancy subsisted on the land, the Tribunal would decide to grant occupancy rights to the applicant. But if there was no lawful tenancy the application would be rejected. In such cases of rejection, the Tribunal order should avoid being too brief. In the order of rejection, the Tribunal may describe the position found in the R.T.C. as to cultivation by the applicant and also the unauthorised nature of his holding. The idea here is that on the basis of a copy of the Tribunal order, which reveals the presence of an unauthorised holder on the hand, the Pansildar can proceed to take action under the Village Offices Abolition Act to forfeit the land and take a further appropriate steps to restore the land to the village official.

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(B) Case relating to lands of Ex-superior village official:

Same action as in the previous sub-para will have to be taken except that the land, if forfeited, has to be distributed under the Land Grant Rules.

(2) regrant case pending and Land Tribunal case also pending:

(A) Case pertaining to lands of Ex-Inferior village Officials:

The claim made in the application in the Tribunal must be thoroughly investigated into by the Tahsildar/Special Tahsildar. The facts relating to personal cultivation as on 1-3-1974 must be got verified through the Revenue Inspector. The R.F.Cs for a few years prior to 1973-74 must be obtained and examined. The applicant must be called upon to furnish documents under which he claims to be a tenant. If he has no documents, his statement must be recorded as to how otherwise he has obtained tenancy right. He must be specifically asked to say what verification he has made, if any, about the ownership of the person from whom he got the lease. He must be asked whether he knows that the land was service inam land and, if he know it, he must be asked whether he checked as to the grant of the land to the landlord. In other words, verification and investigation should be directed towards finding out whether the case is one of unauthorised alienation deliberately done. After the above mentioned enquiries are made, the case should be placed before the Tribunal.

In most cases the tenancy will be unauthorised. Since no regrant has yet taken place, the Tribunal will be justified, if it rejects the application as not maintainable. However, the facts elicited by the enquiry should be mentioned in detail in the Tribunal Order. A copy of the order should be passed on to the Tahsildar so that he can take action to evict the unauthorised holder.

In rare cases, it may be found that the applicant has secured the land on a lease approved by the Assistant Commissioner. In such cases the Tribunal will still be unable to take up the case in the absence of a regrant order. The applicant can be directed in such cases to approach the Assistant Commissioner for regrant. Meanwhile the 48A application may be kept pending.

(B) Case pertaining to lands of Ex-Superior Village Official.

The application may be taken up by the Tribunal after Special Tahsildar has made sure that the regrant has not yet taken place. The application may be rejected as not maintainable invoking Section 141 of the Land Reforms Act.

3. Regrant case pending, where as land tribunal case has been already decided in favour of applicant.

(A) Case pertaining to lands of Ex-Inferior Village Officials.
Here the question of filing writ petitions to quash the tribunal

order must be processed. The idea is that in case the Tribunal order is quashed, action can be taken to clear out unauthorised holders and reinstate the Village Official on the land. The main ground for writ Petition will be that the order of the Tribunal was erroneous since in the absence of a regrant order, the land had the status of land resumed to Government but not yet regranted to any one. A further ground for the writ Petition would be that although the parties may have both claimed that a lease was entered into, the Tribunal has not verified whether the landlord possessed the right to grant any tenancy on the land. If there are any further grounds that could be introduced in the Writ Petition on the basis of the facts pertaining to the given case, they should also be included.

(B) Similar action as in 'A' above may be taken in the case of superior holders also.


4. Regrant case decided and Tribunal case has also been decided in favour of the applicant:-

(A) Case relating to lands of inferior Village Official.

The case should be examined to see whether there is any possible room for filing a Writ Petition.

One such ground would be that the regrantee had no lawful authority to lease out the land and that this illegality has been overlooked by the Tribunal. If there are any other grounds, they should also be urged. The idea here is that in case the Tribunal order is quashed, action can be taken to forfeit the land on the basis that it has been unauthorisedly alienated by regrantee and to restore the land to the Village Official.

(B) Regarding lands relating to superior village office, no action is required.


(R. A. NAIK)

REVENUE COMMISSIONER AND SECRETARY
TO GOVERNMENT, REVENUE DEPARTMENT.

To
The Divisional Commissioners of Divisions.
The Deputy Commissioners/Special Deputy Commissioners.
The Assistant Commissioners/Spl. Assistant Commissioners/Addl. Spl. Assistant Commissioners.
The other Chairmen of the Tribunals.
The Tahsildars/Spl. Tahsildars/Addl. Spl. Tahsildars.
Spare.

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