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Government of Karnataka

No. RD 445 LRM 79(P)

Karnataka Government Secretariat,
Bangalore, dated: 18-9-1979

CIRCULAR

Sub:- Land Reforms - Classification of lands into 'A', 'B', 'C' or 'D' under the Karnataka Land Reforms Act - Further instructions issued -

In continuation of Government Circular No. RD 169 LRM 79 dated 25-4-1979, the Deputy Commissioners are informed that the Tahsildar/Special Tahsildar has a statutory duty under Section 67(i)(a)(ii) of the Karnataka Land Reforms Act in respect of each land included in a declaration under Section 66, to determine to which class 'A' 'B' 'C' or 'D' - the land belongs. He should make this determination through a "speaking note". It has been noticed that at present some of the Tahsildars fill up only a check memo or a scrutiny sheet and usually goes by the classification suggested by his staff. This is highly objectionable as the determination is a statutory function of the Tahsildar/Special Tahsildar. He should, therefore, furnish in the note the ascertained particulars, documentary and oral, his reasoning based on those particulars, as well as grounds for the suggested classification of each land. The attention of Tahsildars/Special Tahsildars is specifically drawn in this connection to clear instructions contained in Para-7 of the Circular of 25-4-1979.

2. The particulars to be ascertained will fall into the following 3 periods:- (a) For the period from the beginning of irrigation of the land upto 1-3-1974 (b) For the irrigation season immediately preceding 1-3-1974 (c) For the period from the said irrigation season upto the present, that is upto the time of the Tahsildar's note. For each of the three periods (a) to (c) the particulars would have to be gathered under the following heads 1 to 5:-

1. De facto - according to the declarant, as per form No. 11. details
2. De facto - according to the local enquiry eg. mahazar or panchanama statement of neighbouring land-holders etc. details
3. De facto - according to the R.T.C. details

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4. De jure - according to the rectification under the details Irrigation Act (including localization pattern).
5. De jure - according to the demand notices issued details (including assessment of penalty by Irrigation Officer) in respect of water-rate.

The above details have to be furnished in the Note referred to in para 1 for the three periods referred to above (15 items). (In case any land has been irrigated subsequent to 1-3-1974 for which no further declaration as required under Section 65-A has been received, surplus on a date subsequent to 1-3-1974 cannot be determined then without obtaining a further declaration).

3. The Tahsildar/Special Tahsildar has to determine the classification of the land on the basis of enquiry. The Tribunal has later to determine the surplus, if any. Therefore, basically the Tahsildar ought to determine the classification according to the de facto position. However, the requirement of the law is that classification should be based on facilities for assured irrigation, and the capability of those facilities for supplying water (vide Schedule-I (Part-A)). This means that the de jure position should also be given due weight. The particulars received from the Public Works Department under items 4 and 5 in para 2 above are relevant for this purpose. They would indicate, directly or indirectly, the assured nature of the irrigation and the capability of the irrigation work for supplying water.

4. In the large majority of cases irrigation of the land would have been carried out according to the prescribed pattern and so the de facto and the de jure position would be the same. In such cases the determination of the classification would present no problem. It is only where there is a conflict between the two that the Tahsildar would have to exercise his judgment, after holding spot inspection, as already instructed in Government Circular No. RD 169 LRM-79 dated 25-4-1979. It has been seen that the Tahsildars are not undertaking spot inspection in a number of cases, even when it is clearly warranted, to arrive at a correct finding.

5. Where land is being irrigated unauthorisedly i.e., where land not entitled for water is being irrigated or where land earmarked for one kind of irrigation is being used for a different kind utilising a greater quantity of water, the de facto classification of land will be higher than the de jure. Correspondingly, the ceiling extent will be a lower acreage under the de facto position than under the de jure position. Where land suffers from the "tail-end problem" i.e., it is classified as irrigable but does not receive sufficient water or, any water, it will be classified in a lower category according to the de facto position than according to the de jure position. Accordingly, if the de facto position is followed in all cases, those lands which are unauthorisedly irrigated will be subject to a smaller ceiling acreage and lands which suffer from the tail-end problem will be subject to a larger acreage. The reverse will be the case if the de jure position is

followed.

6. ~~Whereas in a case where the classification gets changed~~
~~lower ceiling acreage, and determine and take over the surplus~~
over the revised ceiling limit (Section 65-A), such is not the
case where the classification gets changed to a lower category.
This is a factor which should be taken into account by the
Tahsildar in putting up his note. Specifically, the Tahsildar
should consider whether the surplus determination made in
respect of a land would be irreversible. If it is, he should
proceed according to the de jure status of the land. If it
is not, he should proceed according to the de facto status
of the land.

7. The above instructions may be borne in mind by the
Tahsildars/Special Tahsildars while determining the classi-
fication of lands. It may, however, be impressed on them
that these and earlier instructions issued are only illust-
rative in nature and meant for their guidance and that they
should proceed to determine the classification bearing these
guidelines giving full justification in support of the con-
clusion reached by them in each individual case. Such
justification should make no reference to these circular
instructions.

(R.A. Naik)

Revenue Commissioner and Secretary to
Government, Revenue Department.

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