

The
Kolkata  **Gazette**
सत्यमेव जयते

Extraordinary
Published by Authority

ASVINA 2]

THURSDAY, SEPTEMBER 24, 2009

[SAKA 1931

PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL

Land and Land Reforms Department

Land Reforms Branch

Writers' Buildings, Kolkata - 700 001

NOTIFICATION

No.4297-LR/1A-05/07 GE(M), the 17th September, 2009.— WHEREAS the draft amendments was published as required by sub-section (1) of section 60 of the West Bengal Land Reforms Act, 1955 (West Ben. Act X of 1956) (hereinafter referred to as the said Act) vide notification No. 2969-LR/1A-05/07 GE(M), dated the 1st day of July, 2009, in the *Kolkata Gazette, Extraordinary*, dated the 1st day of July, 2009, inviting objections and suggestions from all persons likely to affected thereby, within fifteen dates from the date of its publication;

AND WHEREAS no objections or suggestions have been received by the State Government till date;

NOW, THEREFORE, in exercise of the power conferred by section 60 of the said Act, the Governor is pleased hereby to make, with immediate effect, the following amendments in the West Bengal Land Reforms Rules, 1965, as subsequently amended (hereinafter referred to as the said rules), namely:-

Amendments

In the said rules, —

(1) for rule 5A, *substitute* the following rule:-

"5A. Manner of change of character, conversion or alteration in mode of use of land held by raiyat.

(1) Any *raiya*t intending to change the character, convert or alter the mode of use of any land held by him, shall make an application to the officer concerned empowering, in writing, to discharge the function of the Collector of such change, conversion or alteration under section 4C, in Form 1A and shall be accompanied by such documents as mentioned in the said Form 1A.

(2) If the application as mentioned in sub-rule (1) relates to permission for change, conversion or alteration of any land having water body of any description or size, such application shall be accompanied by an affidavit in Form 1B for creation of compensatory water body of equal or larger size of such water body which is sought to be changed, converted or altered in the same *mouza* or in the adjoining *mouza*.

(3) The Block Land and Land Reforms Officer shall dispose of the application as mentioned in sub-rule (1) relating to conversion of agricultural land not exceeding 0.10 acre, for non-agricultural purpose including homestead as well as for commercial and industrial purposes and *vice versa*.

(4) The Sub-divisional Land and Land Reforms Officer shall dispose of the application as mentioned in sub-rule (1) relating to conversion of agricultural land exceeding 0.10 acre but not exceeding 1.00 acre, for non-agricultural purpose including homestead as well as for commercial and industrial purpose and *vice versa*.

(5) The District Land and Land Reforms Officer shall dispose of the application as mentioned in sub-rule (1) for conversion of land for all other purposes including water bodies as specified above.

(6) After receiving the application as mentioned in sub-rule (1), the Block Land and Land Reforms Officer may himself conduct necessary inquiry or may cause it to be done by the Revenue Officer attached to his office to ascertain if the applicant is *bona fide* holder of the land sought to be changed, converted or altered and all the persons having interest in such land have joined in the application, and as well as in all cases, to ascertain the followings:-

- (a) if the proposed change of character, conversion or alteration in the mode of use of a land is likely to cause inconvenience to the residents of the surrounding area;
- (b) if the proposed change of character, conversion or alteration in the mode of use of a land will interfere with the normal agricultural activities in the surrounding area;
- (c) if the proposed change of character, conversion or alteration in the mode of use of a land will in any way hamper the public easement recorded in respect of such land;
- (d) if there is any *bargadar* in respect of the land sought to be changed, converted or altered;
- (e) if such permission is in any way prejudice the application of the provision of sub-section (3) of section 6 of the West Bengal Estates Acquisition Act, 1953 (West Ben. Act I of 1954) or the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 (33 of 1976), or the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979 (West Ben. Act XIII of 1979) or the provisions of the East Kolkata Wetland (Conservation and Management) Act, 2006 (West Ben. Act VII of 2006), if applicable.

(7) No field enquiry shall be conducted without giving at least 7 days' notice to the applicant specifying the date and time of such enquiry.

(8) On receiving the application as mentioned in sub-rule (1), the Sub-divisional Land and Land Reforms Officer or the District Land and Land Reforms Officer, as the case may be, shall obtain necessary report from the Block Land and Land Reforms Officer who will conduct all such enquiry or enquiries as stated in sub-rule (7).

(9) Where the application as mentioned in sub-rule (1) relates to permission for conversion of any land having water body of any description or size, the Block Land and Land Reforms Officer shall also be asked to conduct necessary inquiry to ascertain if the person holding the land identified for creation of compensatory water body has permanent and transferable right, title and possession over such land and is agreeable for necessary transfer of such land for creation of compensatory water body therein. The District Land and Land Reforms Officer shall get the required report of the Block Land and Land Reforms Officer directly to save time.

(10) As soon as necessary inquiry is completed, notice shall be issued to the applicant concerned and *bargadar*, if any and all other persons interested in such land or affected in any way for giving them an opportunity of being heard specifying the date and time when such hearing shall be taken, and the date so fixed shall not be extended except in the deserving cases duly recorded the reasons thereof in the relevant order sheet of the case record. If there is *bargadar* on the land, no permission for conversion of land may be granted save and except the cases where permission for conversion relates to such purposes as stated in the proviso to sub-section (5) of section 20B of the Act and written confirmation from the *bargadar* is submitted by the applicant concerned to the effect that he has been properly compensated in accordance with the said proviso to sub-section (5).

(11) The Block Land and Land Reforms Officer or the Sub-divisional Land and Land Reforms Officer or the District Land and Land Reforms Officer, as the case may be, shall after considering the facts and circumstances of the case and after giving the applicant and other concerned persons including *bargadar*, if any, an opportunity of being heard, by order in writing, either reject the application or direct change, conversion or alteration as sought for on the following terms and conditions and such other terms and conditions as he may think necessary:-

- (a) that the order directing change, conversion or alteration is without prejudice to any of the provisions of Chapter-IIB of the said Act;
- (b) that the order directing change, conversion or alteration is without prejudice to the provision of sub-section (3) of section 6 of the West Bengal Estates Acquisition Act, 1953 (West Ben. Act I of 1954);
- (c) that where the land is situated within any urban agglomeration within the meaning of the Urban Land (Ceiling and Regulation) Act, 1976 (33 of 1976), the order directing change, conversion or alteration is without prejudice to the provisions of the said Act;
- (d) that where the land is situated within the jurisdiction of a Development Authority constituted under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Ben. Act XIII of 1979), the order directing change, conversion or alteration is without prejudice to the provisions of the said Act;
- (e) that where the land is situated within the areas of East Kolkata Wetlands as defined in the East Kolkata Wetlands (Conservation and Management) Act, 2006 (West Ben. Act VII of 2006), the order directing change, conversion or alteration is without prejudice to the provisions of the said Act;
- (f) that where the object of change or conversion is to use the land for a purpose for which approval or permission or licence from an appropriate authority is necessary, the order directing change, conversion or alteration is subject to obtaining such approval or permission or licence from such authority as soon as the order granting change or conversion as sought for is made; and
- (g) that where the application relates to permission for change, conversion or alteration of any land having water body, the order directing change, conversion or alteration is subject to creation of compensatory water body of equal or larger size of such water body within a period of 90 days from the date of issue of the order granting change, conversion or alteration as sought for is made.

(12) While directing change, conversion or alteration of any land having water body of any description or size the District Land and Land Reforms Officer shall also ask the applicant concerned in writing to produce documents showing that compensatory water body has been created within the stipulated period of time after having the identified land transferred formally from the person concerned holding such land and such document shall have to be submitted within a period of 15 days after expiry of the stipulated period of 90 days for creation of such compensatory water body failing which the order issued for change, conversion or alteration of the land having water body shall be cancelled by the District Land and Land Reforms Officer who may also make an order directing the applicant concerned for restoration of the water body if already changed or converted within a period of 90 days from the date of issuance of such direction at his own cost and report compliance thereof to the District Land and Land Reforms Officer:

Provided that the District Land and Land Reforms Officer shall not make any order directing change, conversion or alteration of any land having water body unless he has made a prior consultation in writing with the Fisheries Department and the Environment Department at the block or regional level for obtaining necessary clearance in this regard:

Provided further that if the applicant concerned produces necessary clearance certificate obtained from the aforesaid Departments of the State Government before the District Land and Land Reforms Officer, no such consultation is required for making necessary order directing change, conversion or alteration of land having water body for which permission is sought for.

(13) If the District Land and Land Reforms Officer on enquiry finds that the direction for restoration of the water body in question has not been complied with he shall take action for such restoration and realise the cost for restoration from the applicant concerned. In case of failure to pay the cost of restoration, the District Land and Land Reforms Officer may realise the cost as a public demand in accordance with the provisions of the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913).

(14) Every application relating to change, conversion or alteration in the mode of use of any land shall be disposed of by written order either rejecting such application or directing such change, conversion or alteration, as the case may be, within a period of not exceeding 90 days from the date of receiving such application and in case disposal of an application can not be made within the said period of 90 days, reasons thereof shall be recorded in the relevant order sheet of the case record.

(15) Every application relating to change, conversion or alteration of any land having water body shall be disposed of by written order either rejecting such application or directing such change, conversion or alteration, as the case may be, within a period not exceeding 120 days from the date of receiving such application and in case disposal of such application cannot be made within the said period of 120 days, reasons thereof shall be recorded in the relevant order sheet of the case record.

(16) In respect of every order directing change, conversion or alteration of any land –

- (a) in case of land without having any water body, it has to be specified that such change, conversion or alteration shall take effect from the date of issuance of such order; and
- (b) in case of land having any water body, it has to be specified that such change, conversion or alteration shall take effect from the date of conversion of water body or from such date as may be stated in such order.”;

(2) after Form 1, *insert* the following Forms:–

“FORM 1A

Application for change of character, conversion or alteration in the mode of use of land

(See sub-rule (1) of rule 5A)

FROM:

.....

.....

[State Name and Address of the applicant(s)]

To : The District Land and Land Reforms Officer/
Sub-divisional Land and Land Reforms Officer/
Block Land and Land Reforms Officer.

Sub: Application for permission for change of character, conversion or alteration in the mode of use of land.

Sir,

I/We have the honour to apply for permission for change of character, conversion or alteration in the mode of use of the land/land having water body for the purpose of

2. The particulars of the land/land having water body with respect to which such permission is required are furnished below:–

- (1) Name of the District :
- (2) Name of the Block :
- (3) Name of the police station :
- (4) Name of the *mouza* :
- (5) Jurisdiction List No. :

- (6) *Khatian* No. (R.S. & L.R.) :
- (7) Plot No. (R.S. & L.R.) :
- (8) Area of the Plot (R.S. & L.R.) :
[If part plot, specify the area and portion]
- (9) Existing Classification of the Plot :

3. The following documents, in duplicate, are enclosed with this application:-

- (1) Copy of mutation certificate or copy of current record-of-rights.
- (2) Copy of current rent receipt.
- (3) Sketch map showing the plot in question with side measurement and its surroundings including approach road (may not be to the scale).
- (4) Affidavit for creation of compensatory water body.
(Applicable in cases where the application relates to change or conversion of the land having water body of any description or size).
- (5) Copy of no objection certificate of the West Bengal Pollution Control Board.
(Applicable only in such cases wherever such certificate is required)
- (6) Copy of the Detailed Project Report (DPR) duly vetted by the Competent Authority.
(Applicable only in cases where the application relates to change, conversion or alteration of land for industrial, commercial or housing complex).

4. I/We also declare and undertake –

- (1) That the land, in question shall be used strictly for the purpose for which such permission shall be granted;
- (2) That there is no *bargadar*, in the land, in question;
- (3) That no work shall be done on the land, in question that may lead to conversion of the same unless permission as sought for is granted;
- (4) that necessary approval or permission or licence shall be obtained from the appropriate authority as required for execution of the work on the land, in question as soon as permission for conversion as sought for is granted;

5. I/We further declare –

- (1) That the land, in question is under peaceful possession of myself / ourselves and it is free from all encumbrances;
- (2) That the land, in question is not involved in any proceeding for vesting under the provisions of any law;
- (3) That the land, in question is not involved in any court case which prohibits such conversion, change or alteration in the mode of use of the land.

6. I/We also declare and undertake that in case it is proved at any point of time that the documents furnished and the statements made hereinabove are not true and correct. I/We am/are liable for any legal action which will be taken by the competent authority in this regard including cancellation of order granting change of character, conversion or alteration in the mode of use of land as sought for.

Encl: As stated above:

Yours faithfully

Place:
Date :

(Full signature of the applicant(s)
with seal, if any.)

FORM 1B

AFFIDAVIT

[See sub-rule (2) of rule 5A]

I/We do hereby solemnly affirm and declare as follows:-

- (1) That I/we undertake to create compensatory water body of equal or larger size of the water body which is sought to be changed, converted or altered.
- (2) That I/we undertake to create such compensatory water body on the land details of which are furnished below:-
 - (a) Name of the District :
 - (b) Name of the police station :
 - (c) Name of the *mouza* :
 - (d) Jurisdiction List No. :
 - (e) *Khatian* No. (R.S. & L.R.) :
 - (f) Plot No. (R.S. & L.R.) :
 - (g) Area of the Plot (R.S. & L.R.) :
[If part plot, specify the area and portion]
 - (h) Existing Classification of the plot :
- (3) That I/we undertake to create such compensatory water body on the land, in question within a period of 90 days from the date of issue of the order granting change, conversion or alteration of the water body as sought for.
- (4) That I/we undertake to maintain the water body as so created in proper and appropriate manner.
- (5) That I/we undertake to submit before the District Land and Land Reforms Officer the documents showing creation of compensatory water body within a period of 15 days after expiry of the stipulated period of 90 days for creation of such compensatory water body.
- (6) That I/we undertake that in case of failure to create such compensatory water body within the stipulated period of 90 days I/we shall not raise any objection for cancellation of the order granting change, conversion or alteration of the water body for which permission is sought for.
- (7) I/We also undertake to restore the said water body at my/our own cost if already changed, converted or altered within a period of 90 days from the date of issue of direction by the District Land and Land Reforms Officer for such restoration.
- (8) I/We further undertake to pay restoration cost as and when the same may be asked for to pay by the District Land and Land Reforms Officer.

Date:

(Full signature of the applicant(s) with seal, if any)

Identified by me.

(Advocate).".

By Order of the Governor,

DR. P. K. AGRAWAL,
 Commissioner General, Land Reforms and
 Additional Chief Secy. to the Govt. of West Bengal.