

GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT

No. RDM-LRGEB-BLS-0083-2017-36866 /R&DM dated 03.11.2017

From

Dr. C.S. Kumar, IAS
Principal Secretary to Government

To

Collector, Balasore

Sub: Transfer of Badapokhari tank in village Chhatrapur to the control of Soro Municipality.

Ref: Board of Revenue Letter No.XXVII-04/17-418 dated 21.04.2017

Sir,

In inviting a reference to the subject cited above, I am directed to say that the Soro Municipality vide their Resolution dated 4.08.2014 have decided in favour of transfer of the same property to Soro Municipality so that the tank can be renovated and utilized for public purposes. Accordingly the proposal has been submitted by Collector Balasore and recommended by RDC(CD) transfer of the property to Municipality.

2. The Revenue Department vide letter No.25475 dt.11.6.1959, letter No.10703 dt.2.3.1962 and letter No.51853 dt.2.8.1965 have issued instruction for transfer of properties of Revenue Department like fisheries, tanks, markets, hats, fairs etc to the control of Gram panchayat. But no such instruction has been issued from the Revenue Department for transfer of properties of Revenue Department to the urban local bodies. Further, as there is no specific provision to the effect that tanks can be transferred to urban bodies, Member, Board of Revenue has suggested for leasing out of the Badapokhari tank in favour of Soro Municipality instead of outright transfer of ownership of the tank as proposed by Collector, Balasore and recommended by RDC (CD) Cuttack. However, the tank, being Jalasaya in Kisam and not being waste land cannot be leased out permanently under OGLS Act and Rules.

3. In this connection the provisions of the Odisha Municipal Act, 1951 is relevant. Section 123 of the Odisha Municipal Act, 1950 provides that "it shall be lawful for the State government from time to time to direct that any road, bridge, channel, building or other property movable or immovable, which is vested in the State Government for the purpose of the State and which is situated within a Municipal area shall, with the consent of the municipality and subject to such exceptions and conditions as the State government may make and impose be placed under the

control and administration of the municipality for the purpose of this Act and there upon such road, bridge, channel, building or other property shall under the control and administration of the municipality subject to all exceptions and conditions so made and imposed and to all charges and liabilities affecting the same.”

4. In view of the above, the Government, after careful consideration have been pleased to allow to place the Badapokhari Tank in mouza- Ghodasahi (at present mz-Chhatrapur, Unit-13) Plot No.44 measuring an area of Ac. 11.030 dec kisas- Jalsaya under Khata No.550 (Rakhita) under the control and administration of Soro Municipality under section 123 of the Odisha Municipal Act, 1950, subject to following conditions;

- i. The scheduled property i.e Badapokhari shall continue to remain in Government in Revenue & DM Department khata and the kisas of the land shall remain unchanged as Jalsaya.
- ii. The Soro Municipality shall preserve and protect the water body i.e Badapokhari tank over the scheduled land.
- iii. In no situation, the jalsaya or the water body shall be converted or shall be allowed to lose its character.
- iv. The Municipality shall maintain the same and can take steps for renovation and beautification of the same as per the urban requirements. This may be done after due Resolution of the Municipality and with approval of Collector of the District.
- v. Third party rights or community rights, particularly rights for drinking, bathing and irrigation, if any, shall not be infringed upon.
- vi. The right to pisciculture shall be left to the Municipality, subject to the condition that 50% of the earning shall be utilized for the maintenance and other activities incidental to the property. The property, if the Municipality so decides, can be leased out for fishery purposes only through public auction, following a transparent procedure.
- vii. If the Municipality fails to maintain the tank properly or fails to make full use of the same or does not take sufficient safeguards for getting full usufruct out of the same or if any of the above conditions is violated, the order to place the Tank under the control and administration of Soro Municipality may be with-

drawn by Collector of the District at any moment without paying any compensation to the Municipality for any improvement which it might have done to the tank.

- viii. If the Collector of the district is of the opinion that the Municipality has failed to maintain the tank properly or has failed to make full use of the same or has not taken sufficient safeguards for getting full usufruct out of the same or if the Municipality has violated any of the above conditions, then he shall cause a notice to the Executive Officer of the Municipality to rectify within a period of 3 months. If the Executive Officer fails to rectify or furnishes insufficient reason, then Collector of the District shall recommend to Government in Revenue and DM Department for revocation of the Order.
- ix. The Government in Revenue and DM Department also reserves the right to revoke the order to place the water body under the control and administration of the Municipality any time in the larger public interest.

Yours faithfully


Principal Secretary to Government

Memo No. 36867

Dtd. 03.11.2017

Copy forwarded to Secretary, Board of Revenue, Odisha Cuttack, RDC(CD), Cuttack, Executive Officer, Soro Municipality for information and necessary action.


Joint Secretary to Government