

GOVERNMENT OF ORISSA
Revenue & Disaster Management Department

No. Ag-20/2005. **6900** Dated **23.02.2007**

From

Sri S.N.Das
Joint Secretary to Government

To

The Collector, Balasore / Mayurbhanj / Keonjhar / Sundergarh / Sambalpur /
Kalahandi / Kandhamal / Ganjam / Gajapati / Koraput / Rayagada / Malkangiri
/ Nabarangpur.

Sub: Clarification on application of provision of payment of compensation under section – 3 B in cases booked under section – 3(2) & 3-A of Regulation-2/1956.

Sir,

I am directed to say that, sub-ordinate offices on various occasions have raised the following issues in implementation of provisions of Regulation-2/1956 & sought for clarification of the Government.

1. Whether payment of compensation under section – 3 B 3(b) will be applicable to cases under section – 3 (2) & 3-A.
2. Whether O.S.D. (LR) acting as Competent Authority can entertain cases under section – 3 B like Sub-Collector.
3. Whether ST raiyat and Non-ST encroacher will enter into registration of any document on settlement of land and in case of payment of compensation, whether any modality and procedure for making award to be outlined.

After obtaining views of Law Department and views of Advocate General, Orissa, Cuttack, and after careful consideration, Government have been pleased to clarify that,

- (a) In view of the decision of the Hon'ble Supreme Court of India, in case No. 11483 of 19936 Amerendra Pratap Singh Vrs. Tej Bahadur Prajapati & others, the payment of compensation under section-3 B 3(b) to the S.T. owner of the encroached land is also applicable to the case under section 3 (2) & 3-A of Regulation-2/56 to determine the quantum of compensation and settlement of land in favour of Non-ST encroachers.

- (b) The O.S.D. (LR) acting as Competent Authority can exercise power under section – 3 (2) and 3(A) of Regulation 2/56 to entertain cases and to determine the quantum of compensation and settlement of land with non-ST persons in accordance with Orissa Government Land Settlement Act, 1962 at par with section- 3 B of said Regulation. Prior to settlement of land in favour of non-ST person, Sub-Collector or the Competent Authority shall obtain the prior approval of the concerned Gram Panchayat accorded with the concurrence of Gram Sasan. In case, Gram Panchayat refuse approval for granting permission to record the land in favour of non-ST person, it shall be referred to Government for taking decision as per the provision contained under section-3 (2) of Regulation-2 of 1956.
- (c) The modality and procedure for making award for payment of compensation to the transferor (ST person) as provided under section-3 B 3(b) of Regulation-2/56 is mutatis and mutandis applicable to the cases under section – 3 (2) and 3(A) of said Regulation. On receipt of confirmation on quantum of compensation paid to ST person by non-ST encroacher the land may be settled in favour of non-ST encroacher and for which there is no need of execution of any document in the Registration Office. After settlement of land, the Competent Authority or the Sub-Collector shall send the land schedule along with copy of order to Tehsildar for correction of Records as per Rule-34 (c) of Orissa Survey and Settlement Rules, 1962.
- (d) The Sub-Collector or Competent Authority shall determine the extent of land over which constructions were raised prior to the date of initiation of the proceeding. Such determination shall be made by engaging a survey knowing commissioner who shall visit the spot and make measurement. The Sub-Collector or the competent Authority shall examine such witness as may be necessary for determining the age of the constructions made on the disputed land.
- (e) The Sub-Collector or Competent Authority shall however, implement the order of eviction so far as the portions of the disputed land over which no constructions exists even before or after commencement of Amendment Regulation of 2000 published on 04.09.2002 and the disputed land over which the constructions have been raised after commencement of the

Amendment Regulation of 2000. The land so evicted shall be restored to the lawful Scheduled Tribe owner of the disputed land as per the provisions of Regulation-2 of 1956.

The above provisions under section-3 B, 3(b), 3(2) and 3(a) shall also apply to all cases which are pending adjudication after the amended provision came into force, which may be disposed of immediately. All Sub-Collectors and all Competent Authorities may be instructed accordingly.

Yours faithfully

Sd/- S.N. Das
Joint Secretary to Government

Memo No. **6901** Dated **23.02.2007**

Copy forwarded to Officer-on- Special Duty (LR), Panposh for information and necessary action with reference to his letter No. 332 dated 03.06.2005.



Joint Secretary to Government

Memo No. **6902** Dated **23.02. 2007**

Copy forwarded to the Secretary, Board of Revenue, Orissa, Cuttack / Land Reforms Commissioner, Orissa, Cuttack / All Revenue Divisional Commissioners for information and necessary action.



Joint Secretary to Government

Memo No. **6903** Dated **23.02.2007**

Copy forwarded to all Sub-Collectors / all O.S.D. (LR) for information and necessary action.



Joint Secretary to Government