

A HANDBOOK OF LAND IN WEST BENGAL



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INTRODUCTION

Since Vedic ages until late Mughal rule the Zamindari and ownership concept of land was virtually extinct in India. During the time of Manu, our law giver, a concept of bhuswami or bhupati was floated where the village head was at the pinnacle of village unit and held the land. They were mostly tillers and surprisingly neither monarchs nor kings. The Mughals were the first to consider the concept of Mouza. In 1765 East India Company took over the Dewani of Bengal, Bihar and Orissa from Shah Alam of Delhi Sultanate and engaged a band of land revenue collectors known as Zamindars for a fixed period. Their job was to forcibly extract and extort revenue from farmers that led to the famous famine of Bengal in 1770 and the subsequent Sannyasi/Fakir revolt immortalized through the novel 'Ananda Math' by Bankim Chandra Chatterjee.

1773 is the turning point of Indian land history when the East India Company enacted the Permanent Settlement Act. It was a settlement in perpetuity subject to payment of tenancy for a fixed amount within a stipulated period and before the sunset of the stipulated day.

The Bengal Tenancy Act, considered the father of all present day land laws, was enacted in 1885. It came in the backdrop of Sepoy Mutiny of 1857, the Rent Act of 1859, peasant movements in the Pabna district of undivided Bengal against the misrule of Zamindars in 1873 and Famine and Epidemic in Bengal in 1874.

The enactment of Bengal Tenancy Act led to the creation of Record of Rights (ROR) for the Ryot, whose land rights were protected by the Imperial British Government. The Tenancy Act came to be known as the Consolidated Act but it failed to abolish the 'intermediary' system between the tiller and the Government and continued to exploit the peasant through extortion of rents from their subordinate tenants.

LAND ACQUISITION

Until now, land is acquired in India and West Bengal as per the Land Acquisition Act – I of 1894. As per the preamble of the Act 'Acquisition' "means and includes acquisition of all rights and interests of a tenant in a particular piece of land by paying fair value or compensation." The process for assessment of land value by the collector has also been clearly and expressly delineated in the Act. There are no judicial characters and it is purely an administrative action needed to protect the right of land owner in the matter of determination of land value that may be subsequently adjudicated by a competent court of law. After 1947 as series of amendments have been introduced in the Act by the centre and state governments but the bare act of 1894 continues to function as the mother.

According to Art 298(i) of I.C the executive power to acquire land rests with the state and the centre. It is used in respect of their purpose and Act I of 1894 has been amended innumerable times as per the Adaptation of Laws Order 1950. In case of state government acquiring land for central purposes notifications U/s 4 and U/s 6 will have to be delivered and published in separate forms and modified accordingly.

WEST BENGAL – LAND ADMINISTRATION

In 1942 a Land Revenue Commission was set up by the British Government known as Floud Commission. It strongly recommended abolition of intermediary system in land administration. As a result, on demands from the people of the state, the West Bengal Estates Acquisition Act of 1953 was enacted.

LAND POLICY OF WEST BENGAL

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Government of West Bengal
Land and Land Reforms Department
Land Policy Branch
Writers' Buildings, Kolkata-700001

ORDER

No. 6686-LP/1A-18/2012

Date: 26/12/2012

Whereas the State Government, its parastatals (Corporations, Development Authorities), and urban local bodies etc. have been allotting and pricing land/ other assets in line with various Departmental and other norms which often vary in their content and their applicability;

2. And whereas there is need to introduce uniformity, reduce discretion and avoid case by case decision-making to ensure transparency while dealing with public assets;

3. Now, the Governor, after careful consideration of the matter, is pleased hereby to make the following *Land Allotment Policy* which will be applicable to land owned or held by any Department of the State Government or agency funded by the State Government in any manner:-

- (i) The land allotted to any individual/ company/ institution etc. under the policy would be transferred to them by the Government and its parastatals by way of long term lease for a period not exceeding 99 years, with the option of renewal of such lease for the like period on the same terms and conditions and to such other terms and conditions as may be imposed and included in such renewal lease deed.
- (ii) (a) The lessee under any lease granted by the State Government or its parastatals can mortgage the leasehold interest only (and not the demised land itself) on the demised land, whether in full or in part, only with the prior written permission of the lessor.
(b) The lessee is not entitled to assign his leasehold interest, whether in full or in part, without prior written approval of the lessor and assignee shall hold the same on the same terms and conditions as in the original lease and to such other terms and conditions as may be considered to be imposed by the lessor while granting such approval. In case of such assignment of leasehold interest the assignee concerned shall have to obtain fresh lease after expiry of the unexpired period of the lease on payment of such consideration money and annual rent based on the prevailing market value as may then be fixed by the lessor in granting such lease.
- (iii) The Land and Land Reforms Department is the nodal Department for inter-departmental transfer of land and Long Term Lease (LTS) of vested/ khas (Government) land. An inter-departmental Committee under the Chief Secretary

would handle all cases of inter departmental land transfers. The valuation for LTS would be based on the sale deeds of the area or the market price as determined by the Inspector General of Registration, West Bengal, whichever is higher.

Land meant for commercial use shall invariably be auctioned to the highest bidder for which adequate publicity should be given including through the internet. Commercial use will mean use for office, shops, shopping malls, housing not meant for the EWS, LIG or the poor, cineplexes, theme parks, hospitals, educational institutions etc, and would include all other activities except those activities for which a different mode of disposal is prescribed.

(iv) Reserve Price should not be fixed by the Government before the bidders submit their financial bids, so that there is no chance of the bidders knowing the Reserve Price fixed by the Government. The Government, while fixing the Reserve Price, should not have knowledge of the price bids submitted so that the fixing of the Reserve Price is not influenced by such knowledge. The Advisors do not finalize Reserve Price, as a conflict of interest may arise with them trying to keep them a low Reserve Price. The bidders are provided full comfort that their bids, once submitted, can in no way be tampered with by any agency.

(v) For construction of housing for the poor, EWS and LIG through developers, it would be permissible not to go in for the auction route, keeping in view of the paramount public interest. Instead, development offers on pre-announced criteria can be invited through a two-stage bidding process. The policy for the allotment of the dwelling units after construction also should be rational, objective and transparent and stated clearly in the brochures/ advertisements.

(vi) For projects leading to industrial development, the highest price need not be the main criteria nor should auction be the only mode of allotment. The department or the entity shall prepare and publish a list of its land assets. It may also indicate the kind of industrial development it is seeking (big, medium, small, micro, non-polluting, knowledge based, etc.) along with the tentative price which may be determined on the basis of acquisition price, cost of capital, development charges and premium as applicable. This information should be freely available in the public domain for at least a month before offers are received/ invited.

(vii) The offers should be evaluated on pre-specified and pre-announced criteria e.g. specified purpose, employment potential, likely tax- revenue, development of backward regions, economic development of disadvantaged communities, lower pollution levels, standard norms for land requirements for specific type of industries, and the past record of the investors. Evaluation should be done by a Transaction Advisor, to be selected from the empanelled list of Transaction Advisors drawn up

by the Finance Department through a transparent and competitive process and notified vide No. FS-116(PPP Cell)/2012 dated 10.09.2012.

(viii) Project proposals for private educational institutions and medical facilities will be deemed to be commercial ventures, except where such projects are to be set up by public charitable trusts with no profit motives, and in existence for at least five years in the respective field, after inviting offers in a transparent manner. Trusts promoting such institutions have to be well-known for their services at the national or international level. The cases of allotment to charitable and reputed institutions fulfilling the above conditions should be referred to the Standing Committee of the Cabinet on Industry, Infrastructure and Employment for a final decision.

(viii) For the projects in the power generation sector, the auction route is not recommended given the possible impact on tariffs and questions of larger public interest. The department holding the land, in consultation with the Power & NES Department, would notify sites suitable for power generation projects, which will remain open and in the public domain for at least one month before offers are invited. Thereafter, the offers will be evaluated in consultation with Power & NES Department, based on clear-cut pre-announced criteria beneficial to the economy and well-being of the state such as lower tariffs, redressal of the thermal-hydro imbalance, green power, and renewable obligations and offered in terms of the existing policy and legal framework for such power generation projects.

(ix) All land allotment decisions should be taken by the Board(s) of the entities. In case land is owned departmentally, MIC's order will be inevitably required followed by a Cabinet decision. Under no circumstances should land allotment decision be taken without placing the matter to the full Board with adequate notice as may be required under the relevant statutes/ rules and without recording detailed minutes.

(x) Upon the completion of the formalities and selection of the allottee, a provisional Letter of Intent (LOI) should be issued. Each Department should frame its own LOI in consultation with the Law Department and strictly based on this policy with a specific time frame which shall in no case exceed three (3) years from the date of handing over the possession of the land.

The provisional LOI should also specify the statutory clearances / licences / permissions that the allottee would be required to obtain within a definite time frame. This will include clearances from the West Bengal Pollution Control Board & / or the Ministry of Environment & Forests, fuel linkages, water availability, clearance and licences from the West Bengal Electricity Regulatory Commission, the Medical / Dental / Nursing Council, the AICTE, the UGC, Municipality, Urban Planning etc., as may be required only for that specific purpose.

- (xii) The provisional LoI should be so drafted, as to enable the allottee to seek financial closure as well as obtain the relevant statutory clearances, in a definite time frame. In case the statutory clearances and or the financial closure are not forthcoming within the specified period, the provisional LoI shall be cancelled after following procedure laid down in the terms and conditions of the allotment.
- (xiii) The allottee will have to commit that post-allotment, any changes in the ownership structure of the allottee, would be indicated upfront to the lessor. In case the lessor is of the opinion that such changes would be detrimental to public interest, such as higher power tariffs, reductions in the housing entitlements for the original target group (e.g. EWS / Poor / LIG), lower tax revenues, lower employment, etc., the lessor may cancel the allotment after following the usual formalities.
- (xiv) In the event of special circumstances, the Government may, with the intention to protect and promote specific types of activities, or, to promote any emerging area of development activities, or, to reduce imbalances in any backward region, or, any strategic reason especially beneficial to the State, may with the approval of the State Cabinet, relax any or some of the above mentioned criteria. The sponsoring departments will be required to prepare Cabinet proposals indicating the full extent of relief with justification.
- (xv) Notwithstanding (xiv) above, all decisions related to land allotment etc. should be proactively disclosed u/s 4, of the RTI Act.
4. The Departmental Secretaries may ensure strict compliance with the aforesaid policy-guidelines in the most transparent manner.

By order of the Governor,
R.D.Meena

Principal Secretary to the Government of West Bengal

No.6686/1(87)-LP

Date: 26/12/2012

Copy forwarded for information and necessary action to the:

1. Additional Chief Secretary/ Pr. Secretary/ Secretary to the Government of West Bengal Department.
With the request to circulate this policy-guidelines to its parastatals (Corporations, Development Authorities), and urban local bodies etc. if any.
2. Commissioner,Division.
3. Director of Land Records & Surveys, West Bengal.
4. District Magistrate & Collector,
5. O.S.D. to Chief Secretary to the Government of West Bengal


Additional Secretary to the Government of West Bengal

LAND IN WEST BENGAL- A SUMMARY

Post independence, the land laws in the State of West Bengal has gone through various changes. Land reforms in post-independence West Bengal began with enactment of *The West Bengal Non-Agricultural Tenancy Act, 1949* and *The West Bengal Bargadars Act, 1950*. Then came *The West Bengal Estates Acquisition Act, 1953* which came into force on February 12, 1954 and which principally abolished the Zamindari or intermediary system and all estates and all rent receiving interests in each estate. All the estates in the State of West Bengal vested in the State free from all encumbrances and a ceiling was imposed on the holding of land.

The comprehensive measures of land reforms was introduced by the *West Bengal Land Reforms Act, 1955* which came into force on February, 1956 and the said Act has undergone quite a number of significant amendments upto now. All kinds of land have been brought within the purview of the said Act and a family ceiling has been imposed on holding of land. Apart from the said Acts and the Central Acts, a few other Acts are relevant land laws in West Bengal, namely, -

- a) *The Urban Land (Ceiling & Regulations) Act, 1976*
- b) *The West Bengal Land (Requisition and Acquisition) Act, 1948*
- c) *The West Bengal Inland Fisheries Act, 1984*
- d) *East Kolkata Wetlands (Conservation and Management) Act, 2006*
- e) *West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001*
- f) *The West Bengal Town and Country (Planning & Development) Act, 1979*

Therefore, the comprehensive effect of all the aforesaid Acts are as follows:-

- a) All lands in the State of whatsoever nature, wherever and howsoever situate are vested in the State and a raiyat which means a person (which includes a family) or an institution holding land for any purpose whatsoever, is entitled to hold land, which is transferable and heritable, under the State within the ceiling limit.
- b) A raiyat is entitled to hold land to the extent (ceiling limit) as follows :-

Raiyat	Irrigated area	Non-irrigated area
An adult unmarried person or sole surviving member of family	2.5 standard hectares (6.18 acres)	3.50 standard hectares (8.65 acres)
Family consisting of 2 to 5 members	5 standard hectares (12.35 acres)	7 standard hectares (17.30 acres)
Family of more than five members	5 standard hectares + 0.5 standard hectares (1.24 acres) for each member in excess of five subject to 7 standard hectares	7 standard hectares + 0.7 standard hectares (1.73 acres) for each member in excess of five subject to 9.80 standard hectares (24.22 acres)
Family of 9 or more members	7 standard hectares	9.80 standard hectares
Any other rayat (which inter alia includes company)	7 standard hectares	9.80 standard hectares

- c) A raiyat or an intermediary or a lessee holding land in tea garden, mill, factory or workshop is entitled to retain so much of such land as in the opinion of the State Government is required for the aforesaid purpose and the same may be in excess of the above ceiling limit.
- d) A raiyat's land may be subject to further vesting if by any subsequent acquisition on account of transfer, inheritance or otherwise, the land exceeds the ceiling area of a raiyat.
- e) Any person holding vacant land in urban agglomeration, shall also be subject to the ceiling limit of five hundred square metres to two thousand square metres depending upon the location of the land as per the categorization under the applicable Act.
- f) No construction is permitted on any agricultural land.
- g) No conversion is permitted of water area measuring 5 Cottahs = 0.035 hectares or more.
- h) The area of wetland is prescribed under the Act. No change of character or mode of use is permitted without the sanction of the prescribed authority.

Broadly speaking, two types of land, viz. government lands and private lands, are available for the purpose of setting up any industry or for other commercial purposes. The government lands are those which are vested in the State under the aforesaid Acts or have been acquired by the government for public purposes through the concerned Acts and the amendments thereto.

Land, one of the most critical resources for the purpose of Industry, has been a key focus area of the State. The status of land availability, in the industry parks and projects, for setting up industry has been made available in public domain through the various nodal agencies - West Bengal Industrial Development Corporation (WBIDC), West Bengal Industrial Infrastructure Development Corporation (WBIIIDC) and West Bengal Small Industries Development Corporation (WBSIDC).

Generally, the government through its nodal agencies offer the vested and/or acquired lands upon identification thereof, to the interested industry houses by:-

- i) granting long term leases, or
- ii) through auctions to the highest bidder.

The private lands, upon identification thereof, can be directly purchased from the respective individual raiyats/owners at and for the agreed consideration. The interested entrepreneurs, shall be required to go through the following process normally for acquiring right title and interest in respect of the specific plot or plots of land:

- Identification of land;
- Investigation of title of ownership of land (applicable for private lands). Such investigations are generally required to be done with the offices as follows –
 - i) concerned Sub-Registrar, the District Registrar and Registrar of Assurances, Kolkata who has the power to register any document in any district,
 - ii) the Land Acquisition Collector,
 - iii) Block Land & Land Reforms Officer,

- iv) the courts in Senior Division and Junior Division having jurisdiction
- v) the local authority-Municipality or Panchayet;
- Public Notification (optional for private lands);
- Completion of transaction through registration;
- Mutation of name;
- Conversion or change of character and/or nature of land to the proposed use of land as required;

The entire process may be summed up in the manner as will appear from the Chart being **Annexure A** hereto. For government lands, the process of investigation of title may not be necessary since the title would come from the government. The process would be the process prescribed by each nodal agency.

THE LAWS SIMPLIFIED

West Bengal Estate Acquisition Act 1953:

The rights and interests of the intermediaries got vested in the state for 15.04.1955. By it, none of the intermediaries, ryots or under ryots could hold land in excess of ceiling U/s 6 (1) of the Act. However, tanks, fisheries, religious and charitable trusts, poultry, live stock breeding and dairy are kept out of the ambit of this EA Act 1953. It also failed to check the tricks of big ryots who kept ceiling excess land through fictitious transfers and names.

West Bengal Non-Agricultural Tenancy Act 1949:

Mainly deals with the mode of use, leasing out, determination of rent, etc of non agricultural land along with causes of eviction or protection of non agricultural tenants. The Act guarantees transfer and inheritance rights

West Bengal Land Reforms Act, 1955:

(Land Ceiling provisions in this Act has been exhaustively amended to make it industry friendly and the State Government, for the first time, has introduced a State Land Policy, 2012)

Collector – Person appointed by state government for collecting revenue. They are ADM (LR) and DL & LRO in the districts

Chapter 2 defines rights of ryots and spreads from Sec 4 to Sec 13. He has no sub-soil right and only surface right

Chapter II A – defines restrictions on alienation of land of SCs / STs U/s 14 – 14J

Chapter II B – defines the ceiling provisions of land held by the ryots U/s 14J – 14Z (The state government has amended this portion elaborately and introduced the provisions in the state land policy, already put up on the state Website)

West Bengal Land Reform (Amendment) Act 1981:

Changed the definition of land which meant land of every description and classification also land in mill, factory, workshop, tea garden, poultry, dairy, live stock etc

U/s 3A of the amended Act all rights and interests in land came within the purview of West Bengal Non agricultural Tenancy Act 1949 and it got vested to the state with effect from 9.9.1980

Determined the ceiling provision of land on tea, garden, mill factory, workshop, poultry, dairy and live stock breeding

BARGA LAND

This was done for an equitable distribution of material resources within the farmers and BARGA had been institutionalized in favour of the BARGA farmer and his family under Chapter 3.

Chapter 4 highlights how ceiling surplus land would be vested to the state or distributed with the landless

Chapter 4 and 5 define provisions of revenue and consolidation of holds after forming of co-operative societies

West Bengal Land Reforms Act is a social legislation enacted with the purpose of settling the landless and up hold common good. Other important legislations are West Bengal Land Revenue Act, Kolkata Land Revenue Act. It is used to tax the agriculture sector at an increasing rate and intensify collection of land revenue from rich land owners. It also seeks to redistribute income in agriculture sector as well as economy as part of land reforms process.

Land Relations in West Bengal – an Overview

Post independence two major land acts were passed in West Bengal – The Estate Acquisition Act, 1953 and Land Reforms Act, 1955. West Bengal is the only state that provides a broad definition for land. The purpose is to prevent land owners from evading the law by re-classifying agricultural land as non-agricultural land. Here ceiling limit is applicable for tenanted land and not barga land (U/s 15 and 21 of LRA 2003). The ceiling ranges from 6.2 standard acres for adult and unmarried owners to a maximum of 17.3 acres in a nine member family. A standard acre means 1 acre for irrigated land and 1.4 acres for all other land. In other Indian states, the unit is a family and not individual and up to 5 members. West Bengal along with Tripura - the two only states where ceiling area can be reduced if the number of family members is less than five.

The exceptions to ceiling

1. If land is held for charitable purposes the government can augment the ceiling limit
2. The state government has the right to augment ceiling (State Land Policy of December 2012) for mill, factory, livestock breeding, poultry farm, dairy and township
3. Darjeeling is a no go area and ceiling does not apply for a local authority

Positives

1. Effective method for redistribution of land resources (U/s 14 Z)
2. Definition includes non-agricultural land (U/s 2 (7))
3. Unit is individual and not family with less than five members have lower ceilings (U/s 14 M)
4. Few, limited exemptions on ceiling limits (U/s 14Q, 14R and 14Y)
5. Land transferred in anticipation of ceiling legislation is still included when applying the ceiling (U/s 14P)
6. Landowners holding land in excess of the ceiling cannot transfer any land until the state has determined the excess and taken possession of it (U/s 14 U (1))

Limitations

1. Compensation to losing land owners very low (U/s 14V)
2. Very nominal punishment penalty of Rs 5000 only for persons holding ceiling excess land (U/s 14 T (4))

Distribution of Vested Land

Positives

1. Strong priority for landless, SC and ST while distributing land resources
2. Land owners with 1 acre + are not entitled to receive redistributed land

Limitations

1. Permanent prohibition on sale imposed on land reform beneficiaries is too restrictive
2. The Act does not direct that land be distributed in the joint names of husband and wife

ALL YOU NEED TO KNOW

APPROPRIATE AUTHORITIES

- M.I.C, L & LR DEPARTMENT
- COMMISSIONER GENERAL
- PRINCIPAL SECRETARY & L.R.C
- SPECIAL SECRETARY
- JOINT SECRETARY
- DY. SECRETARIES
- D.L.R & S & JT. LRC, GOWB
- DY. DIRECTORS
- ADDL. DIRECTORS
- O.S.DS
- DEALING ASSISTANTS
- GROUP D – EMPLOYEES

In DISTRICTS

- **DM and Collector**
- **Addl. DM and DL & LRO**
- **Dy. DL & LRO**
- **Officer in Charge (SRO)**
- **Revenue Officer**
- **H.A**
- **D.A**
- **Group D Employees**
- **Asst. Secretaries**
- **OSD**
- **Section Officer**
- **Dealing Assistant**
- **Group `D` employees**

U/s 49 (5) only the Collector is authorized to settle land for public purpose or for establishment, maintenance and preservation of any educational or research institution or industry/ As per Rule 20 A coupled with West Bengal Land Reform Rules, ADM or SDO can also mediate a settlement alongside the Collector.

TYPES OF LANDS THE GOVERNMENT CAN ACQUIRE

- Land, all the interests in which, are vested in the Government
- Land in which no private persons exist
- In case of private land acquisition, needs to take place as per provisions in Act I and transfer should be effected through executive action
- Land for public purpose, like infrastructure can only be acquired after settling all dues and outstanding interests of the land concerned
- Land can be re-acquired by handing it over to a local authority

PROBLEMS

- Delay in payments
- Lacking in provision for proper rehabilitation of persons
- No prescribed time limit for settling of acquisition petitions and grievances

- Absence of any express provision / direction for Requiring Bodies to place required fund for payment of compensation at the Collector's disposal

RESTRICTIONS

- State Government's Land Committee to finally decide on acquisition and distribution of land
- Collector authorized to set up a Screening Committee to look into land affairs, if necessary
- Officials and non-officials can be included in the Screening Committee

PROCEDURES TO FOLLOW FOR GETTING LAND

- Preliminary investigation report
- Section 4(i) of Notification
- Section 5 (A) facing 'hearing of objection'
- Section 6, declare the purpose of land
- Section 7, Collector to take order for acquisition
- Section 8, Land to be marked out and measured and planned
- Section 9, Notice of Persons Interested
- Section 10, Face the government's power to require making of statements as to names and interests
- Section 11, Enquiry report from collector of claims, preparation or award and apportionment
- Section 12, Award from Collector after finalization
- Section 12 (2) Notice of Award
- Section 13 (A) Correction of clerical errors, if any
- Section 16, Power to take possession
- Section 17, Special Powers of taking possession, if any, in case of urgency
- Section 18, if required reference to Court
- Section 30, Reference to Court, if any, on grounds of title and apportionment disputes

The State Government's Mandate

In matters of land the State Government through its Land and Industry Policies in 2012 and 2013 clearly identified 20 Entry Points. As on date the stand of the Government continues to remain unchanged.

1. The state government will not acquire any land, forcibly or otherwise on behalf of any industry, project or individual
2. SEZs will not be allowed to set up in West Bengal
3. A new agricultural Land Policy will be announced. (The new Land Policy of the state has already been announced on Dec 26 2012 after amending the Land and Land Reforms Act, 1955 which was followed by a new Investment and Industry Policy in May 2013)
4. Only Panchayat Samitis are authorized to draw a Land Map of the state with details of agricultural, non-agricultural, industrial, forest and fallow lands spread out in the districts of the different parts of the state.
5. Based on Land Map the Government will create a Land Bank identifying areas of penetration for industries, individuals and projects
6. While purchasing land the purchaser will have to consider that the farmer land owner and the share-cropper benefits the most while selling the land.
7. Land donated for charity purposes can only be used for such purposes and nothing else will be allowed.
8. Litigated lands will be made free and distributed for industry and other purposes ASAP as it is draining government revenue
9. Vested Lands to be offered to industry from Land Bank
10. Vested Lands can only be used for social development projects and industry
11. Offering of all forms of water bodies, used or unused for industry and profit making purposes are strictly prohibited. Government to undertake reforms of all water bodies

12. Cluster Development Initiative (CDI) to set up homes for the poor and homeless on fallow and vested lands, if necessary
13. Only a Government expert committee to decide on conversion, land transfer and mutation of land. The industry will have to make all approaches before this committee.
14. Conversion and mutation of Land has to be completed within one (1) month from the date of application, on a case to case basis
15. WBIDC, WBIIDC and WBSIDC will be the authorized government bodies to know details of land and availability
16. Government to give Long Term Lease of Land not longer than a period of 99 years, such that transparency and dealing in public assets is ensured on a case by case basis.
17. Land for commercial use shall be auctioned after adequate publicity.
18. Land for industrial development projects would be evaluated on pre-fixed criteria like a) preparing of list of land assets, b) indicate tentative prices of assets based on acquisition costs c) development charges d) premium rates and finally e) auction
19. Setting up of housing for poor, EWS and LIG categories auctioning of land not required
20. Special allocation procedures to be followed in case of land allocation for educational, medical and power unit facilities. (Land Policy 26.12.2015)

The Government of West Bengal declared through its land and administrative policies the following as under:

1. No forcible acquisition of land
2. Land will only be acquired for its own use and public purpose
3. It is principally agreed that: multi-cropping agricultural land and lands having dense habitation will not be acquired under any circumstances
4. Creating of land banks
5. Creating of industrial parks
6. Zoning and digitized maps being prepared showing characters and various use of land in different districts
7. Identifying industrial unit specific land distribution
8. Due priority on vesting of ceiling surplus land and distribution of patta between the farmers. Industry will have to negotiate individually with patta holders. The government will have no role to play.
9. **Availability of citizen centric services through O.T.C, (Over the Counter) like**
 - a) Supply of certified copies of ROR/ Khatian
 - b) Supply of Conversion and Mutation certificates
 - c) Plot information to applicants within a given time
 - d) Barring delivery of Conversion and Mutation certificates all other land related services have been brought under the purview of Right to Public Services Act, 2013
 - e) All land related services are provided from district and gram panchayat offices

***** In 2014-15 the State Government collected Land Revenue of Rs 429 crore.**

FAQ

1. How do the State Government and its agencies help identify and find land for the entrepreneur that is needed for the project?

- ***Investors will have to visit the West Bengal Industrial Development Corporation (WBIDC) office to get a bird's eye view of the land available to state through the land bank that has been created. As per state land policy, the Land and Land Reforms Department is the nodal department for all land related issues. Clause 3 (iii) of the State Land Policy has categorically pointed out on how to go about on land related matters. Until now, the government is converged on the decision that it would play the role of a facilitator and not an acquirer or negotiator for the investor. The investor will have to do his own piece of work to gather the land, while the logistic support, barring acquisition will be provided by the government in all possible ways.***

2. What is the process of identifying the class of land and the purpose for which it had been preserved by the state government?

- ***The class and nature of land – Vastu, Danga, Pukur and Bagan are identified by respective district authorities like District Land Revenue Officer (DLRO) and Block Land Revenue Officer (BLRO) and Sub divisional Land Reform Officer (SDLRO). DLROs, BLROs and SDLROs work in tandem with the local panchayats and the state land and land reforms department to identify the nature and status of the land.***

3. What are the different classes of land available to the state and private party and where are they located?

- ***The attached format on the Status of Land issued by the Department of Land and Land Reforms will provide a detailed chart on the class of land that is available in the state.***

4. What is land bank? How can it be approached?

- ***A land bank is a type of identified land store house in the state. The investor can approach the bank to ask for lands at terms and rules fixed by the government, i.e., the state land and land reforms department. All details of land bank will be available from WBIDC and other infrastructure development bodies like WBIIDC.***

5. What are government lands, free hold lands, vested lands and private lands? How does the entrepreneur acquire these lands?

- ***Please look up the State Land Policy of 2012 enclosed above.***

6. How does the Government facilitate the entrepreneur in acquiring these lands? What is the government's role in getting the land for the entrepreneur?

- ***Clause 3 (iii) of the State Land Policy discusses the issue in detail***

7. In what way can there be a departure in utilizing the land for some purpose other than the one for which it had been kept by the government. If so, how and what is the process?

- ***Clause 3 (i) and (ii) strictly debar the investor or the lessee from such unauthorized activities.***

8. How can the entrepreneur shift to private land even if the government had earmarked the project to be set up on government land? In such a case what is the recommended guideline?

- ***All changes will have to be brought about as per government rules and regulations laid down as per Clause 3 (iii) to (Xv) of the state Land Allotment Policy 2012***

9. What is Mutation of Land? Who does it and how and why is it absolutely necessary.

- ***Mutation renders a clear picture of ownership. It is essential for holding a clear title of the land through establishment of ownership and right to property. Investors will have to mandatorily undertake mutation of land before project constructions. The Record of Rights and relevant documents will have to be filed***

with the officers of the Land and Land Reforms Department like the Revenue Inspector (RI). He is the key person for updating all land records and establishing the rights of land owners.

10. What is the process of speedily Mutating Land?

- ***Relevant documents will have to be filed before the Revenue Inspector (RI) for Mutation of Land and to his satisfaction. RI is the sole authority to approve mutation of land.***

11. What are the normal and extended periods of acquiring vital Land Mutation Certificates and how can be they gathered expeditiously?

- ***There are no fixed periods for approving of mutation. It depends on how correct and appropriate are the documents that have been filed by the investor before the R.I. It is only through constant pursuing with R.I that mutations can be speeded up in case of private and free hold lands. However, for government lands, Clause 3 (ix) and (x) are effected***

12. Why an entrepreneur is not considered a clear title holder or owner of land unless his/her land property had undergone mutation, although he had made the necessary payments and obtained first hand clearances from Government Departments.

- ***It is because as per land laws until now Mutation is considered as the only available document of Ownership, Holding of Title and Establishment of Rights on the land that had been offered to the investor.***

13. Are there provisions within the Government to issue provisional Land Mutation Certificates so that the entrepreneur may use them temporarily for bank and institutional financing of their project?

- ***As of now, for mutation there are no such provisions. Mutation is an almost one time complete certificate. However under Clause 3 (x) of Land Allotment Policy can issue a provision Letter of Intent (LOI) after completion of all formalities by the investor or person willing to take lease of the land. In this case each department from whom the land is taken will have to frame its own LOI after consulting the Law Department.***

14. How can land be converted? What are the existing laws for Conversion of Land?

- ***How conversion is allowed and the detail factors considered there in are attached in the Status of Land document. Clause 3 of state Land Allotment Policy also outline in great detail who and under what conditions conversions can be allowed.***

15. Who are authorized to approve Conversion of Land within and outside the City and districts and how?

- ***Please look up Clause 3 (ix) of the State Land Allotment Policy 2012***

16. What are the bottlenecks and impediments before a smooth conversion of land?

- ***Under the new state Land Allotment Policy, there are no known impediments and bottlenecks to conversion of land unless and otherwise the criterion is not fulfilled by the investor. There are no short cut routes to conversion and the government cannot afford to be lenient on the matter as there is a maximum chance of improper and misuse of land by the investor. The government is highly cautious on the matter and is only ready to show lenience under specific conditions as laid down under Clause 3 (viii) and (xiv) of the Land Allotment Policy. The investor is at liberty to file unanswered issues U/s 4 of RTI Act in case of delay.***

17. What is the normal and approved periods of conversion?

- ***Like mutations in this case also there are no statutory periods. However the State Land Allotment Policy states that the government will make all efforts so that the investor receives all necessary clearances for the land within a definite time frame. Until now, the government has not fixed a time.***

18. What steps does the entrepreneur need to avoid for timely and smooth conversion?

- ***The investor strictly needs to follow the rules and purposes of conversion as laid down in the State Land Allotment Policy and other State Land Acts attached to this document.***

19. What steps does the entrepreneur need to follow to receive early approval for conversion?

- ***To follow the regulations, rules and purposes of conversion as is given in the Status of Land document attached to this booklet.***

20. Are there provisions in the State Land Reforms Bill of 2012 where provisional Conversion Certificates can be given to the project setter and entrepreneur so that they can arrange Banks and Institutional Finance as a first step?

- ***There is no such scope. However as per Clause 3 (x) only after completion of formalities and selection of allottee a provisional LOI may be issued by the respective department from whom the land is being taken. However, that cannot serve the purpose of a provision certificate of conversion or otherwise to gather bank and institutional finance by the investor as there are no specific laid down provisions in the Land Allotment Policy.***

21. Can the land held by the entrepreneur after receiving necessary conversion and mutation certificates be used as a mortgage or lease to manage bank and institutional finance for the project? If so how? What is the process?

- ***As of now, there are no such provisions in the Land Allotment Policy. However as per Clause 2 (a) there are provisions for mortgage of leasehold interest only (and not the demised land itself) on the demised, whether in full or in part, only with the prior written permission of the lessor.***

22. Who is the final and appropriate authority to allow mortgage and leasing of land?

- ***In this case the Lessor and the Land and Land Reforms Department that is the nodal agency for Long Term and Lease (LTS) of Land in the vested / Khas category.***

23. How to approach the local level government authorities and panchayats for acquiring land? What are the usual impediments and interferences? How to overcome them?

- ***WBIDC is the nodal body between the investor and owner of land. It is only through them that the local bodies and statutory authorities can be approached for ownership, lease or land clearance.***

24. How to gather No-Objection-Clearance (N.O.C) from the concerned government department under whose supervision the project would be cleared.

- ***Please look up Clause 3 of the attached State Land Allotment Policy 2012***

25. Like Maharashtra and some other states do West Bengal Government Departments have a separate form for N.O.C? Can it be obtained online or gathered manually?

- ***Yes, the N.O.C can be obtained from the concerned department provided all Land Allotment Policy requirements are fulfilled by the investor. The government is in the process of making on line provisions.***

ANNEXURE

A

