

The Board of Revenue, Orissa Regulations, 1963

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Chapter I Preliminary

1.

(i)These regulations may be called the Board of Revenue Orissa Regulations, 1963,(ii)They shall come into force at once.

2.

In these regulations, unless the context or subject otherwise requires-(i)"Act" means the Orissa Board of Revenue Act, 1951;(ii)"Board" means the Board of Revenue constituted under Section 2 of the Act;(iii)"Member" means the Member, Board of Revenue;(iv)["Stamp Reporter-cum-Oath Commissioner" means an officer appointed as stamp reporter by the Board of Revenue and empowered under Sub-section (2) of Section 3 of the Oaths Act, 1969 by the High Court to administer oaths and affirmations for the purpose of the affidavits to be used in the judicial proceedings before the Board.] [Inserted vide Orissa Gazette Extraordinary Part-III/23.11.1984.]

Chapter II Filing of appeals and applications for review and revision

3.

When there is no express provision in the relevant enactment as to the period within which appeals or applications for revision to the Board may be filed, such appeal or application may be filed within ninety days from the date of the order appealed against or sought to be revised deducting the time occupied in obtaining a copy of the order appealed against or sought to be revised :Provided that the Board may for sufficient cause shown to its satisfaction by the appellant or petitioner for not filing the appeal or application for revision in time, admit an appeal or application for revision filed beyond ninety days.

4.

In all appeals to the Board, the subject-matter of which can be referred to a particular law, the appellants may state specifically in their petitions the clauses and sections of the law under which they have a right of appeal. The same rule applies to petition for revision.

5.

(a)Every appeal, application for review or revision shall be preferred in the form of a memorandum signed and dated by the appellant or applicant or his recognised agent or his counsel.(b)The memorandum shall set forth concisely and under distinct heads, the grounds of objection to the judgement or order appealed against or sought to be revised and such grounds shall be numbered consecutively.

6.

With every appeal or application for review, an authenticated copy of the order appealed against or sought to be reviewed shall be filed.In case, however, of a petition for revision authenticated copies of the orders passed in all the lower Courts shall be filed.

7.

An application for revision of appellate orders shall set out clearly-(i)how and in what manner the appellate Court has exercised a jurisdiction so vested, or(ii)the particular illegality or irregularity complained of, as the case may be.

8.

(i)Unless otherwise directed by the Board, an appeal or, application for revision shall not operate as a stay of proceedings under an order appealed against or sought to be revised.(ii)separate petition duly affixed with court-fee stamp shall have to be filed to initiate the matter.

9.

The appellant or petitioner shall not except by leave of the Board, urge or be heard in support of any ground of objection, not set forth in the memorandum of appeal or revision. But the Board, in deciding the appeal or revision petition, shall not confine itself to the grounds set forth in the memorandum :Provided that the Board shall not rest its decision on any other ground unless the party, which may be affected thereby, has had sufficient opportunity of contesting the case on that ground.

Chapter III

Language in which appeals, etc. shall be written

10.

Appeal, review and revision applications to the Board shall be in the language in which the order appealed against or sought to be reviewed or revised is written. Other applications may be in English or any Court-language declared as such under Section 137 of the Civil Procedure Code, 1908.

Chapter IV

Manner of presentation of appeals and applications for review and revision

11.

(1) Appeal, review and revision applications shall, except in cases otherwise provided in any enactment for the time being in force, be presented by the appellant, petitioner or applicant, his recognised agent or counsel in the following manner-(i) at headquarters to the [Stamp-Reporter-cum-Oath Commissioner of] the Board of Revenue; (ii) [in the absence of the Stamp Reporter-cum-Oath Commissioner-to the Section Officer in-charge of the Judicial Branch of the Board] [Substituted vide Orissa Gazette Part III/23.11.1.984.]. (2) The officer receiving the appeal, review or revision application or other application shall immediately make an endorsement on it under his signature and name of office, showing who presented it, the date of presentation and the correctness of the Court-fee stamps affixed. If the question of time appears likely to be relevant he shall also endorse the time at which he received it. (3) (a) Save as provided under Regulation 11 (1) appeals or applications for revision when presented to any other authority under any existing Acts, Rules or Orders, which allow such privileges for the purpose of being forwarded to the Board, shall be accompanied by unused postage stamps of requisite cost affixed to the open envelope containing the petition. (b) In all cases in which the Board has the power of revision, the petitions for revision shall be addressed to the Board direct and presented in the prescribed manner.

12.

(i) Every memorandum of appeal or (application for revision or review or any other application when signed and presented by a Pleader or Advocate shall, at its foot, prescribe the following statement : "I certify that I have examined the record in the case and that in my opinion there are good grounds as above set forth for this appeal or application for revision and having prepared it, I undertake to appear and support the appeal before the competent Court, I hold no brief for the opposite party." (ii) In every case in which the petition of appeal is presented by the party in person or by his recognised agent, and a pleader or revenue agent is afterwards retained by such party to support his appeal. The pleader or revenue agent, before being allowed to appear to support the appeal, shall subscribe and file in Court the following statement, which shall be annexed to the petition of appeal : "I certify that I have examined the record and the grounds of appeal in this case and that, in my opinion the grounds of appeal are good, and I undertake to appear and support them before the Appellate Court. I hold no brief for the opposite party."

13.

The memorandum of appeal or application for revision or other applications shall be accompanied by as many copies of such memorandum or applications as there are opposite parties for service on them.

14.

No application sent by post shall be entertained unless there is specific provision in the relevant Act or Rules thereunder, to send them by post. Provided that the Member may, at his discretion in the interests of justice, receive an application sent by post or otherwise.

Chapter V

Process fee, removal of defects, etc.

15. [[Substituted vide Orissa Gazette Part III-A/7.3.1975.]

(1) The officer receiving the appeal, review or revision applications shall examine them and where he finds that the memorandum of appeal or revision is not drawn in the manner hereinbefore prescribed or insufficiently stamped he shall direct the parties within a date to be fixed by him to rectify the defects, if any : Provided that if the defects in the memorandum of appeal application for revision is of minor nature the same may be rectified by the person concerned then and there in the presence of the Member of the officer receiving the appeal, review or revision application and such corrections or amendments shall be signed or initialled by the said officer. (2) Whether within the date fixed under Clause (1) the defects are removed or not, the appeal, the review or revision, as the case may be, shall be put up along with the objections of the party to the removal of defects, if any, by the officer receiving the same before the Board of Revenue for necessary orders. (3) Where the

Board rejects the memorandum it shall record the reasons for such rejections.]

16.

Appeal, review and revision petitions, when in order, shall be submitted to the member for admission and for passing orders for issue of notice for hearing appellant or applicant or both parties. Regard shall be had, in fixing the date of hearing, to the nature of the case, the time necessary for process and submission of report on the points raised in each case with the connected lower Court records with a view to avoid unnecessary adjournments.

17.

When a case is ready for admission ordinarily written processes in the prescribed forms shall be called upon from the party or his counsel if it is not filed along with the appeals and revision.

18.

A fee of rupee one and twelve naye paise shall be levied for each executive revenue process, whether directed to one or more persons, when they reside in the same village or town : but when they reside in different village(s) or town(s), separate fee of the same amount must be charged for service in each village or town.

19.

Once a case is admitted, process fee for issue of notice to the opposite party shall be paid within seven days of the receipt of notice, failing which the case is liable to be dismissed for default.

Chapter VI

Issue of Notices

20.

(1)The Board shall not interfere with the orders of the local authorities till notice has been served on the respondents who are entitled to be heard in appeal. Such notice shall be served at the expense of the applicant, by the Collector of the district or such other authority on his receiving the necessary instructions. When a date of hearing is fixed by the Board, intimation of the date shall be given to the appellant, applicant, his counsel or to the parties. A notice informing the respondent of the date of hearing shall be served on him through the Collector or by the Board's Officer where he has a local agent (Barrister, Advocate or Revenue Agent) at Board's headquarters and the proof at service shall be filed in the record.(2)A similar notice of the date of hearing shall also be served on the appellant or his local agent unless either was present when the Member fixed the date.(3)The notice shall be in English when it is served locally on the agents of parties. In all other cases, the notice be

in vernacular of the district to which the parties belong.

21.

If any party to a case or proceeding before the Board does not appear on the date fixed for hearing, the Board may hear the case and determine in his absence and pass such orders as it considers fit.

22.

(1) When an order is passed under Regulation 19, the party aggrieved may, within thirty days from the date of such order, apply to have it set aside on the ground that he was prevented by any sufficient cause from putting in the process fee within the prescribed period, if satisfied, may set aside the order of dismissal and restore the appeal. (2) Where any case or proceeding is heard and determined under Regulation 21 the party aggrieved, any party to such case or proceeding aggrieved by the order or determination, may within thirty days from the date of passing of such order apply to have it set aside on the ground that he was prevented by any sufficient cause from and hearing on the date fixed for hearing and the Board may after giving the opposite party or parties an opportunity of being heard, set aside the order and restore the same.

23.

After a date for hearing has been fixed, the record of the lower Court together with all other connected papers and a report of the lower Court whose order is appealed against or is sought to be revised relating to the grounds of appeal or revision, as the Board may deem necessary, shall immediately be sent for, if not already received.

24.

When records of proceedings pending in the lower Court are sent for, they shall be retained with the Board so long as it is absolutely necessary and returned to the lower Court and called back as convenience permits.

Chapter VII

Affidavits

25.

The following petitions shall be accompanied by an affidavit made by the petitioner or his authorised agent - (i) for review made on the ground of the discovery of new and important evidence; (ii) for re-admission on restoration of an appeal or application dismissed in default of appearance; (iii) for substitution of parties.

26.

Notwithstanding anything contained in Regulation 25 above, the Member may also call for an affidavit in any other matter in respect of which he has power to exercise his discretion or make any order.

27.

Appearance before the Board shall be made by only those legal practitioners who are entitled to appear in the High Court of Judicature, Orissa. The Board may, however, relax the provision in any particular case.

Chapter VIII

Grounds for summary rejection

28.

The appeals, revision and review petitions may be summarily rejected, if they are barred by limitation :Provided that before rejecting such petitions the Board shall give a chance to the party of being heard in the matter.

Chapter IX

Registration of cases and cause list

29.

(1)All memoranda of appeals, review and revision applications shall, after presentation in the proper form and bearing proper Court-fee stamps, be registered in the register of appeals or petitions.(2)These registers shall be maintained in the following forms namely:Register of appeals, reviews and revisions

1. Serial No.

2. Name and address of the parties

3. Name and office of the officer against whose decision appeal is made

4. Date of decision of lower Court

5. Date of institution of appeal

6. Date of order in appeal/review/revision

7. Purport of order and name of the Officer passing the order

8. Remarks

(3) Separate registers in form prescribed in Clause (2) shall be maintained for appeals, review and revisions. (4) Petitions which refer to cases already instituted shall be entered in Register No. 27 prescribed under the Bihar and Orissa Register and Returns Manual. (5) Applications or documents which themselves initiate cases of miscellaneous nature for which no register has been prescribed shall be registered in the Register of Miscellaneous Cases which shall be maintained in the following form, namely :

1. Serial No.

2. Name of the applicant or nature of document occasioning the case

3. Abstract of case

4. Date of institution

5. Date of order

6. Remarks

30.

One case diary in the prescribed High Court Form No. (R)-8 as far as practicable for various cases to be heard by the Member shall be maintained in the Board.

31.

[(1) A register for court-fees realised shall be maintained in each of the different Courts of the Board in the prescribed High Court Form No. (R) 9, as modified from time to time. The account of Court-fees shall be checked periodically by the Under Security or a Gazetted. Officer of appropriate rank as may be authorised by the Board;] [Substituted vide Orissa Gazette Extraordinary No. 47, Part III-A/23.11.1984.] (2) It shall be the duty of the officer receiving the appeal, review and revision petitions to see that the Court-fee stamps affixed to applications are cancelled immediately on receipt of the memorandum by him. (3) On occasions inspection shall be made of documents that have been filed in order to ascertain that the stamps have been properly punched and defaced and

have not been subsequently removed from the documents on which they have been used. The inspection shall be made at least once a quarter by the [Stamp Reporter-cum-Oath Commissioner of a Gazetted Officer of appropriate rank authorised for the purpose by the Board] [Substituted vide Orissa Gazette Extraordinary No. 47, Part III-A/23.11.1984.].

32.

(1)A list of cases fixed for hearing for the day before the Board shall be affixed to the notice board of its Court by 4 p.m. of the previous day.(2)A copy of the cause list hung up at the Board's office may be sent to the Secretary to the High Court Bar Association.

33.

The Secretary of the Board shall notify daily on the notice board in the tabular form given below the result of a case decided by the Board:Table showing cases decided on.....By
Shri.....Member, Board of Revenue

No. and class of the case	Name of parties	District from which the case arose	Result in brief	Remarks
(1)	(2)	(3)	(4)	(5)

34.

Subject to the provisions of the relevant enactments for the time being in force the Board shall have full power to determine the costs of and incidental to proceedings before it and to order by whom or out of what property and to what extent such costs are to be paid.