

# **The Resettlement and Rehabilitation of Bhakra Dam Oustees (Grant of Land) Scheme 1971**

HIMACHAL PRADESH

India

## **The Resettlement and Rehabilitation of Bhakra Dam Oustees (Grant of Land) Scheme 1971**

### **Rule**

### **THE-RESETTLEMENT-AND-REHABILITATION-OF-BHAKRA-DAM-OUSTEES of 1971**

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The Resettlement and Rehabilitation of Bhakra Dam Oustees (Grant of Land) Scheme 1971 Published Vide Notification No.13-2/68-Revenue 1 Dated 10th May, 1971 Copy (Rules) Himachal Pradesh Government Whereas the Government of Himachal Pradesh have issued executive orders from time to time for grant of Government land to the oustees of Bhakra Dam. And whereas Rules 8-A of Himachal Pradesh Nautor Land Rules, 1968 provided for framing a separate set of scheme to the grant of land for resettlement and rehabilitation of persons displaced as a result of anything done for any public purpose. And whereas the grant of land made so far under the executive instructions/orders or to be made in future are to be regularised under a set of separate Scheme. Now, therefore, the Government of Himachal Pradesh hereby makes the following Scheme for the grant of land to the persons displaced on account of acquisition of their land and other properties, for construction of Bhakra Dam Project:-

### **1. Short title, extent and commencement.**

(1) This scheme may be called the Resettlement and Rehabilitation of Bhakra Dam Oustees (Grant of Land) Scheme 1971. (2) It shall extend to the whole of the area affected as a result of construction of Bhakra Dam Project acquisition of land for New Bilaspur Township in Bilaspur District. (3) It shall be deemed to have come into force immediately before the grant of land to the Bhakra Dam Oustees started under the executive orders of Himachal Pradesh Government, in the year, 1955.

## 2. Definitions.

- In this scheme, unless there is something repugnant in the subject or context:- (1)'Oustees' for the purpose of this scheme, means a person who has been deprived of his house, land or both on account of acquisition proceedings in connection with the Bhakra Dam Project and entitled to compensation in lieu therefor; (2) The words and expression used in this scheme but not defined under this clause shall have the same meanings as assigned to them in the Himachal Pradesh Nautor Land Rules, 1968. (3) Existing holdings means into holdings possessed by an oustee immediately after acquisition of his property as well as at the time of applications for grant of land. (4)'Dam' means the Bhakra Dam Project.

## 3. Purpose for which land may be granted.

- The land may be granted to an oustee for subsistence purposes, who had interests in the land and other properties acquired for the dam provided he is eligible, for grant of land in Bilaspur district under this scheme.

## 4. Maximum limit of grant.

- The maximum limit of grant of land to an oustee shall be as under:-

(1) An oustee of the area upto RL 1280:-

(i) if a land owner, an occupancy tenant requires land in exchange of this land acquired may be granted land in exchange of such land as under:-

(a) for cultivated land in selfcultivation;

Twice the area of cultivated land held.

(b) for un-cultivated land; and

Equal area of land.

(c) for culturable land and Land under tenant at-will.

Equal area of land to the land-owner or occupancy tenant and equal area of land to the tenant-at-will.

(ii) Other oustees.

Upto 10 bighas provided that holdings of an oustee shall not exceed 10 bighas inclusive of existing holdings, if any.

(2) An oustee of old Bilaspur Town, who does not want to get a plot the New Bilaspur

Township may be  
granted land as under  
:-

- |  |                                  |
|--|----------------------------------|
| (a) An oustee who owned land less than 5 bighas; | Upto 10 bighas.                  |
| (b) An oustee who owned land more than 5 Upto    | 12 bighas bighas.                |
| (c) An Oustee who owned no land; and             | 5 bighas of land for home-stead. |
| (d) Gharaties                                    |                                  |

\* inclusive of land, if any, held by him, above RL 1700' provided that both have not got land by way of grant, sale or gift anywhere in Bilaspur District or outside.

- |     |   |  |
|-----|---|--|
| (3) | An oustee of the area between RL 1280' and RL 1700' (excluding oustees of old Bilaspur Town), who had to be resettled in Hissar District, but could not move to Hissar Distt. because of payment of a meagre amount of compensation upto; 500/- which includes a helpless widow, a minor, a disabled person, or agharaties etc. | Upto 10 bighas inclusive of land if any held by him, above RL 1700 provided he has not got land by way of grant, sale or gift anywhere in Bilaspur District or outside it. |
| (4) | Any other landless oustee, who has not  | 5 bighas for dwelling/home stead, been able to resettle anywhere.  |

Provided that an oustee coming under sub-clause (i)(ii) or (2)(a) & (b) or sub-clause (3) of clause 4 shall be entitled to the grant of land to the extent by which his existing holdings fall short of 10 bighas. Provided further that the grant of land to an oustee may be subject to the availability of land in Bilaspur District.

## 5. Eligibility.

- An oustee mentioned in clause 4 of this scheme will only be eligible for grant of land in Bilaspur District. An oustee of the area between R1 1280' and RL 1700' (except an oustee mentioned under clause 4(2) and (3) of the scheme), will not be entitled to grant of land under this scheme in Bilaspur District, as he is either eligible for grant of plot in Bilaspur New Township or eligible for allotment of land in Hissar District.

## **6. Charges.**

- The grant of land in accordance with this scheme will be made on payment of Nazrana at the uniform rate of Rs.10/- per bigha, plus the market price of trees if any standing thereon.

## **7. Land Revenue when due.**

- The land revenue on the land granted under this scheme shall be charged from the date of possession-The arrears of land revenue and nazrana shall, be recovered in the same manner as arrears of land revenue.

## **8. Resumption.**

- The grant of land shall be cancelled and land granted, resumed by the State Government without payment of any compensation in the following events:-  
(a) If in the case of grant of land for agriculture/horticulture, the grantee fails to break up/plant fruit trees within two years from the date of delivery of the possession of land or grant of patta.  
(b) If in the case of water mill or water channel, the grantee fails to set up water mill or dig out the water channel, as the case may, within two years from the date of grant of patta.  
(c) If in the case of grant of land for dwelling/homesteads, the grantee fails substantially to start utilisation of the land for the purpose, within one year of the grant of patta.  
(d) If the grantee or his legal representative/successor sells the land granted, within fifteen years from the date of patta/ delivery of possession, and in the event of other kind of sale, the power of state Government to cancel the grant and to resume the land shall govern-the grantee also.

## **9. Applications for grant of land.**

- An oustee will apply for allotment of land in the prescribed proforma 'A' appended to this scheme, to the Deputy Commission, Bilaspur. The application shall bear Court Fee Stamp of Rs.2.50. The application shall be accompanied by the following documents-  
(i) A copy of the Tatima shajra, showing the area applied for and indicating the boundaries of the land applied for on all sides, with specific references to the permanent boundary marks or fixed marks near enough to identify easily on the spot.  
(ii) A signed statement by the applicant giving complete details of land held by him whether as owner, tenant or land lessee, whether individually or collectively.  
(iii) A declaration that the applicant is an 'Oustee' (to be recognised from the date of issue of Notification under section 4 of Land Acquisition Act).  
Note:- The area for allotment to the Oustees will, however, be earmarked by the Deputy Commissioner, Bilaspur.

## **10. Procedure.**

- On receipt of the application under clause 9 the Forest Department's representative, i.e. the Range Officer will inspect the spot alongwith the Tehsildar/Naib-Tehsildar entrusted with the work by the Deputy Commissioner, on the date to be fixed by the Deputy Commissioner so that there is no delay in granting the land. The joint report of the Range Officer Tehsildar/Naib-Tehsildar, after spot

inspection, shall be sent to the D.C. direct to minimise the delay. No notice to the right-holders including Panchayat and the Forest Departments will be issued.

## **11. Power to grant land.**

- The Deputy Commissioner Bilaspur District shall be competent to grant land to an Oustee upto the prescribed limit and each application shall be disposed of by him within one month from the date of receipt of application in his office.

## **12. Procedure after grant of land.**

(1) After the grant of land. Tehsildar/Naib Tehsildar shall communicate the dues payable to the Government by the grantee, as decided by the Deputy Commissioner calling upon him to pay the same in quarterly instalments, not exceeding 4, advising the grantee to deposit the first instalment within one month from the date of receipt of notice by him. In case the grantee chooses to pay the dues in lump-sum, he will have the option to do so. The grant of Patta and mutation in such cases where the grantee will avail himself of the concession of making payment in instalments, will be postponed till payment of last instalment, however, the possession of land grant, shall be delivered to the grantee on deposit of the first instalment. The failure of the grantee to deposit an instalment on due date shall render the grant of land liable to resumption and in such case the amount already paid by the grantee shall be forfeited. Patta will be issued under the seal and signature of the Collector Bilaspur District, in favour of the grantee on pay of all dues in respect of the land granted, after the expiry of the period for filing an appeal. (2) After issue of the Patta, in the form appended to Himachal Pradesh Nautor Land Rules, 1968, the Deputy Commissioner Bilaspur will issue a Memorandum to the Patwari for entry of mutation in Form "B" prescribed under the said Rules. The amount realised from the grantee shall be credited into the Government treasury in the following manner :-

(i) Nazrana and Under head "IX-Land R Revenue.

(ii) Price of trees. as Forest Income

The allottee shall be bound by the conditions of the Patta.

## **13. Exchange.**

- Notwithstanding anything in the scheme the allotment of land may be made by the Deputy Commissioner Bilaspur in exchange for oustee's land acquired for Bhakra Dam Project, as provided herein before, provided that an oustee, has not received any compensation for his land acquired and that the compensation for his land has been deposited in the Government account.

## **14. Appeal.**

- An appeal from the order of the Deputy Commissioner Bilaspur under para 11 of the scheme shall lie to the Divisional Commissioner within sixty days from the date of order. A further appeal from

the appellate order of the Divisional Commissioner shall lie to the Financial Commissioner within 90 days from the date of the order of the Commissioner. Provided that no second appeal shall lie when the original order is confirmed on the first appeal. By order U.N. Sharma, Secretary to the Government, of Himachal Pradesh Revenue Department. Form "A" (See clause 9 of the Scheme for resettlement, of Bhakra Dam Oustees). Application for Grant of Land

**1. Name of applicant** \_\_\_\_\_ **son**  
**of** \_\_\_\_\_

R/C

Village \_\_\_\_\_ Tehsil \_\_\_\_\_ District \_\_\_\_\_

## **2. Particulars of preferences claimed**

\_\_\_\_\_

## **3. Particulars of land previously held by the applicant :-**

(i) District (ii) Tehsil (iii) Name of the Village & Haddast No (iv) Whether owner, tenant self cultivating or non-cultivating.

## **4. Particulars of the land acquired.**

(i) District (ii) Tehsil (iii) Name of the Village (Haddast No.) (iv) Whether owner, tenant self cultivating or non-cultivating.

## **5. Particulars of the area left.**

(i) District (ii) Tehsil (iii) Name of the Village (Haddast No.) area and whether owner, tenant self cultivating or noncultivating.

## **6. Particulars of the land applied for with area :-**

(i) District (ii) Tehsil (iii) Village (Haddast No.) I solemnly affirm and declare that whatever has been stated above is true to the best of my knowledge and belief and that nothing relevant has been concealed or suppressed. I hereby promise and undertake that if any grant of land is made in my favour, I shall abide by the terms of such grant.

Dated \_\_\_\_\_ Signature of the applicant.

COPY-(Amendment) Government of Himachal Pradesh Revenue Department No. 10-5-73 Revenue Cell. Dated Shimla-2, the 15.12.73 Notifications Whereas the Himachal Pradesh Government vide Notification No. 13-2/68-Rev. I, dated the 10th May, 1971, have framed the Resettlement and Rehabilitation of Bhakra Dam Oustees (Grant of Land) Scheme, 1971 under Rule 8-A of Himachal

Pradesh Nautor Land Rules, 1968; And Whereas, the Government have decided to make amendments/additions in the said Scheme. Now Therefore, under Rule 8-A of the said Rules the Himachal Pradesh Government is pleased to make the following amendments/additions in the said scheme:-

**1. At the end of clause 6, the following will be added :-**

"In case where the grantee is not interested in the trees, the Forest Department shall arrange to dispose them off within three months of the sanction and the nautor land cleared of the trees within another three month. In all, there shall be the maximum time limit of six months, for the clearance of land by the Forest Department granted to person who was not prepared to pay the value of the trees as assessed by the Forest Department. In case of default the Deputy Commissioner will auction such trees and deposit the sale proceeds with the Forest Department."

**2. At the end of line 10 of clause 10 of the Scheme ibid the following will be inserted.**

"In case the representative of the Forest Department fails to inspect the spot on the date(s) fixed by the Deputy Commissioner, Bilaspur or send the report after the inspection within 15 days, it will be presumed that the Forest Department has no objection to the grant of land provided a clear notice of 30 days has been given to the Forest Department for doing joint inspection. By Order L. Hmingliana Tochhang Secretary (Revenue) to the Government, of Himachal Pradesh. Copy-(Amendment) Himachal Pradesh Government "Revenue Department" No. 10-5/73-Revenue-Cell dated Shimla-2, the 16th April, 1975. Notifications Whereas the Himachal Pradesh Government vide notification No. 13-2/68-Revenue-I, date the 10th May 1971, has framed the resettlement and rehabilitation of Bhakra Dam Oustees (grant of land) Scheme, 1971, under rule 8-A of Himachal Pradesh, Nautor Land Rules, 1968. And whereas, the Government has decided to make amendments/additions in the said scheme; Now, therefore under rule 6-A of the said rule, the Himachal Pradesh Government is pleased to make rule following amendments/additions in the said scheme;

**1. In sub clause (3) of clause 4 of the scheme the following will be inserted;**

(i) "All the oustees (who received compensation of more than Rs. 500/-) may be granted nautor land upto 10 bighas inclusive of land, if any, held by them above RL 1700 provided they have not got land by way of grant, sale or gift any where in Bilaspur District or out side it; (ii) The encroachment of Government, land in Bilaspur Distt. by the oustees who returned to District Bilaspur after disposing of their allotted land in Hissar will be regularised to the extent of 10 bighas including their own holdings if any in Distt. Bilaspur or elsewhere irrespective of the fact whether such oustees had received compensation upto Rs. 900/- or more."

**2. In clause 5 of the Scheme after the words "RL 1230 and RL 1700" appearing in lines 3-4, the following may be substituted :-**

"Will the be eligible for grant of nautor land (except an oustee who is eligible for grant of plot in the New Township Bilaspur) irrespective of the fact whether he had received compensation upto Rs. 500/- or more."By Order U.N. Sharma Secyl (Revenue)COPYNo. 10-5-/73-Revenue Cell.Government of Himachal PradeshRevenue DepartmentFromThe Secretary (Revenue) to Government of Himachal PradeshToThe Deputy Commissioner, Bilaspur (H.P.)Dated Shimla-2, the 16th April, 1975.Subject:- Grant of land to the Bhakra Dam Oustees who received compensation above Rs. 500/- and regularisation of encroachment by Hissar Oustees-Last date for receipt of applications and finalisation of land allotment cases.Sir, In pursuance of the decisions of High Power Committee meeting held on the 16th January, 1975 under the Chairmanship of Chief Minister, Himachal Pradesh minutes of which were forwarded to you vide this Department letter No. 9-11/73-Rev. Cell, dated the 6th/7th February, 1975 and in continuation of this. Department Notification of even no. dated the 16th April, 1975, I am directed to say that applications for the grant of nautor land/regularisation of encroachment cases be allowed to be received upto the 31st March, 1975 as already intimated to you during the course of deliberations of the Committee meeting. Further, it is desired that land allotment cases of all such oustees (1455 who received compensation more than Rs. 500/- and other Hissar oustees who received compensation upto Rs. 500/-) may be finalised by you within 3 months after the last date of receipt of applications in respect of each category of oustees.

**2. The above instructions of the Government may kindly be brought to the notice of all concerned and to the public representatives of District Bilaspur.**

**3. The receipt of this communication may kindly be acknowledged.**

Yours faithfully, Sd/-Under Secretary (Pong Dam) to Govt, of Himachal Pradesh.Government Of Himachal PradeshRevenue DepartmentNo. 10-4-71/Revenue Cell. Dated Shimla-2, 17th January, 1972NotificationsWhereas the Himachal Pradesh Government vide Notification No. 13-2/68-Rev. I, dated the 10th May, 1971, have framed the Resettlement and Rehabilitation of Bhakra Dam Oustees (Grant of land) Scheme 1971 under Rule 8-A of Himachal Pradesh Nautor-Land Rules, 1968.And whereas the Government have decided to make amendments in the said Scheme.Now, therefore, under Rule 8-A of said Rules the Himachal Pradesh Government is pleased to make the following amendments in the said scheme:-

**1. In sub-para (2) or para 1 the words "and land acquisition proceedings taken for construction of New Bilaspur Township" shall be inserted after the words "Bhakra Dam Project."**



**2. In para 3 the words and for the construction of New Bilaspur Township shall be inserted after the word dam".**

**3. In sub-para (1) of para 4 the words "and of the villages in which acquisition has been made for the construction of New Bilaspur Township" shall be inserted after the words and figures R.L. 1280".**

**4. Against clause (ii) of sub-para (1) of para 4 the words" including the oustees of villages Kherian and Koserian" shall be added after the words "other oustees"**

**5. Para 13 shall be renumbered as para (i) and thereafter the following sub-para shall be added,**

(ii)provided further that land in exchange may by allotted to those oustees who were allotted land previously but subsequently washed away due to rains during 1971".By order L. Hmingliana Tochhawng Secretary (Revenue) to the Government of Himachal Pradesh.-----No. 10-4/71-Revenue Cell Dated Shimla, 17th January, 1972.Copy forwarded to :-

**1. The Deputy Commissioner, Bilaspur, District (with 5 spare copies) for necessary action, regarding conferment of proprietor rights upon the oustees (allottees) of Bhakra Dam Project resettled in Bilaspur District.**

Government of Himachal PradeshRevenue DepartmentNo. 10-4/71-Revenue Cell Dated Shimla-2, the 21st March, 1972.NotificationsCorrigendumSubstitute sub-para (1) in place of sub-para (2) in the first line of the amendment appearing at serial No. 3 of this Department Notification of even number dated the 17th January, 1972 relating to the Resettlement and Rehabilitation of Bhakra Dam Oustees (Grant of land) Scheme 1971.By Order L. Hmingliana Tochhawng Secretary (Revenue) to the Government Of Himachal Pradesh.No 10-4/71-Revenue Cell Dated Shimla-2, the 21st March, 1972.Copy forwarded to

**1. The Deputy Commissioner, Bilaspur with reference to his Memo. No. 325/71RB/2871 dated 2-2-72 (with 5 spare copies).**

**2. The Private Secretary to Revenue Minister.**

**3. The Private Secretary to Chief Minister.**

**4. The Chief Conservator of Forests, H.P. Shimla-1.**

**5. The Deputy Commissioner, Mandi.**

**6. The Controller Printing & Stationery, H.P. Shimla-4, for publication in Himachal Pradesh Rajpatra.**

**7. The Divisional Commissioner, Himachal Pradesh, Shimla-4 (with 5 sapre copies.)**

Under Secretary Reh. (Pong Dam) to the Government of Himachal Pradesh. Scheme For Rehabilitation/resettlement of Beas Sutlej Link Amd Uhl Project Oustees Of Mandi District. Consequent upon the acquisition of land and other properties for execution of Beas Sutlej link Project and Uhal Hydel Electric Project people in many villages of Mandi District have been and are been affected. Although a plan for the settlement of Beas Sutlej Link Project oustees in Rajasthan Canal Area has not yet been finalised, yet many oustees of these project do not want to leave Himachal Pradesh and they want to settle themselves in the near by areas of their original residences or within Himachal Pradesh. The main demand of the oustees is to provide them with land as majority of the oustees are agriculturists and cannot adopt any other profession. Keeping in view the problem of the oustees who are to be rehabilitated within Himachal Pradesh and in Rajasthan Canal area, this Govt, has approved the following scheme for rehabilitation of those oustees, who may not like to go to Rajasthan Canal area for settlement within Himachal Pradesh by way of allotment of Charand and Forest land in the following manner, subject to the availability of such land within Himachal Pradesh :-

**1. Every oustees will apply for the allotment of land on a prescribed proforma;**

**2. The oustee will mention in his application the choice of his area, khastra number.**

**3. The plan of the land to be allotted will be prepared by the Land Acquisition Patwari of the Land Acquisition Office (BSL) H.P. and the record of Muhal Patwari will immediately be handed over to the Land Acquisition Staff whenever wanted. Tehsildars and N.T./will issue necessary direction to the Muhal Patwaris to hand over the record to Land Acquisition Staff for the purpose.**

**4. Application of the oustees will be entered in a register to be maintained in the Land Acquisition Office;**

**5. On receipt of such application in the Land Acquisition Office, the Field Kanungo, of that office will scrutinize them on the spot and submit them alongwith the report through N.T. (Land Acquisition) after classifying the kind of land and assessment of Land Revenue.**

Note :- For this the areas available will have to be notified.

**6. No notice to the right holders including Panchayats and Forest Department will be issued. The Forest Department's representative i.e. Range Officer will inspect the spot alongwith the Naib Tehsildar Land Acquisition Office on the dates to be fixed by the Land Acquisition Office (BSL)**

Mandi so that there is no delay in allotting the land to the oustees. The joint report of the Naib Tehsildar and the Range Officer after spot inspection, should be sent direct to the Land Acquisition Officer and not through the Divisional Forest Officer to Minimise the delay. The investigating Office (field Kanungo Naib Tehsildar land Acquisition, and representatives of Panchayats will see that no such land is recommended which causes trouble to the community, The Land Acquisition Officer will then submit the file to the D.C. who will be final sanctioning authority, for allotment of land to the oustees.

**7. Land earmarked for allotment to the oustees may not be measured for grant of Nautor noustees nor nautor may be granted with in the area earmarked for resettlement of the oustees, unless,oustees are rehabilitated properly.**

**8. Applications of the oustees of the following catagories will be entertained by the land Acquisition Officer;**

(a)Tenants who have no land.(b)purely Gharaties oustees.(c)Oustees who possess land upto 5 bighas,(d)Oustees who possess land above 5 bighas but not exceeding 10 bighas.(e)Oustees who possess land more than 10 bighas.(f)Non-agriculturists oustees.(g)Other oustees.

**9. In the first instance land to the oustees of the category at (a) to (d) will be allotted so as to make maximum holding of an oustees upto 10 bighas per family. In case, the purely Gharaties oustees may not like allotment of land in the area available for their resettlement, they will be allotted 10 bighas of land for Gharats and residential purpose, if available.**

**10. Non-agriculturists oustees will be allotted 10 biswas of land per family for construction of houses.**

**11. Applications of the category (e) and (g) above will be considered for allotment of land on availability of land.**

**12. Oustees will be eligible for allotment of land any where in Himachal Pradesh.**

**13. Grant of land will be on payment of charges mentioned in H.P. Nautor Rules, 1965.**

**14. The Deputy Commissioner, Mandi shall be competent to grant land to the oustees up to the maximum limit prescribed above and the land Acquisition Officer, Mandi upto 5 bighas for family.**

**15. An appeal from an order of the Land Acquisition Officer shall lie to the Deputy Commissioner Mandi and second appeal to the Commissioner. There will be no third appeal.**

**16. In the cases of grant of land more than 5 bighas sanctioned by the Deputy Commissioner Mandi the first appeal shall lie to the Commissioner, and second to the Financial Commissioner provided that there shall be no appeal against the order of the Commissioner, confirming in appeal the order of the Deputy Commissioner.**

**17. The period of limitation for appeal shall be the same as provided for Nautor cases under rule 29 of H.P. Nautor Rules.**

Removal of Encroachments No. Revenue 2F(8)-1/80-Vol. III Government of Himachal Pradesh Department of Revenue Form The F.C.-cum-Secretary (Revenue) to the Government, of Himachal Pradesh. To All the Deputy Commissioners in Himachal Pradesh. Dated Shimla-171002, the 13 March, 1990. Subject:- Removal of encroachments. Sir, I am directed to state that the matter regarding the removal of encroachments has been engaging the attention of the Government for sometime. As you are aware, right now, proceedings for the removal of encroachments on Government land can be initiated under more than one set of laws. Action to remove an encroachment on the acquired width of a scheduled road can be taken by a Collector under the Himachal Pradesh Road Side Land Control Act. Similarly, a Collector is empowered to hold proceedings for the eviction of an unauthorised occupant from public premises under the Himachal Pradesh Public Premises and Lands (Eviction and Rent Recovery) Act. Besides this, steps to remove

an encroachment from Government land can also be taken under section 163 of the Himachal Pradesh Land Revenue Act. The provisions of the Himachal Pradesh Road Side Land Control Act are designed to meet emergency situations where very prompt action is called for in order to remove an encroachment on the acquired width of a scheduled road so as to ensure free flow of traffic and a reasonable possibility of making use of the whole acquired width of the road whenever the need for that arises in future. The extent of the inconvenience that may result from an encroachment on a public road calls for urgent remedial measures. These are adequately provided for under the Himachal Pradesh Road Side Land Control Act and can be made use of with advantage. Although the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act and section 163 of the Himachal Pradesh Land Revenue Act also apply to the land from which an encroachment can be removed under the Himachal Pradesh Road Side Land Control Act, the ambit of action under the Himachal Pradesh Road Side Land Control Act is very restricted and narrow and the other two acts operate in a much wider field. In regard to the land not covered by the Himachal Pradesh Road Side Land Control Act, action can be initiated under either of these legislative enactments. In the past, difficulties were experienced in regard to proceedings u/s 163 aforesaid. With a view to removing these difficulties, this provision was amended last year (1989) so as to empower a Revenue Officer not lower than Assistant Collector of the first grade in rank to convert himself into a Civil Court for deciding a question as to title or to adverse possession. However, an appeal against the order of an Assistant Collector functioning as a Civil Court in terms of this law now lies to a District Judge. Till the dispute as to title or adverse possession is finally adjudicated upon, proceedings to eject an encroacher on Government land cannot be carried to their logical conclusion. This would tend to make proceeding under this legal provision rather protracted. Besides, action under provision can be taken by an Assistant Collector with a provision for scrutiny of his order or proceedings on appeal or in revision by the Collector, the Commissioner, and the Financial Commissioner. These successive stages of scrutiny by higher Revenue Officers ensure against arbitrary action but these also makes for dilatoriness. Thirdly, section 163 aforesaid does not lay down a very satisfactory remedy against the repetition of an encroachment. Fourthly, the precise nature of the proceedings under this section is still in the realm of uncertainty and lacks in much desired clarity. On the other hand, proceedings under the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act can be held only by a Senior Officer called Collector. This itself guarantees against arbitrary action. Secondly, the latter Act provides for only one remedy of appeal against the order of the Collector thereby minimising delay. Thirdly, the rules of procedure embodied in this Act and the rules made under it are very detailed, elaborate and almost exhaustive. They normally leave no scope for abuse of authority or arbitrariness and ensure adequate opportunity to an unauthorised occupant before he is turned out of the public premises. Fourthly, the procedure prescribed in this Act gives reasonable time to the unauthorised occupant at very stage in the career of the proceedings against him to show cause against the action proposed or to vacate the public premises voluntarily or to remove his property of his own accord before recourse can be had to the use of force against him. Fifthly, section 15 of this Act bars the jurisdiction of Civil Courts in matters which can be dealt with under the Act. Similarly, Section 10 of this Act confers finality on orders passed by a Collector or Commissioner under this Act and further enjoins that their orders shall not be called in question in any suit or proceedings and no injunction shall be granted by a Court or any authority in respect of any action taken or to be taken in pursuance of any power conferred under this Act. These provisions clearly, pre-empt any interference by Civil Courts by ousting their jurisdiction. Of course,

judicial review by the Supreme Court and the High Court has not been barred. It has been held by the Punjab and the Haryana High Court in *Union of India V/s Atul Kuthiala* (1984 PLJ 204) that the Estate Officer under the Central Public Premises Act is competent to record a finding on the question as to title between the parties and that such finding can be called in question only in appeal under the Act. It was clarified that a suit is not competent. This authority is equally applicable to proceedings before a Collector under the Himachal Pradesh Public Premises and Lands (Eviction and Rent Recovery) Act, because the relevant provisions of these Acts are *pari materia*. Therefore, the provisions of the Himachal Pradesh Public Premises and Lands (Eviction and Rent Recovery) Act ensure a fair adjudication of a dispute, provide reasonable time and opportunity to an un-authorised occupant to vacate the public premises, to remove his property therefrom or to pay up the arrears of rent or damages for use and occupation of the public premises. This Act also lays down an efficacious and expeditious remedy thereby enabling removal of an encroachment from the public premises within a reasonable time-frame. Further, unlike section 163 of the Himachal Pradesh Land Revenue Act, section 11 of the Himachal Pradesh Public Premises declares occupation of the public premises by a person, who had earlier been evicted therefrom, to be an offence punishable with imprisonment which may extend to one year or with fine or with both. This provision further lays down that a Magistrate convicting a person on the charge of unauthorised occupation of public premises may make an order for evicting that person summarily. This provision would have a deterrent effect. Besides all this, Section 16 of this Act protects the State Government, the Commissioner and the Collector against a suit, prosecution or other legal proceedings in respect of any act which is done in pursuance of this Act or any rules or order made thereunder. Thus, it would appear on a detailed comparison of the schemes of section 162 of the Himachal Pradesh Land Revenue Act and the Himachal Pradesh Public Premises and Lands (Eviction and Rent Recovery) Act that the latter provides for a better, more efficacious and expeditious and a more reasonable remedy in the matter of removal of encroachments on public premises. It is, therefore appropriate that, where action to remove an encroachment can be taken under either of these laws, recourse may preferably be had to the provisions contained in the Himachal Pradesh Public Premises and Lands (Eviction and Rent Recovery) Act. You are requested to bring this decision to the notice of all the Collectors and Assistant Collectors in your district for guidance and appropriate action in future. Yours faithfully, Sd/-F.C.-cum-Secretary (Revenue) to the Government of Himachal Pradesh. Endst. No. Revenue 2F(8)- 1/80-Vol. III, Dated the 13 March, 1991. A copy of this letter is forwarded to the Divisional Commissioners, Shimla/Mandi/Kangra at Dharamshala for information. Sd/-Deputy Secretary (Revenue) to the Government of Himachal Pradesh. \_\_\_\_\_ No. Revenue D(F) 6-6/86 Government of Himachal Pradesh, Revenue Department. Dated Shimla-171002, the 4th October, 1986. From The Financial Commissioner (Revenue) to the Government, of Himachal Pradesh Shimla-2. To

**1. The Divisional Commissioners, Shimla, Kangra and Mandi Division, H.P.**

**2. All the Deputy commissioners in Himachal Pradesh.**

**3. The Settlement officer, Shimla & Kinnaur District at Shimla and Kangra District at Dharmashala, H.P.**

**4. The Director of Land Records, Himachal Pradesh Shimla-2**

**5. All the Sub-Divisional Officers (Civil) in Himachal Pradesh.**

**6. All the Tehsildar in Himachal Pradesh.**

Subject :- Instructions dealing with encroachment or disputes as to boundaries. Sir, I am directed to forward herewith a copy of the instructions of the Financial Commissioner (Revenue) to the Government of Himachal Pradesh, for the guidance of Revenue Officers and Field Kanungos on the subject cited above. These should be followed strictly by all concerned. Yours faithfully, Sd/-Deputy Secretary.(Revenue) to the Government of Himachal Pradesh. Instructions for the guidance of revenue Officers and Field kanungos dealing with encroachment or disputes as to boundaries. With a view to ensuring uniformity of practice and correctness, the Financial Commissioner Himachal Pradesh is pleased to issue the following instructions for the guidance of Revenue Officers and Field Kanungeos for the purpose of delimitation of the boundaries cases under the provisions of Section 107 of the said Act:-

**1. If a boundary is in dispute, the Revenue Officers or the field Kanungo should relay it from the Village map prepared at the last settlement. If there is a map which has been made on triangulation system (Musalas bandi) he should find three fixed recognisable points on different sides of the place in dispute as near to it as he can, which are shown in the map. These points should be such as admitted by the parties that have remained undisturbed since the last settlement.**

**2. If the parties cannot agree on any such fixed recognizable points, then the Revenue Officer/**

Field Kanungo will find such points themselves with the help of the field map and chaining on the spot which they find undisturbed since the last settlement.

**3. They, then will chain from one to another of these points and compare the result with the distance given by the scale applied to the map. If the distance when thus compared agree in all cases, he can then draw lines joining these three points in pencil on the map and draw perpendiculars with the scale from these lines to each of the points which it is required to lay out on the ground. He will then lay them out with the crose staff as before and test the**

**work by seeing whether the distance from one of his marks to another is the same as in the map. If there is only a small dispute as to the boundary between two fields, the greater part of which is undisturbed, then such perpendiculars as may be required to points on the boundaries of these fields as shown in the field map can be set out from their diagonals, as in the field book and in the map, and curves made as shown in the map.**

**4. (a) If three fixed points are not available and only two fixed recognizable points are available, a third point may be found cut with the help of these two points so as to form a triangle. It should be seen that the sides of such a triangle when checked on the soot tally with the distances given between these points in the map. Then the land be demarcated by this procedure as laid down in instruction III above.**

**4. (b) The two adjoining fields may have a common inter looking boundary line. If other dimensions (Karu Kan) of these fields also tally on measurements the 2 points of this line can be treated as two points referred to in instruction IV above.**

**5. There can arise cases where even two fixed recognizable points are not available and only one point is admitted by the parties as fixed or found out by the Revenue Officer/Field Kanungo. Such points are generally the ones where corners of two or more fields meet. The reliability of such a point can be tested by measuring the sides of the fields adjoining or surrounding the point. If the measurements of such fields tally with the map then the accuracy of such a point itself gets established. Such a point may be fixed as a starting point for demarcation.**

**6. The main purpose in following procedure in the foregoing instructions is to test the accuracy of the points on the map of the last settlement for which the relevant instructions are contained in appendix-XXI of the Punjab Settlement Manual as applicable in Himachal Pradesh. The relevant extract is reproduced as below:-**

**"A few fields too should be checked by their sides being measured. The correctness of a map is much more certainly determined by means of checking corners of fields and other fixed recognisable points than by merely seeing whether the cuttings of the diagonals are at the same distances as at settlement. While testing accuracy of existing map by lines (farzi water), discrepancies upto 2 per**



cent may be neglected."

**7. In demarcation of Land comprising Khasra numbers that have undergone amendment due to changes due to causes such as by partitions, transfer of fractions of fields or new Khasra numbers that came into existence by acquisition of Land by Nautor it should be ensured that the field maps (Patwari copy and Maumi copy) have been amended and updated in accordance with the provisions of Para 4.30 & 4.31 of**

H.P. Land Records Manual. The demarcation should be given on the basis of such amended maps.

**8. If there is a map which has been made on the sequare system the Revenue Officer or the Field Kanungo should reconstruct the sequare in which the disputed land lies. He should mark on the ground on the lines of the squares the places where the map shows that the disputed boundary intersected those lines, and then to find the position of points which do not fall on the lines of the squares, he should with his scale read on the map the position and distance of those points from line of a, square and then with a chain and cross staff mark out the position and distance of those points. Thus he can set out all the points and boundaries which are shown in the map.**

**9. In the report to be prepared/submitted by the Revenue Officer/Field Kanungo, it must be explained in detail how he made his measurement. He should submit a copy of the relevant portion of the last settlement field map (Musavi) or "Momi" (Tehsil copy of settlement map) of the village showing the fields with their dimensions (Karu-Kan) of which he took measurement as mentioned in instructions supra and the boundary in dispute. There should also be a mention in this report as to what method was adopted and the way he fixed the starting points and the fields he measured and the result of such measurement. All the fields and points measured should be shown in the site plan (Nakasha Mauka) within the frame of copy of musavi.**

**10. If a question is raised as to the position of the disputed boundary according to the field map of the settlement preceding the current settlement, that also should be demarcated on the ground so far as this may be possible and also shown in the copy of the current field map to be submitted under instruction No. IX.**

**11. On the same site plan (Naksha Mauka) should be shown also the limits of the existing possession.**

**12. The areas of the fields abutting on the boundary in dispute as recorded at the time of last settlement and those arrived at as a result of the measurement on the spot should be mentioned in the Revenue Officer's or the Field Kanungo's report with an explanation of the cause of increase or decrease if any discovered.**

**13. When taking his measurement the Revenue Officer or Field Kanungo should explain to the parties what he is doing and should enquire from them whether they wish anything further to be done to elucidate the matter in dispute. At the end he should record the statements of all the parties to the effect that they have seen and understood the measurements, they have no objection to make to this (or if they have any objection, he should record it together with his own opinion) and that they do not wish to have anything further done on the spot. It constantly happens that when the report comes before the Revenue Officer or the Civil Court, one or other parties impugn the correctness of the measurement and asserts that one thing or another was left undone. This raises difficulties which the above procedure is designed to prevent.**

**14. No local commissioner shall be appointed by the Revenue Officers in cases instituted with them under section 10 of the H.P. Land Revenue Act.**

These instructions will also be followed by the Revenue Officers/Field Kanungos whenever they are appointed as Commissioners by a Civil Court in suits involving disputed boundaries. la[;k jkto 2&, (4) &5@78fgekpy izns'k ljdkjjktLo foHkkxfnukad f'keyk&2] 15 tuojh 1980lsok esa]leLr ftyk/kh'k]fgekpy izns'kAfo"k; %& [kljk fxjnkojh esa bUnztkr ds ifjorZuA-----egksn;]mijksDr fo"k; esa vkidk /;ku bl dk;kZy; ds i= la[k;k 10&7&73@jSo&,) frfFk 3&7&73 dh vkSj fnykdj eq>s ;g dgus dk vkns'k gqvk gS fd ljdkj ds ukxfVl esa vk;k gS fd mijksDr fpVBh esa fgnk;r dh rkehy esa iVokfj;ksa us dCtk dk'r ds bUnztkr fo'ks"k :i ls eqtkfj;r ds lEcU/k esa Hkkjh la[k;k esa Qsflyl renhy fd, gS vkSj cgqr vlkZ cksrus ij Hkh ;g bUnztkr iSulyh gh [kljk fxjnkojh esa gSA vkSj vHkh rd jsosU;w vQljksa us tkap ds mijksDr bu ds fo"k; esa dksbZ vkns'k ugha fn,A bl ls ekydku es eqtkj;ku esa ruko gks jgk gSA vr% vko';d gS fd ,sls isUlyh bUnzkt okys bUnztkr ds izdj.kksa dks jsosU;w vQ~lj nkSjk ij lEcU/k gky esa gh 'kh?kz Qslyk djsa bl 'khrdky esa ,sls izdj.kksa dks fuiVkus dk vH;ku tkjh fd;k tk, rkfd nks ekl ds Hkhrj lHkh izdkj.kksa ds fu.kZ; gks tk,aA

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**1. The Divisional Commissioners, Kangra at Dharamshala/Mandi/Shimla.**

**2. All the D.Cs in Himachal Pradesh.**

**3. The Settlement Officer, Kangra at Dharamshala.**

**4. The Director, Land Records, H.P. Shimla-171002.**

**5. The Director, Consolidation of Holdings, H.P.**

**6. All the Sub-Divisional Officers in Himachal Pradesh.**

**7. All the Tehsildars in H.P.**

## **8. All the Naib Tehsildars working in Sub-Tehsils in Himachal Pradesh.**

Dated Shimla-171002, the 18th November, 1989. Subject:- Implementation of Himachal Pradesh Village Common Lands Vesting and Utilisation Act 1974-creation and maintenance of two pools thereunder. Sir, I am directed to say, that as you know, section 8 of the Himachal Pradesh Village Common Lands Vesting and Utilisation Act, 1974 envisages creation of two broad pools of the entire land vested in the Government under section 3 of the Act, as under:-(i) An area not less than 50% of the entire land vested in the Government, for the common purposes (such as grazing, cutting of grass etc.) of the right-holders of the estate; and (ii) the remaining land for allotment to landless and other eligible persons, and other like purposes, as provided therein.

**2. It has, however, been noticed that this mandatory provision has not been followed meticulously in the field and as against this law, land has been allotted indiscriminately and haphazardly leaving no land for common purposes, in some areas; while in view of this legal anomaly created by our staff, it is now not possible to start afresh, some preventive measures can, nevertheless, be taken.**

**3. It has accordingly been decided that the entries of Allotable pool and Reserve pool shall be made khasra number wise in Remarks column of the present jamabandi. At the time of preparation of next new jamabandi, two separate khataunis shall be assigned each to Allotable pool and Reserve pool in which respective khasra numbers shall be included.**

**4. In future, no land from Reserve pool shall be allotted in any manner or transferred to Allotable pool without the prior approval of the State Government.**

**5. These instructions may please be adhered to meticulously and the compliance reported within a month to this department.**

Please acknowledge receipt. Yours faithfully, Sd/-Deputy Secretary (Revenue) to the Government of Himachal Pradesh. Endst. No.10-1/73-Revenue-B-Vol.-II, dated Shimla-2, the 18th November, 89. Copy forwarded to:-

**1. Shri I.S. Chandel, Joint Director, Land Records, H.P. Shimla for information.**

**2. The Clerk of Court to the F.C. (Revenue and Appeals) to the Government of Himachal Pradesh, Shimla-2 for information and guidance.**

**3. Shri K.C. Chauhan, former Deputy Secretary (Revenue).**

Sd/-Deputy Secretary (Revenue) to the Government of Himachal Pradesh.