

Bihar Agriculture Land (Conversion For Non-Agriculture Purposes) Act, 2010

11 of 2010

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PREAMBLE

An Act to regulate the conversion of Agriculture Land to Non-Agriculture Purposes and for matters connected therewith and incidental thereto

Be it enacted by the Legislature of the State of Bihar in the sixty-first year of the Republic of India as follows:-

1. Published in Bihar Gazette (Ext. Ord.)No. 270, dated 16. 4. 2010.

1. Short title, extent and commencement :-

(1) This Act may be called the Bihar Agriculture Land (Conversion

for Non-Agriculture Purposes) Act, 2010.

(2) It shall extend to the whole of the State of Bihar except any area constituted as a municipal area under the Bihar Municipal Act, 2007 or part thereof or which is under a cantonment. The extent of the Act will be the same as provided in the Bihar Tenancy Act, 1885.

Explanation.- This Act shall not be applicable to any extent if the area comprising the agriculture land is notified as commercial, industrial or urban area either by publication of Master Plan or by any other mode.

(3) It shall come into force on such date as the Government by notification appoint.

2. Definitions :-

In this Act unless the context otherwise requires,

(a) "Agriculture land" means land used for agriculture and allied activities.

(b) "Conversion" means change of land use from agriculture to non-agriculture purposes.

(c) "Conversion fee" connotes fee as applicable in related circumstances.

(d) "Non-agriculture land" means land other than agriculture land.

(e) "Government" means the Government of Bihar.

(f) "Collector" means the District Collector in whose jurisdiction the agriculture land for which conversion is applied for is situate and also includes any other officer authorized by the Government to exercise the powers and perform the functions of the District Collector under this Act

(g) "Competent Authority" means the Sub-Divisional Officer in whose jurisdiction the concerning agriculture land or a part thereof is situate.

(h) "Prescribed Procedure" means procedure prescribed by Rules or by any Government order made by the Government under this Act.

(i) "Notification" means a notification published in the Bihar Gazette and the word "Notified" shall be construed accordingly.

(j) "Occupier" includes.

(i) any person for the time being paying or liable to pay the rent, or any portion of the rent, for the land or, for the structure constructed thereon;

(ii) a rent-free occupant:

(k) "Owner" includes any person for the time being receiving or entitled to receive, whether on his own account, or as an agent, trustee, guardian, manager or receiver, for another person, or for any religious, educational or charitable purpose, rent or profits for the agriculture land or for the structure constructed on such land and includes the following to whom the land have been leased out by the State Government or the Central Government:

(i) A lessee, if the land has been leased out by the Government for any non- agriculture purpose deriving income therefrom;

(ii) a Local Authority, if the land is vested in the Local Authority and used for any non-agriculture purpose deriving income therefrom.

(l) "Market value" means value of the agriculture land as determined by the Collector under the provisions of the Indian Stamp Act, 1899.

3. Land use Conversion :-

(1) Agriculture land in the State shall not be used for non-agriculture purpose, without the prior permission of the Competent Authority.

(2) An application for such conversion of the agriculture land for non-agriculture purpose shall be made before the Competent Authority in the form prescribed along with conversion fee as specified under Section 4.

(3) If the conversion fee so paid as per sub-section (2) is found to be less than the fee prescribed, a notice shall be issued by the Competent Authority to the applicant within 30 days of the receipt of the application intimating him the deficit amount.

(4) The applicant shall deposit the deficit fees indicated in the notice issued under sub-section (3) within 30 days of the receipt of such notice.

(5) In case the applicant does not deposit the deficit fees indicated in the sub-section (3) within 30 days of the receipt of such notice, the Competent Authority shall issue a second notice to the applicant directing him therein to deposit the deficit fees within 15 days of the receipt of notice. If the applicant fails to comply with the direction, his application is liable to be rejected.

(6) The conversion permission applied for shall either be issued, rejected in full or part by the Competent Authority within ninety

days from the date of the receipt of the application or receipt of the deficit amount whichever is later, provided that in case such applications are rejected, the reasons for such rejection shall be recorded in writing and communicated to the applicant.

In case the aforesaid conversion has been made after the coming into force of the Bihar Act 21 of 1993 and prior to the commencement of this Act, it will be incumbent on the person responsible for the conversion to apply to the Competent Authority stating therein the fact of the said conversion within a period of 6 months from the date of the commencement of this Act along with conversion fee provided in Section 4 of the Act, and alongwith an additional conversion fee of 1% of the current market value of the land concerned, failing which the Competent Authority shall proceed in accordance with Section 6 of the Act:

Provided, if a conversion has been made prior to the commencement of the Bihar Act 21 of 1993 and the person concerned requires and applies for a conversion order, he may be allowed to convert, subject to the provisions of this Act and on payment of the conversion fees as specified in Section 4 (1) of this Act.

(7) On receipt of the application, the Competent Authority shall proceed according to the provisions of the Act:

Provided that if no order is passed on such application, within the time prescribed in sub-section (6), the applicant concerned shall intimate the Competent Authority by registered post regarding the non-receipt of the desired permission by him. On the receipt of such intimation, the Competent Authority shall grant the required permission within a fortnight of such receipt, otherwise the required permission shall be deemed to have been given:

Provided further that in case the application is rejected in part or full, the conversion fee as deposited by the applicant shall be refunded to him in proportion of the land against which the permission could not be granted.

Explanation.-Permission for conversion may be granted against a plot, in part or whole, which is or is to be used for non-agriculture purpose. Payment of conversion fees shall be due in proportion to such land use.

4. Power to levy and collect conversion fee :-

(1) With effect from the date of the commencement of this Act, every occupier or owner of agriculture land shall have to pay a conversion fee for non-agriculture purposes, at the rate of 10% of the market value of the land in areas as may be notified by the Government from time to time.

(2) After the permission for conversion of his agriculture land for non-agriculture purposes is accorded the land owner shall pay rent/cess in respect of the portion of land for which the permission has been accorded at the rate of ten times of the rent/ cess of that portion of land being paid by him prior to such conversion under the relevant provisions of the Bihar Tenancy Act, 1885 or Rules/Instructions if any, issued thereunder.

5. Authority Competent to order conversion of agriculture land for non-agriculture purpose :-

(1) The Sub Divisional Officer shall be competent to order, in respect of the land situated within his territorial jurisdiction, conversion of land use from agriculture purpose to non-agriculture purpose.

(2) Permission to convert may be refused by the Competent Authority only on the ground that adequate conversion fee has not been paid, or that the conversion is likely to cause a public nuisance, or that the landholder is unable or unwilling to comply with the conditions that may be imposed under sub-section (3) of this Section.

(3) Conditions may be imposed on conversion for the following objects, namely, in order to secure the public health, safety and convenience, and in the case of land which is to be used as building sites, in order to ensure further that the dimensions, arrangement and accessibility of the sites are adequate for the health and convenience of occupiers or are suitable locally.

(4) If the purpose of any land has been converted in contravention of an order passed or of a condition imposed under any of the foregoing sub-Section, the Competent Authority may serve a notice on the person responsible for such contravention, directing him, to use the land for its original purpose within 6 months of the service of the notice, or to take such other steps as may be required in order that the land may be used for its original purpose, or that the condition may be satisfied.

(5) If any person served with the notice under sub-section (4) fails within the period stated in the notice to take action as ordered by the Competent Authority under that sub-section, the Competent Authority may take necessary steps so as to ensure a compliance of his order; and any cost incurred in doing so shall be recoverable from such person as if it were an arrear of land revenue.

6. Penalty for unauthorized conversion :-

(1) The Competent Authority may initiate proceedings either suo motu or on a report submitted by the Anchal Adhikari concerned regarding the conversion of agriculture land into non-agriculture land by a person after the commencement of this Act. On receiving such information/ report, the Competent Authority shall start proceeding and shall issue notice to the person concerned to appear in his court and submit a show cause regarding the reported conversion of agriculture land into non-agriculture use and requiring him to pay the requisite conversion fee, along with penalty as specified in sub-section (3) of this Section.

(2) If the Competent Authority is of the opinion that any agriculture land has been put to non-agriculture use without

obtaining the permission as provided for under Section 3 the agriculture land shall be deemed to have been converted into non-agriculture purpose.

(3) In case of such unauthorized conversion, the Competent Authority shall impose a penalty of 50% of the conversion fee over and above the conversion fee for the said land specified under Section 4 (1) of the Act.

(4) The owner or occupier of the land shall pay the conversion fees and penalty as specified in sub-section (3) within 3 months of the order in such manner as may be specified.

(5) (i) The conversion fee and penalty which remain unpaid after the lapse of the period specified in sub-section (4), shall be recoverable as per the provisions of The Bihar and Orissa Public Demands Recovery Act, 1914.

(ii) Necessary action will be initiated against such land-owner or occupier of land under sub-Section (4) and (5) of the Section 5 of this Act.

7. Exemption from Conversion Fees :-

(1) Conversion may be allowed in case, issue and policy appertaining to industry notified as such in this regard by the Department of Industry, Government of Bihar, but no conversion fees shall be payable therein. Applicants may apply to the Competent Authority, for this, who will allow conversion as per the provisions of this Act.

(2) In case a land falling in the exempt category originally as provided in subsection (1), is subsequently put to such use for which no exemption is permissible, conversion fees will be charged as per the provisions of this Act.

8. Permission for conversion not required in respect of certain land and land use :-

No permission for conversion shall be required in respect of the following:

- (a) land owned by the State Government;
- (b) land owned by a local authority which is used for any community purpose so long as the land is not used for commercial purpose;
- (c) land used for religious, social or charitable purposes so long as the land is not used for commercial purpose;
- (d) land used for household micro-industries involving traditional occupation, not exceeding one acre;
- (e) land used for small shops subject to a maximum of 500 square feet;
- (f) land used for such other purposes as may be notified by the Government from time to time;
- (g) land use specified in Section 23 (2) of The Bihar Tenancy Act, 1885.

9. Appeals and Revisions :-

(1) Any person aggrieved by an order of the Sub-Divisional Officer may file an appeal before the Collector within sixty days of such order.

(2) A revision case may be filed against the appellate order before

the Divisional Commissioner within thirty days of such order.

10. Act to override other laws :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force, or any custom or usage having the force of law or contract or Judgment, decree or order of a court or any other authority.

11. Power to give directions :-

For the purpose of giving effect to the provisions of this Act, it shall be competent for the Government to issue such directions as they may deem fit to any officer, authority or person subordinate to the Government.

12. Bar on jurisdiction :-

Save as otherwise expressly provided in this Act, no court shall entertain any suit, or other proceeding to set-aside or modify, or question the validity of deficit fee under Section 3 or fine imposed under Section 6, or order passed or decision taken by any officer or authority under the Act or any Rules made thereunder.

13. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or under the Rules made thereunder.

14. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the Bihar Gazette,

make such arrangements not consistent with the provision of this Act, as it appear to be necessary or expedient for removing the difficulty.

15. Power to make Rules :-

The Government may, by notification, make Rules for carrying out all or any of the purposes of this Act.