

## **Chota Nagpur Tenures Act, 1869**

**2 of 1869**

**[17 March 1869]**

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## **Chota Nagpur Tenures Act, 1869**

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**[17 March 1869]**

An Act to ascertain, regulate and record certain tenures in Chota Nagpur. Whereas from a very early time certain tenures have

existed in Chota Nagpur as 'bhuinhari' held by persons claiming to be descendants of the original founders of the villages in which such land are situated or their assigns ; and also certain similar tenures known as 'bhetkheta' dalikatari' and 'pahnai' consisting of lands set apart for the duties which the village 'pahan' or priest is required to perform and or his maintenance and also other similar tenures known as 'mahtoai' consisting of lands allotted to the village 'mahto' or collector of rents; And whereas, where the above tenures are found, there are also lands known as 'majhahas,' reserved for the use of the respective proprietors of the villages, and their absolute disposal, and also lands known as 'bhetkheta,' ordinarily assigns on the 'majhahas' land. And whereas, disputes have arisen rendering it desirable that these tenures should be defined and recorded, and a register made of all rights, privileges, immunities and liabilities affecting the holders thereof; It is enacted as follows: - 1. Legislative Papers. - For statement of Objects and reasons, see Calcutta Gazette, 1868, P. 1848 and for proceeding in Council see ibid, supplement 1868, pp. 846 and 871; supplement, 1869, pp. 16 and 30. Local Extent. -This Act extends only to the Chota Nagpur Division. Savings. -This Act is not affected by Ben. Act 6 of 1908 (see section 271 of the latter Act.)

### **1. Construction :-**

In the construction of this Act, the words and expressions following shall have the meaning hereinafter in this section attributed to them respectively, unless a contrary sense be apparent from the context;

the word bhuinhari shall include the tenures mentioned in the preamble as bhetkheta, dalikatari, pahnai and mahtoai;

the word majhahas shall include the tenures mentioned in the preamble as bhetkheta;

the words "the Special Commissioner" shall be taken to mean a Commissioner to be appointed for the purpose to this Act.

### **2. Power To Appoint Commissioners Limits Of Jurisdiction :-**

It shall be lawful for the 1[State] Government of Bengal, by an order published in the [Official Gazette) to appoint one or more persons, as may be judged expedient to be a Commissioner or Commissioners for the purposes of this Act, and by an order, also published in the 2[Official Gazette], to define the limits within which each Special Commissioner so to be appointed shall exercise

jurisdiction under this Act; and from time to time in like manner, to vary or revoke any order made by the said 1[State] Government under the provisions of this Act, and to appoint some other person or persons to be Commissioners for the purposes of this Act.

1. Subs. by A.L.O.

2. Subs. by A.O.

### **3. Duties Of Special Commissioner :-**

Each Special Commissioner so appointed shall with all convenient speed, investigate and ascertain the titles and tenures of all lands within the limits so assigned to him, which may be alleged by any person to be held upon bhuinhari and majhahas tenures respectively, and shall demarcate the same.

### **4. Powers Of Special Commissioner :-**

In making such investigation, the Special Commissioner, in addition to all powers conferred on him by this Act, shall, as far as may be necessary for the purposes of this Act, exercise all such and the same powers as are conferred by Regulation 7 of 1822, and the Regulations and Acts amending the same, upon a Collector making a settlement of land-revenue.

### **5. Contents Of Record :-**

The Special Commissioner shall make an accurate register, in such form as may from time to time be ordered by the 1[State] Government of Bengal of the lands which [it] may ascertain to belong to the bhuinhari and majhahas classes respectively; of the conditions to be fulfilled and the rents and services to be rendered in respect of the several lands of those classes which he may ascertain to be held subject to any conditions, rents or service; and of the rights and privileges to be enjoyed in respect of any such lands.

1. Subs. by A.L.O.

### **6. Power To Restore Persons Wrongfully Dispossessed :-**

In case it shall be proved to the Special Commissioner that any person, who within twenty years next before the passing of this Act held any lands of bhuinhari or majhahas tenure, has been wrongfully dispossessed of such lands, the Special Commissioner shall cause such person, or, in case of his being dead, the heir of

such persons, to be put in possession of such lands, and shall cause the name of the person so put in possession to be entered in the register as the occupant of the said lands on any bhuinhari or majhahas tenure, as the case may be.

#### **7. Presumption As To Services To Be Rendered :-**

It shall be presumed that all lands which may be found under the provision of this Act to be bhuinhari or majhahas tenure respectively are rightly subject to the conditions, rents and services upon which such lands respectively are found to be held at the time of the inquiry made by the Special Commissioner unless it be proved that at some former time, within twenty years before the passing of this Act, such lands were held subject of an upon another and different conditions, rents and services ; in which case it shall be presumed that such lands are rightly subject to the conditions, rents and services subjects to which they shall be proved to have been held at the earliest period within the said term of twenty years with respect to which such proof shall have been given.

#### **8. Lands Not To Be Registered If Tenure Commence Within Twenty Years :-**

No lands shall be registered as lands of bhuinhari or majhahas tenure if it be proved that the occupation of such lands upon such tenure commenced within the term of twenty years before the passing of this Act, unless it be proved that such occupation was in pursuance or revival of an occupation upon such tenure rightfully enjoyed before the commencement of such term.

#### **9. Power To Apply For Commutation Of Services :-**

Whenever any lands of bhuinhari tenure are held subject to any conditions or besides the payment of a rent in money, it shall be lawfull for the bhuinhari tenants of such lands, or for any person who may have the immediate right receiving the rents and services issuing from such lands (provided such mentioned person has such right in perpetuity) or if there be no such person other than the Zamindar then for the Zamindar to apply in writing to the Special Commissioner for the commutation of all such conditions and service other than or besides the payment of a rent in money.

#### **10. On Such Application Notice To Appoint Assessors To Be**

**Served :-**

On receipt of any such application, the Special Commissioner shall cause to be served upon each of the person who under the provisions of section 9 would have a right to make such application, a notice in writing requiring such person within 10 days from the days of the service of such notice, to nominate, by notice in writing to the Special Commissioner, some person to act as assessor to the Special Commissioner, in fixing the amount of rent which shall be payable in commutation for such conditions and services, and to be present before the Special Commissioner, and to cause such assessor to be there present upon some day to be named in such notice and not to be less than fifteen days from the day of the service of such notice.

**11. Special Commissioner To Hear Application With Assessors :-**

Upon the day which shall have been appointed by Special Commissioner for the attendance of the parties and assessors as here in before is provided, the Special Commissioner shall, with the assistance of any assessors who may have been within the time herein before respectively in that behalf mentioned, duly nominated as aforesaid, and who may be present, and, if there be no such assessors, then without such assistance, proceed to consider and determine the amount of rent fairly and equitably to be payable in commutation of the conditions and services other than rent to which such tenure may be subject.

**12. Decision To Be By Special Commissioner :-**

The opinion of each assessor shall be given orally and shall be recorded in writing by the Special Commissioner, but the decision is vested exclusively in the Special Commissioner.

**13. Review Of Decision By Special Commissioner Alone :-**

In case any review of any decision under section 12 may be ordered, such review shall be heard and determined by the Special Commissioner without the assistance of assessors; and in case in consequence of any order on appeal, a further inquiry into the subject-matter of any such decision may be necessary, such further inquiry may, if he shall so think fit, be heard and determined by

the Special Commissioner without the assistance of assessors.

#### **14. Power Of Appeal :-**

Any person who may be aggrieved by any decision or order of the Special Commissioner made under this Act may appeal to the Commissioners of the division against such decision or order by a petition; but no such petition shall be received after the expiration of three months from the date of such decision or order, unless sufficient cause for the delay be shown to the satisfaction of the said Commissioner of the division, who shall have power to hear and determine the matter of every such petition of appeal.

#### **15. Power To Apply For Review Of Judgment :-**

Any person considering himself aggrieved by any order or decision of the Special Commissioner from which no appeal shall have been preferred or by any order of the Commissioner of divisions in appeal may apply for a review of judgment by the officer by whom such order or decision was made.

#### **16. Application Within A Month :-**

Such application may be made within one month from the date of the order of decision and not afterwards.

#### **17. Power To Grant Or Refuse Review :-**

If the Special Commissioner or the Commissioner of the division as the case may be, shall be of opinion that there are not any sufficient grounds for a review he shall reject the application; but if he shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Special Commissioner or the Commissioner of the division, as the case may be shall grant the review, and his order in either case, whether for rejecting the application or granting the review, shall be final.

#### **18. Review Not To Be Granted Without Notice :-**

No review of an order or decision shall be granted until notice shall have been given to every person who has appeared in the proceedings in which such order or decision was made, and whose interest would be injuriously affected by the review desired.

### **19. On Grant Of Application For Review, Rehearing To Be Directed :-**

When an application for a review of judgment is granted, such order shall be made for re-hearing the matter in respect of which such order or decision shall have been made as may seem proper.

### **20. Decision To Be Final :-**

No decision or order of the Special Commissioner shall be in any way altered, varied or reversed, save on review by the Special Commissioner under sections 15,16,17,18 and 19 of this Act, or by appeal to the Commissioner of the division under section 14 of this Act; and no suit shall be received in any court to vary or set aside any such order or decision or the Special Commissioner, or any decision or order upon appeal or upon review by the Commissioner, of the division made under the provisions of this Act; and every such decision or order upon appeal by the Commissioner of the division shall be final, unless it be altered, varied or reversed by the said Commissioner on review under sections 15,16,17, 18 and 19 of this Act.

### **21. No Mukhtar Nor Vakil To Be Heard :-**

No mukhtar nor vakil shall without the consent of the Special Commissioner, be heard in any proceeding before such Special Commissioner.

### **22. Section 22 :-**

1[xxx]

1. Rep. by Act 7 of 1970.

### **23. State Government May Make Rules :-**

It shall be lawfull for the said 1[State] Government from time to time to make such rules and orders as to 2[it] may seem fit for regulating the practice and procedure to be followed in making the inquiries, investigation, demarcations and registers required by this Act, and all reviews there of and appeals therefrom; and such rules and order, when published in the 2[Official Gazette] shall have the same force and effect as if the same were a portion of this Act.

1. Rep. by Act 7 of 1970.

2. Subs. by A.L.O.

**24. Effect Of Judgment In Suits Commenced After Act Passed :-**

No judgment, decree or order in any suit instituted after the passing of this Act shall be evidence in any inquiry before the Special Commissioner respecting the tenure upon which any land is held, or the rents, services or conditions to which any land is subject.

**25. Register To Be Confirmed And Published :-**

The register of each village prepared under the provisions of section 5 of this Act shall when finally revised and corrected in accordance with any decisions and orders of the Special Commissioner and the Commissioner of the division, under this Act, be published by the Commissioner of the division, and such confirmation shall be published forthwith in the 1[Official Gazette].

1. Subs. by A.O.

**26. Register To Be Conclusive Evidence Of Matters Recorded Therein :-**

Every register to be prepared under this Act, after publication of the confirmation thereof in pursuance of the section next preceding, shall be conclusive evidence of all matters recorded in such register in pursuance of this Act; and, from and after such publication of the confirmation of the register relating to any village, no evidence shall be received that any lands in such village not mentioned in such register are of bhuinhari and majhahas tenure.

**27. Short Title :-**

This Act shall be called in Chota Nagpur Tenure Act, 1869.