

## **MAHARASHTRA RESTORATION OF LANDS TO SCHEDULED TRIBES RULES, 1975**

### **CONTENTS**

1. Short title
2. Definitions
3. Procedure for enquiry for restoration of lands to Registrar under Section 3 of Section 4
4. Form of undertaking to be given by the Tribal under sub-section (4) of section 3
5. Manner of determining value of improvements under clause (a) of sub-section 13) of section 3
6. Manner of determining value of improvements under clause (b) of sub-section (3) of section 3
7. Other factors to be considered for determination of value of improvements
8. Damages for use and occupation of land under section 5
9. Fees for filing of appeal or application under this Act
10. Service of notices

## **MAHARASHTRA RESTORATION OF LANDS TO SCHEDULED TRIBES RULES, 1975**

In exercise of the powers conferred by Section 11 of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (Mah. XIV of 1975), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following Rules, the same having been previously published as required by sub-section (1) of the said Section 11, namely:-

### **1. Short title :-**

These Rules may be called the Maharashtra Restoration of Lands to Scheduled Tribes Rules, 1975.<sup>1</sup>

1. As amended by Notih. Dt. 29.11.1977, published in Mah. Gay.:V-B. ell. 16.2.1978, p.28.

### **2. Definitions :-**

In these rules, unless the context requires otherwise,-

(a) "Act" means the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 ;

(b) "Form" means a form appended to these rules;

(c) "Section" means a section of the Act;

(d) Words and expressions not used but defined in these rules shall have the meanings respectively assigned to them in the Act.

**3. Procedure for enquiry for restoration of hinds to Registrar under Section 3 of Section 4 :-**

(1) The Collector shall, suo motu or on an application of any person for restoration of land under Section 3 , or as the case may be, under Section 4 , hold a inquiry in the manner provided in sub-rules (3) to (5) of this rule.

(2) The application referred to in sub-rule (1) shall contain the following particulars, namely:-

(i) name of the applicant;

(ii) survey number, sub-division number, area and assessment of the land transferred to a non-Tribal transferee;

(iii) the name of the village, taluka and district in which the transferred land is situated;

(iv) the name and present address of the non-Tribal transferee;

(v) the date of transfer;

(vi) the mode of transfer;

(vii) consideration, if any, paid by the non-Tribal transferee to the Tribal transferor for transferred land;

(viii) where the land is deemed to have been purchased or acquired by a non-Tribal transferee under or in accordance with the provisions of the relevant tenancy law, the amount of purchase price or part thereof, paid by the non-Tribal transferee to the Tribal transferor; and

(ix) where the land is acquired in exchange by non-Tribal transferee, the survey number, sub-division number, area and assessment of the land received in exchange by the applicant, village, taluka and district in which it is situate, the valuation of the land acquired in exchange and also of the land transferred in exchange to the non-Tribal transferee; both valuations being estimated as at the lime of the exchange.

(3) On the basis of the record, if any, available with him and where an application has been received under sub-rule (1), on the basis of the particulars given in such application, the Collector shall cause notice to be served on the non-Tribal transferee and all other persons interested in the land, calling upon them to show cause why the land should not be restored to the Tribal transferor, or as the case may be, the lands exchanged should not be restored to the Tribal. The notice shall specify the date, time and place of hearing. The intimation about the date, time and place of hearing shall also be given to the Tribal transferor.

(4) The notice to be issued under sub-rule (3), shall be in Form 1 where an application has been made to the Collector, and shall be in Form II, where the Collector starts enquiry suo motu.

(5) On the date fixed for hearing or any other date to which the hearing of the inquiry may be adjourned, the Collector may examine the parties and after recording the statements of witnesses, if any, decide the issue relating to the extent and particulars of land which is required to be restored to the Tribal transferor and in case of exchange of land, to the non-Tribal transferee.

(6) The Collector shall then call upon the Tribal transferor to give an undertaking as required under sub-section (3) of Section 3 , and on such an undertaking being given, shall pass an order

(7) Every decision of the Collector shall be in writing signed by him in the form of an order, which shall state reasons for such decision and shall contain a full statement of the grounds on which it is passed.

**4. Form of undertaking to be given by the Tribal under sub-section (4) of section 3 :-**

The undertaking under sub-section (3) of Section 3 shall be in Form III.

**5. Manner of determining value of improvements under clause (a) of sub-section 13) of section 3 :-**

(1) The Collector shall give notice in Form IV to the Tribal and non-Tribal between whom the lands have been exchanged, and shall call upon each of them to file a statement (on the date, time and place mentioned in the notice (such date not being later than fifteen days), indicating therein] the improvements made by them

respectively on the lands after the exchange was effected and their respective claim in respect thereof.

(2) The statement under sub-rule (1) shall, inter alia contain the following particulars, namely: -

- (i) a brief description of the improvement;
- (ii) the date or dates on which the improvement was or were made;
- (iii) the labour and capital provided and spent on improvements;
- (iv) the present conditions of the improvements;
- (v) the claim for compensation of the non-Tribal, or as the case may be, the Tribal, in respect of the improvement.

(3) After receipt of the statement, the Collector shall hold an enquiry after summoning the Tribal, the non-Tribal and their witnesses, if any, on a specified day.

(4) On receiving evidence, and after making such further inquiry as he deems fit and after taking into consideration the factors mentioned in the Explanation to sub-section (4) of section 3, and In Rule 7, the Collector shall determine,-

- (i) the present value of improvements made by the Tribal after the date of exchange;
- (ii) the present value of improvements made by the non-Tribal after the date of exchange.

**6. Manner of determining value of improvements under clause (b) of sub-section (3) of section 3 :-**

The provisions of Rule 5 in relation to the manner of determining the value of Improvements under clause (b) of sub-section (4) of Section 3 shall apply as they apply in relation to the manner of determining the value of improvements under clause (a) of sub-section (4) of section 3

**7. Other factors to be considered for determination of value of improvements :-**

For determining the value of any improvement, the Collector shall, in addition to the factors mentioned in the Explanation below clause (b) of sub-section (4) of Section 3, also take into consideration the charges if any, payable or paid by a non-Tribal in respect of the land under any law relating to irrigation for the time being in force

in the State of any part thereof and also the charges, if any, payable or paid to the Government for improvement.

**8. Damages for use and occupation of land under section 5**

:-

The amount to be paid by a non-Tribal for the use and occupation of the land under Section 5 shall be determined by the Collector in the following manner, namely:-

(1) The Collector shall give a notice to the non-Tribal in Form V calling upon him to file a statement within one month from the date of receipt of the notice indicating therein the gross Income derived and the expenditure incurred by him on cultivation of the said land during the period from the year following the year in which the land is or is ordered to be restored to the Tribal till possession of the land is given (hereinafter referred to in this rule as "the said period").

(2) After receipt of the statement, or if the same is not filed by the non-Tribal, then suo motu, the Collector shall after giving the non-Tribal a reasonable opportunity of being heard, and after holding such enquiry as he deems fit, determine, regard being had to the statement, if any, filed by the non-Tribal-

(a) the total gross income derived by the non-Tribal during the said period taking into account the following factors:-

(i) the crops raised in the land during the said period;

(ii) average market prices of the said crops during the said period.

(b) the total expenditure which the non-Tribal had to incur on cultivation of the said land during the said period taking into account the following factors:-

(i) average cost of cultivation of the said crops during the said period.

(ii) the expenditure that may have been incurred in selling the said crops.

(iii) the land revenue, the irrigation cess and the other cesses or imposts which were required to be paid by the non-Tribal during the said period.

(3) The difference between the gross income and the total expenditure shall then be determined as the amount to be paid by

the non-Tribal for the use and occupation of the land.

**9. Fees for filing of appeal or application under this Act :-**

(1) Every application made under this Act shall bear a Court fee stamp of twenty paise.

(2) Every appeal made under Section 6 -

(i) shall bear a Court fee stamp of two rupees, where it is made by a Tribal; and

(ii) shall bear a Court fee stamp of twenty-five rupees, where it is made by a non-Tribal.

**10. Service of notices :-**

(1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by, or by order of, the Collector.

(2) Whenever it may be practicable, the service of any notice shall be made on the person named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him: and if no such adult male member can be found, the notice shall be served by fixing a copy on the outer door of the house in which the person therein named ordinarily dwells or carried on business, or by fixing a copy thereof at some conspicuous place in the office of the Collector and also at some conspicuous part of the land in respect of which inquiry is to be held:

Provided that, if the Collector shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and service of it may be proved by the production of the addressee's receipt.