

**GOVERNMENT OF ASSAM
REVENUE & DISASTER MANAGEMENT (S) DEPARTMENT
ASSAM SECRETARIAT, DISPUR
GUWAHATI - 6**

No. RSS.1991/2016-1

Dated Dispur, the 10th January, 2017.

OFFICE MEMORANDUM

Subject : Eviction of encroachers.

Preservation and protection of Govt. land and land reserved for specific purposes especially VGRs and PGRs, wet land and land under Tribal Belt & Block is one of the major responsibilities of the officials of Revenue & D.M. Department, Assam. It has come to the notice of Govt. that large area of Govt. khas land, VGRs, PGRs, Tribal Belt & Blocks etc., are under encroachment. The unchecked encroachment of Govt. land by the encroachers has reduced the area which was reserved in the interest of public and ecological balance.

2. The **Assam Land Records Manual** provides the mechanism to keep the record of Government land and encroachment thereon.

Rule 18(2) of the Settlement Rules under **Assam Land and Revenue Regulation, 1886** provides that encroachment on Govt. khas land or waste land or estate over which no person has acquired the right of a proprietor, land holder or settlement holder or any land that has previously been reserved, roads or road- side land or for the grazing of village cattle or for other public purposes shall be removed forthwith by the Deputy Commissioner.

Rule 18(3)(a)(i) of the Regulation provides that in all other cases, ejection shall be preceded by publication of a notice in the manner as prescribed in the rule requiring the occupant to vacate the land specified in the notice within 15 days of publication of the notice on the land concerned or in a prominent place in the vicinity thereof.

The power to remove encroachments has also been delegated to the Circle Officers vide Govt. Notification No. RLR.162/2008/25, dated 06.02.2010.

3. Para 6.1 of **Land Policy, 1989** underlines the need for preservation and protection of the existing VGRs and PGRs for use by the members of public for the purpose for which those were constituted and removal of encroachments, if any there from.

Para 6.2 of the Land policy also provides that a block of **Govt. land ranging from 5 bighas to 15 bighas**, subject to availability in each village should be reserved as an open space for environmental ecology and be kept free from encroachment.

4. The Hon'ble Supreme Court vide its Judgment in Civil Appeal No.1132/2011 @ SLP (C) No. 3109/2011 (**Jagpal Singh -Vs- The State of Punjab & Others**) ordered that all State Governments should prepare scheme for eviction of illegal un authorized occupants on village common lands and these must be restored to Gram Sabha / GP for the common use of the village. Regularization should only be permitted in exceptional cases e.g. where lease has been granted to landless labourers, members of ST/SC Tribes or where there is already a school, dispensary or other public utility on the land.

in January, 2011, in Civil Appeal No. 436/2011 arising out of SLP (C) No.20203/2007 (**State of Jharkhand & Others –Vs– Pakur Jagaran Manch**) with Civil Appeal No. 437/2011 arising out of SLP (C) No. 20636/2007 (**Rocky Murmu –Vs– Pakur Jagaran Manch**). it was ordered that whenever the gochar in a village is de-reserved and diverted to non-grazing use, simultaneously or at least thereafter the State should make available alternative land as gochar, in a manner and to a extent that the gochar continues to be not less than 5% of the total extent of the village.

It has been made amply clear by the Apex Court for the protection of village common lands, particularly VGRs and PGRs.

5. Tribal Belt & Blocks are compact areas created for those classes of people who on account of their traditional way of life and educationally and material disadvantages are vulnerable to this possession from the land by non-tribals.

Section 165 (1) under **Chapter-X** of the Assam Land and Revenue Regulation, 1886 provides that in case of unsettled land under Tribal Belt & Blocks, any person, who without authority has encroached upon or occupied land, it shall be liable to ejection forthwith.

Section 165 (2) of the Regulation provides that in case of annually settled land, persons other than settlement-holders, if found in occupation thereof, are also be liable to ejection forthwith.

Section 165 (3) of the Regulation provides that in case of periodically settled land, person who have entered into occupation without valid authority from the land-holder, or whose entry or occupation is or has come about in a manner, inconsistent with the provisions of Chapter X, shall be liable to eviction, after service of one months notice.

6. There are instances of some tea gardens encroaching upon ceiling surplus and Govt. khas land. That apart, many tea gardens have diverted their tea land for non-tea purposes while the land was settled with them specifically for the purpose of cultivation of tea. This is in contravention of the Land Policy and various Govt. decisions arrived at from time to time in respect of tea cultivation in the State. Diversion of tea land for non-tea purpose implies that the tea garden has land surplus to its requirement i.e. excess land not utilized for tea purposes which renders it liable for acquisition under the Assam Fixation of Ceiling on Land Holdings Act, 1956 (as amended).

7. Section 3 of the **Assam Land Grabbing (Prohibition) Act, 2010** states that **land grabbing in any form** is unlawful and any act connected with or arising out of land grabbing shall be a cognizable offence under the Code of Criminal Procedure, 1973 and punishable under this Act.

Section 4(1) of the Act provides that no person shall commit or cause to be omitted land grabbing.

Section 4(2) of the Act provides that no person shall, on or after the commencement of this Act, continue to be in occupation, otherwise than as a lawful tenant, of a grabbed land belonging to the Govt., State Govt. undertaking, local authority, religious or charitable institution or endowment including a wakf, or other private person.

Section 7 of the Act provides that there shall be a Special Tribunal for the purpose of enquiry into any alleged act of land grabbing and **trial of cases in respect of the ownership and title to or lawful possession of the land grabbed** and the Court of District and Sessions Judge having jurisdiction over the area shall be Special Tribunal for the purpose of this Act and shall include Additional District and Sessions Judge having jurisdiction over the area.

Rule 6 (1) framed under the Act provides that application filed before the special tribunal may be referred for local inspection or verification or both by the Revenue Circle Officer having jurisdiction over the area or by any other Officer of the Govt. authorized by the Special Tribunal.

Rule 6 (2) of the Act provides that Revenue Circle Officer or any other Officer authorized by the Special Tribunal to whom the application has been referred shall make or cause to be made an inspection or verification or both, as soon as may be practicable and submit full and complete report **within two weeks** from the date of receipt of order on the following grounds :

- (i) The correctness of the statements made in the application;
- (ii) The facts relating to ownership, actual possession and use of the land concerned; and
- (iii) Such other particulars and information as may be useful to the Special Tribunal to arrive at a correct decision on the claims made in the application.

8. There may be instances of Govt. land allotted to Government or non-Government organizations left un-utilized or not used within a period of 3 years from the date of handing over possession for the purpose for which it was allotted. As per Govt. Circular No.RSS.47/29/6 dated 03.10.1989, such land is also to be reverted back to the Govt. in the Revenue & D.M. Department.

9. All the Circle Officers shall, therefore, prepare an Eviction Plan in the format enclosed with the O.M. and take all necessary steps to carry out the eviction operations.

Deputy Commissioners shall review if the Eviction Plan has been prepared exercising due diligence and extend all necessary assistance to the Circle Officers in carrying out the eviction operations.

10. It must be ensured that Village Land Management and Conservation Committees and Ward Disaster Management Committees are mobilized to protect the land from coming under encroachment again.

Sd/- P.K. Tiwari, IAS
Principal Secretary to the Govt. of Assam,
Revenue & D.M. Department.

Memo No. RSS.1991/2016/1-A

Dated Dispur, the 10th January, 2017.

Copy to :

1. P.S. to the Hon'ble Chief Minister, Assam for kind appraisal of the Hon'ble Chief Minister.
2. P.S. to Hon'ble Minister of State, Revenue & D.M. Department for kind appraisal of the Hon'ble MoS
3. All Commissioner of Divisions for information.
4. All Deputy Commissioners / Sub-Divisional Officers (Except BTAD, KAAC / NCHAC) for information and necessary action.
5. P.S. to the Chief Secretary, Assam for kind appraisal of the Chief Secretary.
6. P.S. to the Principal Secretary, Revenue & D.M. Department for kind appraisal of the Principal Secretary.
7. P.S. to the Commissioner & Secretary to the Hon'ble Chief Minister, Assam for kind appraisal of the Commissioner & Secretary.
8. P.S. to the Commissioner & Secretary, Revenue & D.M. Department for kind appraisal of the Commissioner & Secretary.
9. The Secretaries, Revenue & D.M. Department for kind information.
10. All Joint Secretaries / Deputy Secretaries / Under Secretaries, Revenue & D.M. Department for information.
11. All Superintendents, Revenue & D.M. Department for information.

By order etc.,

Joint Secretary to the Govt. of Assam,
Revenue & D.M. Department.

Eviction Plan

Part-A

(Details of land under encroachment from Village Land Bank)

District :
Revenue Circle :
Name of Villages :

1. Type of Government Land :
(Govt. Khas/VGR/PGR/Road-side Reserve/River-side Reserve/Reserved for Govt. scheme or project, ceiling surplus land (including land of tea estate made ceiling surplus) : Govt. land allotted to an agency, but diverted for other purpose).

2. Area under encroachment :

3. Nature of encroachment :

| Nature | Area | No. of Encroachers |
|--------|------|--------------------|
| Total | | |

4. Encroaches who are indigenous/landless persons with no land at all.

| Flood erosion affected | | SC | | ST | | Others | |
|------------------------|------|-----|------|-----|------|--------|------|
| | | No. | Area | No. | Area | No. | Area |
| No. | Area | No. | Area | No. | Area | No. | Area |

5. Encroaches who are indigenous landless persons with some land but less than 8 Bigha.

| Flood/erosion affected | | SC | | ST | | Others | |
|------------------------|-------------------------|-----|-------------------------|-----|-------------------------|--------|-------------------------|
| | | No. | Area under encroachment | No. | Area under encroachment | No. | Area under encroachment |
| No. | Area under encroachment | No. | Area under encroachment | No. | Area under encroachment | No. | Area under encroachment |

6. No. of encroaches other than Indigenous landless persons :

| Nature of encroachment | No. of encroaches | Area under encroachment |
|------------------------|-------------------|-------------------------|
| | | |

Part- B
(Plan for Eviction)

| Nature of encroachment to be removed | Area | No. of encroachments | Time-frame | Manpower required | Equipments required | Nature of apprehension of Law & Order problem | Requirement of Police Force | Requirement of fund |
|--------------------------------------|------|----------------------|------------|-------------------|---------------------|---|-----------------------------|---------------------|
|--------------------------------------|------|----------------------|------------|-------------------|---------------------|---|-----------------------------|---------------------|

**Signature of Deputy Commissioner /
Addl. Deputy Commissioner**

Signature of Circle Officer