

7) - copy
108

Bombay Village Panchayat
Act, 1958 377
Vesting of Government
Properties in Village
Panchayats under Section 51(1)
of -

✓
188

GOVERNMENT OF MAHARASHTRA
Rural Development Department.
Circular No.VPM 1769/2463 A/76/XXIII.
Sachivalaya, Bombay 400 032, dated the 21st August 1976.

C I R C U L A R

In accordance with section 28-B of the Bombay Village Panchayat Act, 1933 (Bom.VI of 1933) the Government properties as mentioned in Government Resolution, Local Self Government and Public Health Department No.S-251, dated 9th June 1950 have been vested in Village Panchayats. Consequent upon the re-organisation of States in 1956, it was felt necessary to have an uniform and consolidated law throughout the State. Accordingly the Bombay Village Panchayats Act, 1958 (Bom. III of 1959) was introduced in the State with effect from 1st June 1959. The enactment of the new Bombay Village Panchayats Act, 1958 necessitated the issue of fresh orders in respect of vesting of Government properties under sub-section (1) of section 51 of the Bombay village Panchayat Act, 1958, which is corresponding to the section 28-B of the then Bombay Village Panchayat Act, 1933. These orders for vesting of Government properties in Village Panchayats under sub-section (1) of section 51 of the Bombay Village Panchayat Act, 1958 have accordingly, been issued in Government Resolution, Cooperation and Rural Development Department No.VPS 1866/4741.E, dated 27th April 1962. The prevalent Bombay Village Panchayats Act, 1958 has undergone various changes on account of the introduction of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and the Bombay Village Panchayats (Amendment) Acts. These developments made it necessary to review orders issued so far in respect of vesting of Government properties in Village Panchayats. Accordingly, in supersession of all previous orders, fresh orders have been issued in Government order, Rural Development Department No.VPM 1769/2463-A/76/XXIII, dated the 21st August 1976.

The properties mentioned in Government order, Rural Development Department No.VPM 1769/2463-A/76/XXIII, dated 21st August 1976 vest in the Village Panchayats with effect from 9th June, 1950 i.e. the date of Government Resolution, Local Self Government and Public Health Department No.S-251, dated 9th June, 1950, issued under Section 28-B of the then Bombay Village Panchayat Act, 1933, if the Panchayats established before the date of said Government Resolution. In the case of Village Panchayats established after the date of the Government Resolution i.e. 9th June, 1950, the properties vest in them from the date of their establishment. The effect of the orders issued in Government order, Rural Development Department No.VPM 1769/2463-A/76, dated 21st August 1976 is that the vesting is continuous from time of its commencement as explained above.

2. The Government is now pleased to issue the following instructions:-

The Tahsildars should prepare lists of all properties vested in
GCP/ROTA-RDD-H-554(600-9-76)-1

189

the Panchayats alongwith the conditions, if any, subject to which the vesting has been made and should supply copies of the same to the Panchayats concerned.

(a) the list prepared by the Tahsildars should be sent to the Village Officer of the Village concerned. On receipt of the list by him, the Village Officer should make separate entries in the Mutation Register viz. V.F.VI for each separate vesting of the property in the Panchayat. Where the vesting in the Panchayat is subject to certain conditions, all the conditions, should be mentioned by the Village Officer in the mutation entry.

(b) after the entries made by the Village Officer as above the Mutation Register are certified by the Aval Karkun or the Tahsildar concerned, the Village Officer should transfer the entries to the Record of Rights proper. In the case of each vesting of property the entry "Government" in the Kabjedar's solumn should be retained, and the entry of "Village Panchayat" below the line in the Kabjedar's column of "Other rights" to the effect that the vesting is conditional, and at the end, the serial number of the mutation entry should be shown in a circle as usual.

After the mutation entries have been made by the Village Officer in respect of all the items in the list forwarded to him by the Tahsildar, he should return it to the Tahsildar after entering the serial numbers of the mutations against each item in the list. The Tahsildars should check up whether the entries already made in the Record of Rights are correct and, if any entry, which is already certified, is found to be incorrect, he may take necessary steps for cancellation of such a wrong entry. In regard to incorrect entries which are uncertified, they may be revised suitably by the Tahsildar showing the correct and exact particulars of the properties vested in the Panchayat.

3. The following detailed instructions are issued for ensuring effective implementation of the provisions of sub-sections (IA) and (IB) of Section 51 of the Bombay Village Panchayats Act, 1958:-

(a) The talathis (or Patwaris) should check up from the Record of Rights and the Pahani Patrak or V.P.VII-XII, the following two points:-

(i) whether any land which was vested in the Panchayat under Government Resolution, Cooperation and Rural Development Department, No.VPs-1860/4741/E, dated the 27th April, 1962, was under cultivation immediately before 1st October 1965 (i.e. in the Kharif Season of 1965 or the Rabi Season of 1964-65);

(ii) whether any land which was vested in the Panchayat under Government Resolution, Co-operation and Rural Development Department, No.VPS-1860/4741/E, dated the 27th April, 1962 and/or continues to vest in it under Government Order, No.VPM 1769/2463-A/76/XXIII, dated 21st August 1976 is required by it for the purpose for which it was vested. This can be inferred if the land vested in the Panchayat has been sold or put or allowed to put to a different use other than that for which it was assigned under the said Government Resolution.

(b) Where a talathi finds that any land is covered by point (1) above, he should make a mutation entry in the Mutation Register for revesting the land in Government and issue usual notices to the Panchayat, the person cultivating the land and any other person, if any, interested in the land. Simultaneously he should submit a report to the Tahsildar giving details of the land, the Panchayat in which the land was vested, names and addresses of the person(s) who are cultivating the land or are interested in it. On receipt of the report, the Tahsildar or his Aval Karkun should issue notices to the Panchayat and the person cultivating the land and other persons, if any, interested in the land to the effect that he will hold an enquiry for deciding whether the land in question reverts in Government under section 51(1B) of the Bombay Village Panchayat Act, 1958 and that they or their authorised representatives should remain present for the enquiry at the appointed time and place for putting in their say in the matter. On the appointed date and time, the officer should hold a formal enquiry and decide the following points:-

- (i) whether the land was vested in the Panchayat under Government Resolution, Cooperation and Rural Development Department No.VPS-1860/4741/E, dated 27th April 1962;
- (ii) If so, whether the land was under cultivation immediately before 1st October 1965 (i.e. the day on which the Bombay Village Panchayats (Amendment) Act, 1965 came into force);
- (iii) If the land was cultivated by any person other than the Panchayat, whether the Panchayat had transferred the land to such person with the previous permission of the Collector as required by Government Resolution, Cooperation and Rural Development Department, No.VPS-1860/4741/E, dated 27th April, 1962;
- (iv) If the transfer is made with the previous permission of the Collector, whether the transfer is by way of lease or sale. If it is by way of lease, what is the unexpired period of the lease and what are the conditions of the lease.

If points (i) and (ii) above are decided in the affirmative, the officer should declare that the land has been revested in Government and certify the mutation entry made by the Talathi. The Talathi should then correct the entries in the Kabjedar's column in the Record of Rights by showing 'Government' as the Kabjedar. If it is found that the land is cultivated by some persons other than the Panchayat and that the land was transferred to him by the Panchayat without the previous permission of the Collector, such persons should be ordered to be evicted from the land, he being an encroacher on Government land. If the land is transferred with the previous permission of the Collector, and the transfer is by way of lease, the lease will continue on the land as Government lease for the unexpired period of the lease on the same terms and conditions and the entries in the Record of Rights should be corrected accordingly to show such person as Government lessee. After the expiry of the

lease period, steps should be taken for the permanent disposal of the land in accordance with the Maharashtra Land Revenue (Disposal of Government lands) Rules, 1971, after ascertaining that the land is not required for any public purpose. If the land is transferred with the previous permission of the Collector and the transfer is by way of sale, then in view of the saving provisions contained in section 51(B), the name of the transferee and not Government should be entered as Kabjedar in the Record of Rights.

4. The vesting in the Panchayat of the types of properties mentioned at Serial Numbers 1 to 11 in Government Order, Rural Development Department, No.VPM-1769/2463/A/76/XXIII, dated 21st August 1976 is subject to the condition that if in the opinion of Government they are required for the purpose of any National or State Development Plan or for any other public purpose or when the Panchayat wants to lease or otherwise transfer them for industrial purpose or any profitable commercial purpose or they are not required by the Panchayat for the purpose for which they were vested, they will be liable to be resumed by Government without payment of any compensation and upon such resumption, the properties shall cease to vest in the Panchayat and shall revert in Government.

5. The attention of the Collectors is invited to the instructions in para 11(2) of the draft order and they are requested to see specifically that such leases for any industrial or profitable commercial purpose are to be given by the Collector and not by the V.P. and that 50% of the rent accruing therefrom is to be credited to the Government and 50% to the Village Fund. In case a particular land, which is already vested in the V.P., is found by him to be most suitable for such purposes, he should approach the V.P. and try to persuade it to release the land in favour of Government for being leased for such industrial and profitable commercial purpose.

6. These orders apply also to lands and properties of the type mentioned in paras 2 to 11 of G.O., R.D.D. which vest in Government as a result of enactment of the various land Tenure Abolition Acts.

7. All the action contemplated to be taken by the Collector under Government order, Rural Development Department, No.VPM-1769/2463-A/76/XXIII, dated 21st August 1976, should be so taken by him by the issue of specific orders in each individual case.

By order and in the name of the Governor of Maharashtra,

J. D. JADHAV,
Deputy Secretary to Government.