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Record of Rights  
Village Panchayats  
vesting of Government  
properties in - entries -  
regarding .

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GOVERNMENT OF MAHARASHTRA.  
Revenue and Forests Department.  
Resolution No. RTS 4363/13237-M.  
Sachivalaya, Bombay-32(BR), 31st March 1967.

RESOLUTION

According to the instructions issued in the Government Circular Memorandum, Local Self-Government and Public Health Department No. VPS.1855-P, dated 13th January 1956 the Mamlatdar concerned is required to prepare a list of all properties vested in the village Panchayat and on receipt of the list the village Officer of the village concerned has to make separate entries in the Mutation Register viz. V.F.VI for each separate vesting of the land in the village panchayat and has to mention all the conditions in cases where the vesting is subject to certain conditions. If the vesting of the land is conditional the village Panchayat is shown in the Record of Rights as "Kabjedar" in place of Government, and in addition, an entry "The ownership of village Panchayat is conditional" is made in the column of "Other Rights". These orders, however, were issued prior to the reorganisation of States and have not consequently been made applicable to the Marathwada and Vidarbha regions. Section 51 of the Bombay Village Panchayats Act, 1958 as amended by the Bombay Village Panchayat (Amendment) Act, 1965 now incorporates two sub-sections (1 A) & (1 B). Under sub-section (1 A) it is now provided that where the State Government is of opinion that any property vested in a panchayat under sub-section (1) is required for the purpose of any national or State development plan or any other public purpose or where any such property is not required by the panchayat for the purpose for which it was vested, the State Government, may resume such property and upon such resumption the property shall cease to vest in the Panchayat and shall revest in the State Government. Sub-section (1 B) provides that where a grazing or other land, which was vested in a village panchayat under sub-section (1) of section 51 was under cultivation immediately before the date on which the Bombay Village Panchayat (Amendment) Act, 1965 came into force (i.e. 1st October 1965), the land shall cease to vest in such panchayat and revest in the State Government subject to all limitations, conditions and right or interest of any person in force or subsisting immediately before such date. Government has been advised that since section 51 (1) of the Bombay Village Panchayat Act, empowers the State Government subject to such conditions and restrictions as it may think fit to impose, to vest in a panchayat open site, waste, vacant or grazing lands, public roads etc. it contemplates vesting of property in panchayats for a limited purpose and "vesting" does not mean "vesting" in title; and therefore, in the scheme of section 51, there cannot be any "vesting of property in title". In view of this legal position Government considers that the orders in regard to the manner in which the entries are to be made in regard to the rights in respect of lands vested in Village Panchayats, need to be modified in keeping with the correct legal position. Government

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is, therefore, pleased to direct in supersession of the orders issued in Government Circular Memorandum, Local Self-Government and Public Health Department, No.VPS-1855-P, dated 13th January, 1956, that since the position of a Village Panchayat is more or less similar to that of an inferior holder in respect of such vested lands the entry "Government" should be retained in the Kabjedar's column of the Record of Rights and the entry "Village Panchayat" should be made below the line in the Kabjedar's column of the Record of Rights. In addition an entry should be made in the "other rights" column to the effect that the vesting is conditional.

In order to ensure effective implementation of the provisions of subsection (1 B) of Section 51 of the Bombay Village Panchayat Act, 1958 Government is pleased to direct that the procedure as indicated below should be followed by the revenue officers.

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

(i) Whether any land which was vested in a Village Panchayat under Government Resolution, Co-operation and Rural Development Department No.VPS.1860/4741-E, dated 27th April, 1962 was under cultivation immediately before 1st October 1965 (i.e. in the Kharif season of 1965 or Rabi season of 1964-65)

(ii) Whether any land which was vested in Village Panchayat under Government Resolution, Co-operation and Rural Development Department No.VPS.1860/4741-E, dated 27th April, 1962 is not required by the village panchayat for the purpose for which it was vested. This can be inferred if the land vested in a panchayat has been sold for a non-agricultural purpose or otherwise put to non-agricultural use other than the purpose for which it was permitted to be used by the Village Panchayat under the Government Resolution of 27th April, 1962 referred to above without the permission of the Collector or other competent authority.

Where a talathi finds that any land is covered by point (i) above, he should make a mutation entry in the Mutation Register for revesting the land in Government and issue usual notices to the Village Panchayat, the person cultivating the land and any other person, if any, who may be interested in the land. Simultaneously he should submit a report to the Mamlatdar giving details of the land, the Village 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 Mamlatdar/Tahsildar or his Awal Karkun/Naib Tahsildar should issue notices to the Village 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 (1 B) of the Bombay Village Panchayats 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 inquiry and decide the following points:-

(a) Whether the land was vested in the Village Panchayat under the Government Resolution of 27th April 1962.



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- (b) If so, whether the land was under cultivation immediately before the day on which the Bombay Village Panchayats (Amendment) Act, 1965 came into force i.e. 1st October 1965.
- (c) If the land was cultivated by any one other than the Village Panchayat whether the Village Panchayat had transferred the land to such person with the previous permission from the Collector as required by the Government Resolution of 27th April 1962.
- (d) 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 (a) and (b) are decided in the affirmative, the officer should make a declaration that the land has reverted 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 person and that the land was transferred to him by the Village Panchayat without obtaining the previous permission of the Collector such person should be ordered to be evicted from the land under the relevant provision of the land Revenue Code since he then becomes 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 lessee will continue on the land as Government lessee 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 permanent disposal of the land in accordance with the standing orders of Government for disposal of Government waste lands 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 (1 B), the name of the transferee and not "Government" should be entered as "Kabjedar" in the Record of Rights.

The Collectors in Bombay and Poona Divisions should get the entries already made in V.F. VII-XII in pursuance of the Government Circular Memorandum referred to in paragraph 2 corrected in conformity with the revised orders. The Collectors in Bombay, Poona, Aurangabad and Nagpur Divisions should take necessary action in the light of the above instructions.

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

W. G. RANADIVE,  
Under Secretary to Government.

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