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Government of Jammu and Kashmir
Civil Secretariat, Revenue Department

Subject:- Scheme for eviction of encroachments on common land.

Reference: Cabinet Decision No. 188/23/2011 dated: 19-10-2011.

Government Order No: Rev/Lit/ 218 of 2011
D a t e d: 28 - 11- 2011

1. Whereas, the Hon'ble Supreme Court vide order/ Judgment dated: 28-01-2011, passed in Civil Appeal No. 1132/2011 titled Jagpal Singh Vs. State of Punjab and others directed as under :

" ... All the State Governments in the country shall prepare schemes for eviction of illegal/unauthorized occupants of the Gram Sabha/ Gram Panchayat/ Paramboke/ Shamlat Land and these must be restored to the Gram Sabha/ Gram Panchayat for the common use of the villagers of the village. For this purpose, the Chief Secretaries of all the State Governments/ union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupants, after giving him a show cause notice and a brief hearing. Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated a justification for condoning this illegal act or for regularizing the illegal possession. Regularization should only be permitted in exceptional cases , e.g where lease has been granted under some Government Notification to landless laborers or members of Scheduled Castes/ Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land." ; and

2. Whereas, in conformity with the aforementioned directions/ observations of the Hon'ble Supreme Court, deliberations/ consultations were held by the Chief Secretary with other senior officers (Administrative Secretaries) of the departments of Revenue,

Planning, Forest, General Administration, Rural Development Department and Law; and

- 3. Whereas, under the Jammu and Kashmir land Revenue Act, samvat 1996 and the Jammu and Kashmir Common Lands Act, 1956, Deputy Commissioners and Tehsildars, that is, Collector and Assistant Collectors of 1st Class are empowered to evict the illegal occupants from the State land/ Kahchari land and on common lands by adopting due course of law; and
- 4. Whereas, for effective implementation of the Hon'ble Supreme Court orders and the provisions of the Jammu and Kashmir land Revenue Act, samvat 1996 and the Jammu and Kashmir Common Lands Act, 1956, a comprehensive scheme is required to be formulated to provide for eviction of illegal/unauthorized occupants of such land ;

Now therefore, in compliance of the directions of the Hon'ble Supreme Court of India in Civil Appeal No. 1132/2011 titled Jagpal Singh Vs. State of Punjab and others and the powers conferred by the Jammu and Kashmir Land Revenue Act, Svt. 1996, the Jammu and Kashmir Common Lands (Regulation) Act, 1956 and other relevant provisions of law in force in the State, the Government hereby formulates the following scheme for removal of encroachment on common lands, non-partible Shamlat Lands, Kahchrai Lands and lands meant for pathways, ponds, storing grains, water bodies, passages, cremation grounds and other common use of the people of the villages as also for eviction of illegal/unauthorized occupants of such land namely :-

- 1. Name of the Scheme and its commencement.-** (1) This scheme may be called "The Jammu and Kashmir Eviction of Unauthorized Occupants (from Common Land) Scheme, 2011".
- (2) It shall come into force from the date of its issuance.

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2. Definition.- In this Scheme, unless the context otherwise requires, the words and terms used in it shall have the same meaning as respectively assigned to them under the provisions of the Jammu and Kashmir Land Revenue Act, Svt. 1996, the Jammu and Kashmir Common Lands (Regulation) Act, 1956.

3. Identification of encroached land.- (1) The Deputy Commissioners of the concerned Districts shall identify the encroachments on common lands/non-partible Shamlat Lands, Kahchrai Lands and lands meant for pathways, ponds, storing grains, water bodies, passages, cremation grounds and other common use of the people of the villages.

(2) They will be directly responsible for the implementation of the Scheme and are authorized to obtain the assistance of such other departments, organization or agencies of the Government as may be necessary for the purpose.

(3) The concerned Block Development Officer shall also be responsible for identifying the encroached land belonging to Panchayats and report to the Deputy Commissioner concerned forthwith for its eviction.

4. Preparation of Lists.- Based on the information collected by the Deputy Commissioners of the concerned districts, the assami-wise/ case-wise lists will be got prepared by them through revenue officers and the said process will be completed within a period of three months. The lists shall be submitted to the Divisional Commissioners concerned and Financial Commissioner Revenue for information and record. The lists shall contain details as per the format to be prescribed by the Financial Commissioner, Revenue.



5. **Eviction.-** After identification of these illegal encroachments on lands mentioned heretofore, the concerned Revenue Officers shall start eviction of illegal occupation of such lands under the provisions of the Jammu and Kashmir Land Revenue Act, Samvat 1996, the Jammu and Kashmir Common Lands (Regulation) Act, 1956 and notifications issued from time to time on the subject.

6. **Notice.-** Before initiating proceedings under this Scheme, the illegal occupants shall be given a show cause notice of fifteen days by the concerned Revenue Officer as to why the proceedings of eviction under this Scheme be not initiated against them and also to produce on oath (Affidavit) documentary evidence in support of their claim, if any.

7. **Hearing.-** No order of eviction shall be passed by any revenue officer unless the illegal occupant is provided an opportunity of being heard and consideration of documents produced in support of his claim.

8. **Order of Eviction:**(1) Any revenue officer may, after following the procedure laid down under clauses 6 and 7 of the Scheme, pass an order for eviction of the unauthorized occupants of such land.

(2) Nothing shall prevent the said officer from passing an order of eviction in case the illegal/unauthorized occupant fails to appear before the officer within the prescribed time or does not submit any sufficient document in support of his claim.

9. **Possession:** On eviction of unauthorized occupants, the Deputy Commissioner or the revenue officer shall handover the possession of land to the concerned Halqa Panchayat or the competent authority under law and make proper entry thereof in the Revenue records.

10. Targets.-(1) The Deputy Commissioner concerned shall assign monthly targets to each Tehsildar regarding eviction of such illegal occupants and for prevention of such encroachments on common land/ non-partible Shamalt Lands, Kachrai Lands and lands meant for pathways, ponds, storing grains, water bodies, passages, cremation grounds and other common use of the people of the villages.

(2) All Revenue Officers/officials, of and below, the rank of Assistant Commissioner, Revenue concerned shall be responsible for implementation of the Scheme within their respective territorial jurisdictions in letter and spirit and any dereliction thereof on their part shall invite disciplinary proceedings against them.

11. Monitoring.- The process of removal of illegal encroachment shall be monitored by Financial Commissioner Revenue at State level, Divisional Commissioners concerned at Divisional level and Deputy Commissioner concerned at District level. They shall submit progress report to the Government on quarterly basis through Financial Commissioner.

12. Public Awareness.- (1) It shall be obligatory on the Deputy Commissioners of the Districts to make the general public aware through revenue officers about the encroachment on common lands of the villages through electronic and print media.

(2) The public should also be informed that any such encroachment on common lands is in contravention of the law and the directions of Hon'ble Supreme Court and that any violation will attract action under law. Print and electronic media shall be used for the purpose.

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(3) The lists prepared under clause 4 of the Scheme will be got displayed on some conspicuous place in the office of Deputy Commissioner and published in at least two local dailies having wide circulation in the area.

13. Review: The implementation of the Scheme will be reviewed by the Financial Commission on quarterly basis.

14. Miscellaneous: (1) The Scheme shall be followed by all the Revenue Officers within their respective territorial areas in letter and spirit without any laxity or deviation.

(2) Any non-compliance or laxity will be viewed seriously.

By Order of the Government of Jammu and Kashmir.

Sd/-

Commissioner/Secretary to Government
Revenue Department
Dated: 28-11-2011

No: Rev/Lit/12/2011

Copy to the:-

1. Administrative Secretary _____
2. Financial Commissioner (Revenue) J&K, Jammu.
3. Principal Secretary to Hon'ble Chief Minister.
4. Divisional Commissioners Jammu/Kashmir.
5. Deputy Commissioner _____
6. Director Information Jammu/Srinagar.
7. Special Assistant to Hon'ble Revenue, Relief & Rehabilitation Minister.
8. Special Assistant to Hon'ble Revenue Minister of State.
9. Private Secretary to Commissioner/Secretary Revenue.
10. Govt. order file/stock file.

Dr. Anand
Under Secretary to Government
Revenue Department

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30/11