

## **LAW PAPER : II (FOR W.B.C.S.)**

### **MODEL ANSWER & GUIDELINE**

#### **Q. Define the terms as per W.B.E. Act, 1953**

- (a) Agricultural Land : means land ordinarily used for purposes of agriculture or horticulture and includes such land, notwithstanding that it may be lying fallow for the time being. (Section 2b)
- (b) Collector : means the Collector of a District or any other officer appointed by the State Government to discharge any of the functions of the Collector under this Act. (Section 2d)
- (C) Notified Area : means a district or part of a District in respect of which a notification have been duly published under Section 4. (Section 21)
- (d) Rent: Rent means whatever is lawfully payable or deliverable in money or kind or both, by a tenant to his Landlord, on account of the used or occupation of the land held by the tenant and includes also money recoverable under any enactment for the time being in force as if it was Rent.
- (e) Charitable Purpose: means and includes the relief of the poor, medical relief for the advancement of education or of any other object of general public utility. (Section -2C)

#### **Q. What is the effect of Notification, Vesting Estate and Rights of Intermediaries duly published under Section 4 of the W.B.E. Act, 1953?**

The effect of Notification simply means that rights of intermediaries shall vest in the State on due publication of Notification under Section 4 from the date of vesting and those rights include the following which stated in Section 5 of the Act and they are :-

- (a) The Estates and the rights of intermediaries in the States, to which the declaration applies, shall vest in the State free from all encumbrances; in particular and without prejudice to the generality of the provisions of these clause everyone of the following rights which may be owned by an intermediary shall vest in the state, viz. (1) Rights in sub-soil including rights in mines and minerals; (2) Rights in hate, bazaar, ferries, fisheries, tolls, Sairati Interest and Jalkar; (3) Rights in forests including produces thereof; (4) All grants and confirmation of titles, estates and rights to which declaration applies and which were made in favour of intermediaries shall determine; (5) Subject to the provisions of Section 6(3) of the Act, every non-agricultural Tenant holding any land under an intermediary, and until the provisions of Chapter V are given effect to, every Raiyat holding any land under an intermediary shall hold the same directly under the state as if, the state had been the intermediary and on the same terms and conditions as immediately before the date of vesting; (6) Every Raiyat holding land under an intermediary shall pay Rent and other dues to the state; (7) All rights and interest in the mines and minerals of all intermediaries, including leesees and sub-lessees in any notified area shall be deemed to have vested in the State with effect from the date of vesting; (8) All lands in an Estate comprising forest with all rights to trees and produce thereof shall be deemed to have vested in the State with effect from the date of Vesting.

The Estate of an Intermediary shall vest in the State with the Notification under Section 4 of this Act free from all incumbrances. It means that the State shall not be liable for any past liability relating to the Estate vested in it. The effects of this Notification are enumerated in Section 5 of the Act and include right in sub-soil with rights in mines and minerals; rights in hats, bazaar, ferries, fisheries, tolls and other Sairati interests; all forests land with all rights to the trees or the produce thereof.

The date mentioned in every such Notification under Section 4 of the Act shall be the commencement of an agricultural year and the Notification shall be issued so as to ensure that the whole area to which this act extends, vest in the State on or before 1st day of Baishak, 1362 B.S. Every such Notification shall be published in the local Newspaper in the local language successively on two dates. Government on being satisfied about publication of Notification in local Newspaper, shall issue Notification in the official Gazettes.

**Q. What are the provisions under the W.B.L.R. Act, 1955 for effecting change of areas or character of a Raiyati Land?**

Section 4( c) of the WBLR Act 1955 lays down the provisions for the permission for change of area, character or use of land.

A Raiyat holding any land may apply to the Collector for change of area or character of such land or for conversion of the same for any purpose other than the purpose for which it was settled.

On receipt of such application the Collector may, after making inquiry and giving the applicant an opportunity being heard by order in writing either reject the application or direct such change, conversion or alterations on such terms and conditions as may be prescribed.

It is provided that where the application relates to permission for change, conversion or alteration of any plot of land having water-body of any description or size, the Collector shall not make any order unless he has made a prior consultation in writing with such appropriate department of the State Government.

The order of the Collector directing change, conversion or alteration shall specify the date from which such change conversion or alteration shall take effect.

Such Revenue Officer shall incorporate in the record of right changes effected by such order and revise the records of rights in accordance with such orders.

Where the approval of the appropriate department of the State Government or the Local Authority in respect of any scheme or project or permission of appropriate department of the State Government or the Local Authority in respect of construction of building or any other permission to conduct any business carrying on any activity :

(a) involves changes or area of any plot of land or character of conversion of the same;

(b) amounts to using of any plot or land having any water body of any description or size in a manner that degrades destroys directly or indirectly such Waterbody;

No such approval or permission of the appropriate department of the State Government or the Local Authority shall be made unless the order of the Collector directing change, conversion or alteration of such plot of land or plot of land having any Waterbody or any description or size as the case may be is obtained.

Where any plot of land has been changed or converted or altered in violation of the Section 4( c) if the Collector on his own motion or on receiving information is of the opinion that it is necessary so to do in public interest, he may make an order directing a Raiyat or a Lessee nor restoration of the original character of concerned land within a specified time.

On receipt of the order, the Raiyat or the Lessee shall restore the original character of the plot of land at his own cost within such time as may be ordered by the Collector.

If the Raiyat or Lessee fails to comply with the order, the Collector may take action for restoring the original character of such plot of land and realize the costs for restoration from the Raiyat or the Lessee.

If the Raiyat or Lessee fails to pay the costs of restoration, the Collector may realize the costs as a public demand with the provisions of Bengal Public Demand Recovery Act, 1913.

**Q. What are the procedure of enquiry by the Collector for an award under the Land Acquisition Act, 1894?**

Read Section 11 of the L.A. Act, 1894.

**Q. Which are the lands to which the ceiling provisions under the Urban Land (Ceiling & Regulation) Act, 1976 do not apply?**

Read Section 19, Chapter 3.

**Q. State what happens when the following points are raised in a proceeding –**

**(a) When the presumption of correctness of a finally published R.O.R. is disputed?**

The entries in a finally published record of rights must be presumed to be correct unless proved by evidence to be incorrect. The presumption of correctness is a rule of evidence. The settlement record is not a document of title and neither it creates title nor extinguish the title. The record of right bears a forward presumption, unless rebutted by proper evidence. Record of Right is held to be wrong when it is found that basis of entry is entirely erroneous.

**(b) Is the post vesting transferee entitled to notice in a proceeding under section 44 of the WBE Act?**

Ans : The post vesting transferee is entitle to a notice and the member must be given an hearing in a proceeding under section 44 of the Act. Ref Atul Ch. Mahato Vs State and others (2003) I CLJ 22.

**(c) Has the revenue Officer absolute power to revise and entry in the R.O.R ?**

Ans. When the Final publication of the R.O.R. from the draft is made, the power of the Revenue Officer is unfettered in respect of revision of entries.

Ref : Sitala Prosad Jaiswal & others Vs State of WB for (2004) I CLJ (HC) 302.

**Q. Answer the following :-**

(a) Mouza means an area defined, surveyed and recorded as such in the revenue record of a district and referred to in clause (g) of article 243 of the constitution of India as the lowest unit of area for the purpose of public notification for specifying a village

Ref :- Sec 2(13) W.B. Panchayet Act 1973

(b) Janapath (Public street) Ref Sec 2 (20) WB.

Panchayet Act : Public Street means any street, road, lane, gully, passage, pathway, bridge square or court, whether a thoroughfare or not over which the public have a right of way, and includes side drains or gutters and the land upto the boundary of any abutting prosperity, notwithstanding the projection over such land or any verandah or other super structure.

(c) Panchayet :- Sec 2(15b) W.B. Panchayet Act

Panchayet means an institution of self government under Article 243B of the constitution of India and includes Gram panchayet, Panchayet Samity, Mahakuma Parishad, or Zilla Parishad

(d) Public Demand – Section 3(b) Bengal P.D. Act 1913

Public Demand means any arrear or money mentioned or referred to in schedule I and includes any interest which may, by law, be chargeable thereon upto the date on which a certificate is signed under part II.

(e) Chief Electoral Officer

Sec 2(1) (bb) of the Representation of Peoples Act 1951 means the Officer appointed under Section 13A of this Act.

(f) Council – Section 2(4b) of the W.B. Panchayet Act 1973 – means the Darjeeling Gorkha Hill Council constituted under the Darjeeling Gorkha Hill Council Act 1988.

(g) Certificate Officer – Sec 3(3) of Bengal P.D. Act 1913 means a collector, a sub-divisional officer, and any officer, appointed by a Collector with the sanction of the Commissioner to perform the functions of a certificate officer under this Act.

**Q. What are the Regulatory duties of the Gram Panchayet ?**

Ans – Read Section 41 of the W.B. Panchayet Act 1973.

**Q. Has the Gram Panchayet any power to levy fees and rates ? If so, under what head ?**

Ans . Read Section 47 of the W.B. Panchayet Act 1973.

**Q. Define the following under Bengal P.D.R. Act 1913 ?**

(a) **Calcutta Section 3(a1)** mean the area comprised within the local limits for the time being of the ordinary original civil jurisdiction of the High Court at Calcutta.

(b) **Certificate debtor – Sec 3(1)** means the person named as debtor in a certificate filed under this Act, and includes any person whose name is substituted or added as debtor by the Certificate Officer.

(c) **Certificate holder – Sec 3(2)** means the government or person in whose favour a certificate has been filed under this Act and includes any person whose name is substituted or added as creditor by the certificate officer.