

THE BIHAR PRIVILEGED PERSONS HOMESTEAD TENANCY ACT, 1947

[BIHAR ACT IV OF 1948.]¹

[This Act received the assent of the Governor-General on the 17th January, 1948, and the assent was first published in the Bihar Gazette of the 18th February, 1948]

ACT AN

To make better provisions on certain subjects relating to the law of Landlord and tenant in respect of Homestead held by certain classes of persons in Rural Areas of State of Bihar.

Whereas it is expedient to make better provisions on certain subjects relating to the law of landlord and tenant in respect of homestead held by certain classes of persons in rural areas of the State of Bihar.

It is hereby enacted as follows—

Comments and Case-law

[The Act was enforced to improve the lot of the weaker section of the Society, such as labourers and artisans etc. who live either in houses built by themselves on lands given to them by the landlords or the houses built by the landlords and to provide them with greater security in the matter of their houses and occupation of such homesteads. Provisions have also been made for fixation of fair and equitable rents payable by such landless labourers for their security against their illegal and unreasonable ejection from the lands. *Bishwanath Singh Vs. State of Bihar*, 1981 BBCJ 199.]

The idea behind the Act is to secure a piece of land for residential purposes. If he has already a piece of land or homestead then there is no meaning in further securing for him permanent tenancy in some land on which he might actually be living. *Nagina Sah Vs. Rajpati Devi*, 1979 BLJ 236 : 1979 BBCJ 345.]

1. Short title, extent and commencement—This Act may be called the Bihar Privileged Persons Homestead Tenancy Act, 1947.

(2) It extends to the whole of the State of Bihar.

(3) It shall come into force on such date² as the State Government may, by notification, appoint.

2. Definitions—In this Act, unless there is anything repugnant in the subject or context—

(a) "building" includes a house, shed, hut and any other structure whether of masonry bricks, wood, mud, metal, bamboo, *khar* or any other material but does not include the land on which it stands;

(b) "Collector" includes any officer appointed by the State Government to discharge all or any of the functions of a Collector under this Act;

(c) "holding" means a parcel of homestead held by a privileged tenant and forming the subject of a separate tenancy;

1. Published in Bihar Gazette dated 18-2-1948.

2. Act came into force on 25th February, 1948 vide notification No. 1591—III—II—48, dated 21-2-1948.

a privileged person—the fact that the petitioner was possessed of more than one acre of land, a fact not controverted by the petitioner will also deprive him of the status. *Bishwa Nath Singh Vs. State of Bihar*, 1980 PLJR 533.

Sections 2 (i), (j)—competing claims—*Anchal Adhikari* is required to adjudicate where both sides claim status of privileged tenant and deny the status of landlord—once it is found that the person alleged to be a landlord is really in the same position as the person who claims to be the privileged tenant, then the benefit of the Act is not available to the privileged tenant. *Gopal Pandit Vs. State of Bihar*, 2000 (3) PLJR 324.

Sections 2(i), 2(j) & 4—Permanent tenancy in the homestead to the privileged tenant—requirements for—duty of authorities before making such a declaration u/s 4— it is necessary for the privileged tenant claiming permanent tenancy in the homestead to prove that he is a privileged person within the meaning of section 2(i) and that besides his homestead does not hold any other land or holds any such land not exceeding one acre—authorities have to give a finding to this effect before passing any order giving a permanent tenancy in the homestead to the privileged tenant—where no such finding is given by the authority concerned the order not being in accordance with law has to be quashed. *Sk. Wajuddin Vs. State of Bihar*, 1985 PLJR (NOC) 14.

Sections 2(i) & 2(j) and Bihar Privileged Persons Homestead Tenancy Rules 1948, Rule 5—Provisions contained in the Act and the Rules being mandatory, Collector's order declaring a person as a privileged person in violation of such provisions, must be quashed. *Hira Lal Vishwakarma Vs. Vishwanath Sah*, 1978 PLJR 398.

Sections 2 (j), 4 and 8—Collector passing vague order without proper enquiry and without issuing valid notice to landholder in proceeding initiated on application praying for grant of "*Basgit Parcha*"—Collector before granting *parcha* has to come to a finding that the applicant is in fact a "privileged person" and "privileged tenant" as defined under the Act—in absence of any such finding being recorded as mandatorily required by law, the order granting *parcha* has to be declared illegal and without jurisdiction—title of the landlord if based on purchase of the land in a Money Decree passed by Civil Court may not be open to doubt, if claim of land holder is found correct—all orders passed in respect of grant of *parcha* and action taken under section 8 quashed and *Anchal Adhikari* directed to dispose of matter afresh. *Surya Narain Mishra Vs. State of Bihar*, 1998(1) PLJR 561.

Section 2(j)—a trespasser or squatter can not become a privileged tenant. *Deoraj Thakur Vs. State of Bihar*, 1993(2) PLJR 598.

Section 2 read with Rule 5 of the Rules framed under the Act—belated prayer by writ petitioner for quashing order of Revenue Authority by which "*Parcha*" under the 1947 Act was granted to respondent no. 3—order passed for granting "*parcha*" by Revenue Authority without recording a finding that the person to whom it was being granted was a "*privileged person*"—order not sustainable—case remanded for disposal, with liberty to parties to make fresh submissions. *Maya Rani Chatterjee Vs. State of Bihar*, 1993(1) PLJR 612.

Sections 2, 2A and 15—the entries in statement prepared in Form No. 26 is for the guidance of the authorities under the Act—does not confer any right, title or interest in favour of the person mentioned therein—any such statement prepared

without taking resort to the statutory provisions under the Act is liable to be quashed. *Soman Sahu Vs. State of Bihar*, 1992(1) PLJR 477.

Section 2 r/w Section 4 (4) of Bihar Land Reforms Act, 1950—defendant (no. 2) having six shops in the market and alleged to have encroached upon the suit land while reconstructing his old house—a such, he cannot be treated as a privileged person and therefore not entitled to receive parwana from the State—when the Parwana issued in favour of defendant (no. 2) was found to be of doubtful character and the suit having been filed within a period of twelve years after the issuance of Parwana, the appellate court had to hold that he had no authority to continue in possession of the land—order passed by D.C.L.R. also indicating that plaintiff—appellant—were assessed to rent and it would imply that settlement in favour of plaintiff appellants was not cancelled by Collector u/s 4(b). *Shyam Bihar Prasad Vs. Most. Kalawati Devi*, 2002(3) PLJR 197.]

Sections 2(i) & 2(j) :In order to claim protection under the Act, a person must be a privileged person first and if he is proprietor or tenure holder or under tenure holder or under tenure holder or mahajan, he can not be privileged person. He is also required to hold no other land or land exceeding one acre. *Om Prakash Singh Vs. State of Bihar & ors.* 2004 (2) PLJR 621.

Tenancy can be created by acts indicating the establishment of relationship of landlord and tenant. This may be expressed, implied or gathered from conduct or from the circumstances of the parties. The tenant was in possession of the land under the original land holder with his consent and when the land was purchased by the petitioner he was in possession of the land. The conduct of the parties, the circumstances and the continuation of the tenant over the land under the original land holder and subsequently under the petitioner is sufficient to indicate that there was implied relationship of landlord and tenant in between them. It is not disputed that the tenant is a privileged person. The tenant is fully covered under the definition of privileged person as well as privileged tenant under the Act. Then there is no illegality in issuance of Basgit purcha is his favour. *Shyama Devi Vs. State of Bihar* 2005 (2) PLJR 41.

[2A. Act to apply notwithstanding contrary to provisions in other enactments—The provisions of this Act shall have effect, notwithstanding anything contained to the contrary in any law for the time being in force.]

Comments and Case-law

[It makes this Act self contained and can be compared by the reasonings given in AIR 1951 SC 115.]

3. Act not to apply to certain lands, buildings or areas—This Act shall not apply to—

- (a) any land or building, residential or otherwise—
 - (i) appertaining to an industrial establishment;
 - (ii) vested in the Government or a local authority; and
- (b) any land situated within—
 - (i) any area which has been, or may hereafter be, constituted a municipality or notified area under the provisions of the Bihar and

Orissa Municipal Act, 1922 (B. & O. Act VII of 1922) or a Union Committee constituted under section 38 of the Bihar and Orissa Local Self-Government Act of 1885 (Bengal Act III of 1885);

- ¹ [(ii) vested in the Government except homestead deemed to have been acquired by the State Government under sub-section (2) of section 17A, or a local authority;
- (iii) any other area which is declared by the State Government by notification issued in this behalf to be a place of business or fair;

² [Provided that if any area in which a privileged person or a privileged tenant has acquired any right in his homestead under this Act, is subsequently converted into an area mentioned in sub-clause (1) of clause (b), the privileged person or the privileged tenant, as the case may be, shall not be divested or deprived of his right in the homestead.]

Comments and Case-law

[Land falling within the municipal or notified area the Act has no application. *Shyam Lal Sahu Vs. State of Bihar*, 1984 PLJR (NOC) 74 : 1984 BBCJ 748 : AIR 1985 Pat. 76.

Where claimant alleging to be a privileged tenant was inducted over disputed land for purpose of establishing wood business—Act would not be applicable. *Bishwanath Singh Vs. State of Bihar*, 1980 PLJR 533 : AIR 1981 Pat. 145.

Section 3(b) (i)—Act does not apply to any area of land which is situated within a Municipality or a Notified Area Committee—respondent authorities could not take recourse to the provisions of the Act for granting *parcha*—order granting *parcha* under the Act for lands within such areas is bad and fit to be set aside. *Shyam Lal Sahu Vs. State of Bihar*, 1984 PLJR (NOC) 75.

Section 3—provisions of the Act do not permit grant of *parcha* to a person who has several houses. *Nawal Kishore Sah Vs. State of Bihar*, 2002(2) PLJR 275.

Section 3—basically, the concession which has been granted under the Act is literally for the under-privileged—the Act is in the shape of a social reform to take care of persons who were virtually “Bhumihin”—petitioner being a rich businessman and a money lender, has no status to come within the meaning of privileged persons to see an allotment of a agricultural holding under the Act—appellant to be proceeded u/s 340, Cr. P.C. for filing false statements. *Nawal Kishore Sah Vs. State of Bihar*, 2002(2) PLJR 713.]

The land in question is of public nature, is being used by the people at large and is being settled by the state of Bihar for fishery puposes year after year. The settlement in favour of the petitioners was collusive, void and nonest in law as held by the revisional court on the application made by the respondent public. No error in the impugned order as the settlement cannot be made under the act to any land or plot residential or otherwise, vested in the Government or a local authority. Further in view of the nature of land, respondents public have had the

1. Subs. by Act 9 of 1970.
2. Ins. by Act. 13 of 1973.

locus to maintain the revision application. However in this case the revision was not maintainable, the court should not exercise its extra ordinary prerogative writ, jurisdiction which would result in revising illegal order. *Bikrama Thakur Vs. State of Bihar* 2004 (2) PLJR 265.

The collector has Cancelled the basgit purcha issued in favour of the petitioner on the ground that the land in question falls within the jurisdiction of Notified Area Committee. Such order passed without giving notice to the petitioner or his legal heirs of the original land holder is illegal. *Bharat Choudhary Vs. State of Bihar* 2005 (4) PLJR 62.

4. Privileged tenant to have permanent tenancy in his holding—Subject to the payment of such rent as may be agreed upon between a privileged tenant and his landlord, or where there is no contract or no valid contract in respect of rent or where the rent contracted is alleged to be unfair or inequitable, such rent as may be fixed by the Collector under the ¹[proviso to Sub-section (3) of section 17-A], a privileged tenant shall have a permanent tenancy in the homestead held by him at any time continuously for a period of one year.

Comments and Case-law

[Permanency is acquired under this Act by length of continuous residence in the homestead for a period of one year at any time under this section or by fiction of law under section 5 of the Act. This right is very important in the sense that if there is no permanency, tenant at will can be ousted at the pleasure of the landlord under the provisions of the T.P. Act as explained in AIR 1961 Pat 350.

Parcha ordered to be granted to a person who is neither a privileged person nor a privileged tenant without conducting an enquiry is illegal. *Rajeshwari Prasad Vs. State of Bihar*, 1990 (1) BLJ 112 : 1990 (1) PLJR 35 : 1989 (1) BLJR 448.

Restoration order cannot be validly passed without following the mandatory procedure laid down under Rule 5 of Bihar P.P.H.T. Rules 1948. A bare perusal of Rules 5(2) makes it clear that notice in “Form F” has to be mandatorily issued to all the parties intimating them the date on which the proposed Enquiry is going to be made and further directing them to produce all their evidence in support of or against the application. *Rajeshwar Prasad Vs. State of Bihar*, AIR 1990 Pat. 140.

Order for restoration of possession of homestead cannot be validly passed in the absence of any finding of fact in the order to the effect that the Applicants in whose favour the order of restoration was being passed were “privileged tenants” within the meaning of section 2 (j) of the Act. *ibid.*]

Petioners claimed that their rights were not included as a party in this case and they were not noticed. As the inquiry was conducted in violation of section 4 of the Act as well as Rule-5. The impugned order was quashed and the matter remanded for fresh consideration after giving proper opportunity of hearing to the parties as well as their holding enquiry in terms of procedure established under the Act and Rules. *Surydeo Yadav & ors. vs State of Bihar & ors.* 2005 (2) PLJR 28.

5. Privileged tenant ejected from homestead within one year before the date of commencement of the Bihar Privileged Persons Homestead Tenancy (Amdt.) Act, 1952 to be deemed to have held it on such date continuously

1. Subs. by Amdt. Act, 11 of 1989.

for a period of one year—(1) if any privileged tenant has been ejected by his landlord from his homestead or any part thereof, within one year before the date of the ¹[commencement of the Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1952 (Bihar Act XXIII of 1952)] otherwise than in due course of law, such tenant shall, for the purposes of section 4, be deemed to have held such homestead or part thereof, as the case may be, continuously for a period of one year before the ¹[commencement of the Bihar Privileged Persons Homestead Tenancy (Amdt.) Act, 1952] and he may apply to the Collector for the restoration of his possession over the homestead or part thereof from which he has been so ejected.

²[(2) The Collector may, on receipt of an application under sub-section (1) or on his own motion, after making such enquiry as he deems fit, order that the Privileged tenant shall be put in possession of the homestead or part thereof, from which he has been so ejected.]

Comments and Case-law

[The section applies only in cases where a privileged tenant has been ejected by his landlord from his homestead or any part thereof within one year before the commencement of the Act—section 5(1) will, therefore, be applicable only in a case where the ejection was one year prior to 7-12-1952—application u/s 5 (1) cannot be entertained in cases of ejection after 7-12-1952. *Thakur Girja Nandan Sinha Vs. State of Bihar*, 1985 PLJR 415.]

Order passed under section 6 by the Circle Officer (Collector under the Act) is final and not subject to appeal—order of Addl. Collector acting as appellate authority in this case is without jurisdiction. *Adarsh Rajkiya Madhya Vidyalay Vs. State of Bihar*, 1992(2) PLJR 242.]

6. ³[X X X]

7. ³[X X X]

8. Grounds on which a privileged tenant may be ejected—(1) A privileged tenant shall be liable to ejection on the following grounds and not otherwise, namely—

(a) on the ground that he has used the holding or any part thereof in a manner which renders the holding unfit for the purposes of the tenancy.

(b) on the ground that he has failed to pay the rent of the holding for two years :

Provided—

firstly, that no privileged tenant shall be so ejected except in execution of an order for ejection passed by the Collector ³[X X X]

secondly, that no such order passed on the ground referred to in clause (b) shall be executed, if the full amount of the arrears of rent together with interest, if any; or where there has been a decree for such arrears, the amount payable under such decree is deposited with the Collector within three months from the date on which the order was signed;

1. Subs. by Act, 23 of 1952 for "commencement of this Act".

2. Subs. by Act, 33 of 1954.

3. Deleted by Amdt. Act, 11 of 1989.

thirdly, that before executing an order for ejection, the Collector shall grant such time as he may consider reasonable to the privileged tenant for removing the materials of the building, if any, erected by the Privileged tenant on such holding or any part thereof;

²[(*fourthly*, that no privileged tenant shall be ejected unless he holds at least one-tenth of an acre, being land in the village in which his homestead is situate, which is, in the opinion of the Collector suitable for erecting a building for residential purpose.)

(2) The following shall not be deemed to render any holding unfit for the purposes of the tenancy, namely—

(a) the planting of trees and bamboos and growing of crops on a portion of the holding;

(b) the manufacture of bricks and tiles for domestic purposes of the privileged tenant and his family; and

(c) the digging of wells intended to provide supply of water for drinking or for domestic purposes of the privileged tenant and his family.

(3) & (4) ¹[X X X X]

(5) If a privileged tenant has been ejected by his landlord ⁵[or any other person] from his homestead or any part thereof, otherwise than in accordance with the provision contained in sub-section (1), then the tenant may apply to the Collector for restoration of his possession over the homestead or part thereof from which he has been so ejected.

³[(6) The Collector may on receipt of an application under sub-section (5), or on his own motion, after making such enquiry as he deems fit, order that privileged tenant shall be put in possession of the homestead or part thereof from which he has been so ejected.]

⁴[(7) If a privileged tenant is threatened with unlawful ejection from his tenancy or any portion thereof by his landlord, the Collector may, of his own motion or on application made in this behalf by the privileged tenant initiate a proceeding for preventing the landlord from ejecting the privileged tenant, and may, after hearing the parties, for which due notice shall have been given to them or even after *ex-parte* hearing in cases of emergency, by an order, giving reasons therefor in writing, restrain the landlord from ejecting the privileged tenant;

Provided that where an *ex-parte* order has been made, the Collector shall, as soon thereafter as possible, hear, the parties after giving due notice to them and may, for reasons to be recorded in writing confirm the order but, if after such hearing he finds that there is no reasonable grounds for such order he will set aside the same and reject the prayer.

(8) If the person against whom an order has been made under sub-section (6) fails to carry out the order of the Collector within such time, if any, as may be specified in the order : or if the person against whom an order has been made under sub-section (7) disobeys that order, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(9) An offence under sub-section (8) shall be cognizable for which any Police office may arrest without warrant.

1. Deleted by Amdt. Act 11 of 1989.

2. Ins. by Act 23 of 1951.

3. Ins. by Act 42 of 1951.

4. Ins. by Act. 13 of 1973.

5. Ins. by Amdt. Act, 11 of 1989.

(10) No court shall take cognizance of an offence punishable under sub-section (8) except with the previous sanction of the Collector.

Explanation—For the purpose of sub-sections (5) and (7) 'landlord' includes the person under whom the privileged tenant held his homestead prior to its acquisition by the State Government under sub-section (2) of section 17A.]

Comments and Case-law

[Once a person has been adjudged a privileged tenant, his dispossession by the landlord or any one is illegal—on dispossession Collector can make enquiry *suo motu* or on application—rules do not provide for an enquiry. *Sone Lal Sahni Vs. State of Bihar*, 1985 BBCJ Pat. 488.

Procedures laid down under the Act and the 1948 Rules framed thereunder, particularly that of Rules 5 are required to be followed, before a "Basgit Parcha" is granted to the applicant *Deoraj Thakur Vs. State of Bihar* 1993 (2) PLJR 598 : 1993 (2) BLJR 976 : 1993 (2) BLJ 298.

Basgit Parcha—The conditions precedent prescribed for grant of "Basgit Parcha" have to be fulfilled before any Basgit Parcha is granted. The grant takes away a valuable right of the concerned landlord. The procedure laid down under the Act and the 1948 Rules, framed thereunder are required to be followed. Order of Collector granting "Basgit Parcha" to a lady claimant without notice to concerned landlord or conducting an inquiry cannot be sustained. *Deoraj Thakur Vs. State of Bihar*, 1993 (2) PLJR 598 : 1993 (2) BLJR 976 : 1993 (2) BLJ 298.

Section 8 read with Rules 3 and 5 of Bihar Privileged Persons Homestead Tenancy Rules 1948—Basgit Parcha—prayer for issuance of "Basgit Parcha" allowed by Circle Officer without considering objections of land owner merely on basis of local inspection held without issuing proper notice to parties—facts alleged in writ petition challenging impugned order not controverted by Respondents—Circle Officer also not recording any finding in regard to claim of being a "Privileged Person"—order of Circle Officer not sustainable. *Deo Nandan Kishore Vs. State of Bihar*, 1994(2) PLJR 631.

Section 8 read with Rule 5 of Bihar Privileged Persons Homestead Tenancy Rules 1948—grant of "Basgit Parcha" made without Collector either conducting an enquiry or calling for any recommendation—notice also not served upon concerned landlord—by reason of grant of "Basgit Parcha" valuable right of landlord is lost—not only the condition precedent prescribed for grant of "Basgit Parcha" have to be fulfilled but procedures laid down under the Act and the Rules framed thereunder have to be followed—grant of "Basgit Parcha" not being in terms of Rule 5 of the 1948 Rules is set aside. *Deoraj Thakur Vs. State of Bihar*, 1993(2) PLJR 598.

Section 8 read with rules 3 and 5 of Bihar Privileged Persons Homestead Tenancy Rules, 1948—District Magistrate's direction to subordinate officer for giving vacant possession of homestead plot to persons to whom "Parchas", under this Act had been issued earlier—validity—since "parcha" is granted under the Act after due enquiry and notice to the parties concerned, no further enquiry is mandatory after a privileged tenant has been dispossessed by some one—the Rules laid down regarding enquiry and notices make no mention of applications made under sections 8(5) and 8(6). *Sonelal Sahni Vs. State of Bihar*, 1986 PLJR 46.

Section 8—impugned order passed on 28-5-2001—writ filed against the order on 11-7-2002—writ petition suffers from unexplained delay. *Md. Sabir Hussain Vs. State of Bihar*, 2002(4) PLJR 309.

Section 8—Basgit parcha issued after due notice to landlord in the year 1991—order never challenged and it became final—vendees (petitioners) purchased the land in 1999 and the present dispute arose—vendees have stepped into the shoes of their vendor and have purchased the property with all rights, liabilities and encumbrances—the vendor cannot pass on a higher title than what he himself had—the vendees have acquired title to the property along with encumbrances created by the effect and force of the order in the year 1991—alienation in favour of the vendees is a mala fide act to nullify the effect of the order passed in the year 1991. *M. Sabir Hussain Vs. State of Bihar*, 2002 (4) PLJR 309.]

The expression "tenancy" used in section 8(i)(a) plainly means homestead tenancy which is the sole object and purpose of the Act. This position would also be evident from section 10 of the Act that allows a privileged tenant to sublet the holding to any privileged person to use it for residential purpose and not for commercial purpose. *Rajendra Sah Vs. State of Bihar* 2006 (2) PLJR 443.

9. Restriction on transfer of privileged tenant's right—No transfer made by a privileged tenant of his right in his holding or in any portion thereof, by private sale, gift, will, mortgage, lease or any contract or agreement shall be valid to any extent except as provided in sections 10 to 17.

10. Subletting by privileged tenant—A privileged tenant may sublet his holding or any portion thereof to any privileged person to use it for residential purposes.

Comments and Case-law

[Subletting of the holding or any part of it can not be permitted for the purpose of business.]

11. Usufructuary mortgage by privileged tenant—(1) A privileged tenant may enter with any privileged person into a complete usufructuary mortgage in respect of his holding or any part thereof for any period not exceeding seven years;

Provided that the mortgage so entered into shall be registered under the Indian Registration Act, 1908 (XVI of 1908).

(2) A privileged tenant's power to mortgage, his holding or any part thereof shall be restricted only to one form of mortgage, namely, a complete usufructuary mortgage.

(3) In this section the expression complete usufructuary mortgage means a transfer by a privileged tenant of the right of possession in his holding or any part thereof and in any building erected by him thereon, for the purpose of securing the payment of money or the return of grains advanced or to be advanced by way of loan upon the condition that the loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the land during the period of the mortgage.

12. Transfer by way of private sale, gift or will to be made with permission of Collector—A privileged tenant may with the written permission of the Collector transfer his holding or any portion thereof by way of private sale, gift or will to any privileged person to use it for residential purposes.

13. Power of Collector to eject mortgagee for wilful neglect to pay rent of mortgaged land—(1) If the mortgagee of a holding or any part thereof under section 11 is legally liable to pay the rent of mortgaged property to the landlord and fails to do so, the mortgagor may deposit it with the Collector the arrears of

rent together with the costs necessary for the transmission of the same to the landlord and may apply to the Collector for the ejectment of the mortgagee and the restoration of the mortgaged property to the mortgagor.

(2) On receipt of such an application the Collector, after making such enquiry as he thinks fit, may, if he is of the opinion that the mortgagee has wilfully neglected to pay the amount of rent in arrear, eject the mortgagee and restore the mortgaged property to the mortgagor, and the mortgage shall thereupon be deemed to have terminated.

(3) The Collector shall cause to be transmitted to the landlord any sum deposited under sub-section (1).

Comments and Case-law

[Limitation has not been prescribed under this section to apply for ejectment.]

14. Transfer in contravention of section 9 not to be recognised by Courts—No transfer by a privileged tenant in contravention of the provisions of section 9 shall be registered or in any way recognised as valid by any Court, Civil, Criminal or Revenue.

15. Powers of Collector to set aside improper transfers—(1) If a transfer of his holding or any portion thereof is made by a privileged tenant in contravention of the provisions of sec. 9 and if a transferee takes possession of the holding or any portion thereof in pursuance of such transfer, the Collector may, of his own motion or on an application made in that behalf, after recording an order in writing, eject the transferee from the transferred property;

Provided that the transferee whom it is proposed to eject is given an opportunity of showing cause against the order of ejectment.

(2) (a) When the Collector has passed an order under sub-section (1), he shall pass a further order restoring the transferred property to the transferor or to his heir or legal representative.

(b) If the transferor or his heir or legal representative cannot be found within six months from the date of the order of restoration passed under clause (a) or is unwilling to take possession of the transferred property, the Collector may declare, the right of settlement of such property to be vested in the landlord;

Provided that before making such a declaration, the Collector shall grant such time as he considers reasonable to such transferor or his heir or legal representative, as the case may be for removing the materials of the building, if any, erected by him on such property.

Comments and Case-law

[Collector can on his own motion or on a petition call for the records and can re-open the matter and cancel a parcha obtained through fraudulent means and material suppression. The Act is intended to improve the lot of weaker sections of the society and provide them land so that they can have their own dwellings— instantly, the original parcha holder was not a landless person and the parcha standing in his name was rightly cancelled by Collector, after hearing his heirs who had appeared before him as a rightful owner. *Mosst. Shila Devi Vs. State of Bihar*, 2002(1) PLJR 638.]

16. Restrictions on the sale of privileged tenant's right in his holding under order of Court—Notwithstanding anything contained in this Act, no decree or order shall be passed by any Court for the sale of the right of a privileged

tenant in his holding or in any portion thereof, nor shall any such right be sold in execution of any decree or order except a decree for an arrear of rent which has accrued in respect of the holding.

Comments and Case-law

[Privileged tenant u/s. (2) (j) means a privileged person, who holds homestead land under another person, and is or but for a special contract would be liable to pay rent to that person and a privileged person as contemplated by the Act is one who is not a proprietor tenure-holder, under tenure-holder or a mahajan. Where any of these two ingredients are missing the judgement-debtor claimant would not be entitled to the benefit of Sec. 16. *Kumar Choudhary Vs. Jit Kandu*, 1963 BLJR 168.

The first prohibition is a direction to Court not to pass a decree or order for sale of a particular right of a particular class of people and this prohibition has got to be given effect to by the Court if the provisions are in force on the date, when such a decree or order is going to be passed. There is no question of applying the prohibitory provisions with retrospective effect. It was held, that the right of the mortgagee to get such a decree on the basis of his mortgage is expressly curtailed to this effect. *Shrimati Ram Peyari Devi Vs. Most. Parekha Kuer*, 1963 BLJR 40.

In *Smt. Ram Peyari Devi Vs. Most Parekha Kuer*, 1963 BLJR 40, it has been held that the right of the privileged tenant in homestead land cannot be sold in execution of decree based on mortgage executed before coming into force of this Act on a plea that the party was not a privileged tenant on the date of suit and as such bar of section 16 was not available.]

17. Stay of execution of decree—If an application for the sale of privileged tenant's right in his holding is made in execution of a decree against such privileged tenant in respect of the rent of such holding, the Court executing the decree shall allow the privileged tenant reasonable time in which to pay the amount due, and if an application is made to the Collector under sub-section (1) of section 13 before the execution of the decree, the Collector shall inform the Court that such application has been made, and the decree shall not be executed until the Collector has disposed of the application.

[17 (A). Privileged tenant having permanent tenancy in his homestead to hold it under the State Government—(1) Subject to the other provisions contained in this Act, a privileged tenant having permanent tenancy in homestead under section 4 shall hold the homestead under the State Government and the amount of rent payable to the landlord by the privileged tenant in respect of the homestead shall be payable by the privileged tenant to the State Government.

(2) The homestead which a privileged tenant holds under the State Government under sub-section (1) shall, for the purpose of payment of compensation to the landlord under whom he held it, be deemed to have been acquired by the State Government under this Act.

(3) The amount of compensation payable to the landlord by the State Government under sub-section (2) shall be ten times of the rent payable to the landlord by the privileged tenant in respect of the homestead which shall be paid to the landlord by the State Government in cash in one instalment;

Provided that where there is no contract or no valid contract between landlord and his privileged tenant as to the rent payable for the homestead or where the rent contracted is, in the opinion of the Collector unfair or inequitable, the Collector

shall settle fair and equitable rent of the homestead after making such enquiry as he may deem fit and after taking into consideration the importance of the area where such homestead is situated and the rent, if any, prevailing in that area for other similar homesteads, before the amount of compensation payable to the landlord by the State Govt. is assessed.

¹[(4) The rent settled by the Collector under the proviso to sub-section (3) shall always be in cash and take effect from such date as the Collector may fix;

(5) The rent which was payable to the State Government by the privileged tenant under sub-section (1) or the rent settled by the Collector under the proviso to sub-section (3) shall be the rent fixed in perpetuity;

(6) The Collector on his own motion, or on any information received by him that the rent fixed by the Circle Officer is not proper, may review the orders passed by the Circle Officer regarding the fixation of such rent and may pass such orders redetermining the rent, as he deems fit.

²[18. Orders under this Act to be final—The orders passed under this Act shall be final. Subject to the provisions of Section 21, all orders passed by the Collector in any proceeding under this Act shall be final, and no suit shall lie in any Civil Court to vary or set aside any such order except on the ground of fraud or want of jurisdiction.

Comments and Case-law

[Section 18 read with Rule 3 of the Board's Miscellaneous Rules—Deputy Commissioner, has no jurisdiction either to review or to revise the order passed by a Circle Officer while exercising the powers of a Collector. *Ganga Ram Bhagat Vs. Deputy Commissioner*, 1977 PLJR 246.

Sections 18 and 19—cancellation of *parcha* of petitioner without notice at the instance of respondent—not valid. *Rajendra Prasad Choudhary Vs. State of Bihar*, 1985 PLJR 163.

Section 18 r/w Section 34 of the Specific Relief Act, 1963—Plaintiff claiming possession of the suit land and denying allegations of the defendant regarding his forcible ouster—plaintiff simply seeking relief that the *parcha* issued in the name of defendant was fraudulent and inoperative—if a declaratory suit involves any consequential relief, the plaintiff must seek this consequential relief, otherwise the suit would be barred—the declaration that the *parcha* was fraudulent and issued without jurisdiction by the State authority amounted to its cancellation—neither the *parcha* was filed before the lower court nor it was proved by any documentary/oral evidence that the *parcha* was ever issued after proper enquiry regarding possession of the suit house by the defendant—appellate court justified in its opinion that suit not barred. *Ramswaroop Tanti Vs. Sadanand*, 2001(3) PLJR 713.

The order passed by Collector under the Act under section 6 is final and as laid down under Section 18, not subject to appeal. Any order passed in respect of that proceeding by the Additional Collector in purported exercise of power as Appellate Authority will be without jurisdiction and void. *Adarsha Rajkiya Madhya Vidyalaya Vs. State of Bihar*, 1992 (2) PLJR 242.]

1. Ins. by Amdt. Act 11 of 1989.
2. Subs. by Amdt. Act 11 of 1989.

Suit filed for setting aside the orders of settlement is not maintainable as it is barred U/s 18 of the Act. *Bachha Sah Vs. Manohar Thakur* 2006 (4) PLJR 102.

19. Provisions to have effect notwithstanding any other law—The provisions of this Act shall have effect notwithstanding anything contained in any other law or anything having the force of law; and anything in any such law or anything having the force of law which is inconsistent with any of the provisions of this Act, shall, to the extent of inconsistency, be deemed to have been repealed.

20. Power of the State Government to make rules—(1) The State Government may make rules not inconsistent with this Act for carrying out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules with respect to the following matters—

- (a) the form of applications under sub-section (1) of section 5, sub-section (1) of section 6, first proviso to sub-section (1) of section 8, sub-section (1) of section 13 and sub-section (1) of section 15, and the particulars to be contained in such applications;
- (b) the procedure to be followed in dealing with applications referred to in clause (a) and in inquiries about matters arising out of such applications.

Comments and Case-law

[Being piece of delegated legislation is valid. *Hamdard Dawakhana Vs. Union of India*, AIR 1960 SC 554.]

¹ [21. Power of the Collector of the District to call for and examine records—Notwithstanding anything to the contrary contained in any judgement, decree or order of any Court or authority; the Collector of the district may on his own motion or on the application of any party, or on reference being made by any subordinate authority, call for and examine record of any case decided or proceeding taken by the Collector under the Act for satisfying himself as to the regularity of the proceeding or to the correctness, legality or propriety of an order passed by the Collector under the Act in the case or proceeding, and may after, allowing the parties concerned opportunity of being heard, direct that the case or the proceeding be re-opened and disposed of afresh in accordance with the provisions of this Act.

Validity of proceeding and rights of parties in context have to be determined with reference to the date of proceeding and any amendment conferring power u/s 21 cannot be applied with retrospective effect. Section 21 have been introduced in 1989 and proceeding instantly have been concluded in 1984 it self. Power U/s 21 can not be applied retrospectively. *Om Prakash Singh Vs. State of Bihar & ors.* 2004 (2) PLJR 621.

If the collector is convinced of the illegality of the order impugned before him in appeal for cancellation of *Basgit* *parcha* then the only course open to him is to set aside the impugned order and remit the matter back to the first authority for fresh disposal. It is not open to him to pass a fresh order on the merits of the case. *Narayan Sah Vs. State of Bihar & ors.* 2004 (3) PLJR 424.

1. Ins. by Amdt. Act 11 of 1989.

The *purcha* was cancelled by the collector which was claimed to have attained its finality long before. Findings of enquiry given as that the purcha holder has violated not only the provisions of the Act but its very object and purpose. In such a situation the concern would be the conduct of the purcha holder rather than the jurisdiction of the collector. The materials on record shows that both the induction of the purcha holder on the land and the use to which he put the land amount to a fraud upon the act and subversion of its very object and purpose. It is well settled that even, if the order impugned is held to be bad or illegal the writ court may decline to exercise its discretion and let the order stand because its setting aside would lead to a situation that is equally illegal. *Rajendra Sah Vs. State of Bihar* 2006 (2) PLJR 443.

22. Power of the State Government to give directions—The State Government may, from time to time, give to the Collector of the district such directions of general or special nature as the State Government may deem fit.”

Comments and Case-law

[The Board of Revenue is vested with powers of superintendence over all Revenue Courts. This power is invokable as to both judicial and administrative functions of sub-ordinate Revenue Courts. *Surendra Pal Singh Vs. Board of Revenue*, AIR 1994 SC 1439.]

**THE BIHAR PRIVILEGED PERSONS HOMESTEAD
TENANCY (AMENDMENT) ACT, 1989 [EXTRACT]
[BIHAR ACT NO. 11, 1989]¹**

An Act

To amend The Bihar Privileged Persons Homestead Tenancy Act, 1947.

Be it enacted by the Legislature of the State of Bihar in the fortieth year of Republic of India as follows—

1. Short title—This Act may be called the Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1989.

2. Sections 2 to 9—Inserted in the Act at appropriate place.

**BIHAR PRIVILEGED PERSONS HOMESTEAD
TENANCY RULES, 1948¹**

No. 1642—IIT-11/48-R, the 23rd February, 1948—In exercise of the powers conferred by section 20 of the Bihar Privileged Persons Homestead Tenancy Act, 1947 (Bihar Act IV of 1948), the Governor of Bihar is pleased to make the following rules—

1. These rules may be called the Bihar Privileged Persons Homestead Tenancy Rules, 1948.

2. In these rules, unless there is anything repugnant in the subject or context—

(a) ‘**Act**’ means the Bihar Privileged Persons Homestead Tenancy Act, 1947 (Bihar Act IV of 1948);

(b) ‘**Section**’ means a section of the Act; and

(c) ‘**Form**’ means a form appended to these rules.

3. (a) An application to be made by a privileged tenant under sub-section (1) of sec. 5 for the restoration of his possession over the homestead shall be in Form A.

(b) An application to be made either by a landlord or by a privileged tenant under sub-section (1) of section 6 for determination of a fair and equitable rent for the holding shall be in Form B.

(c) An application to be made by a landlord under the first proviso to sub-section (1) of Section 8, for ejection of the privileged tenant shall be in Form C.

(d) An application to be made by a mortgagor under sub-section (1) of section 13 for ejection of the mortgagee shall be in Form D.

(e) An application to be made under sub-section (1) of sec. 15 for ejecting a transferee shall be in Form E.

Comments and Case-law

[Enquiry under the rules only relates to matter under sections 5 (1), 6(1), 8(1) and 15 (1). *Sona Lal Sahni Vs. State of Bihar*, 1985 BBCJ 488.]

4. On receipt of any of the application mentioned in rule 3, the Collector shall start proceedings under the relevant section to which the applications relate and deal with them in the manner provided for land revenue cases.

5. (1) The Collector shall either himself make local enquiry or have such inquiry made by any responsible officer not below the rank of a Circle Inspector or Welfare Inspector and satisfy himself as to the correctness or otherwise of the contents of such applications.

(2) The enquiring officer shall issue a notice in Form F to all the interested parties intimating the date on which the inquiry shall be made and directing parties to produce all the evidence in their possession in support of or against the application.

(3) The enquiring officer shall make a record of the evidence produced before him and, if he is not the Collector, submit his report to the Collector.

(4) The Collector shall after hearing the parties on all points arising out of the application pass such order as to him seems to be just and proper.

1. These rules were amended by Notification No. 990 R, dated 6-9-1962.

1. Published in Bihar Gazette (ext. ord.) dated 25-9-1989.

(5) The Collector shall prepare a record of homestead held by privileged tenant in Form G. The main record shall be maintained in the office of the Collector and a copy of the record bearing the signature and seal of the Collector shall be made over to the landlord and the privileged tenant.

Comments and Case-law

[The Act is securing a homestead for a privileged tenant the order passed by the Collector under the Act has been made final. This is with a view to protect the privileged tenants from the harassment of fighting litigations in courts of appeal or revision. In view of the stringent provisions of the Act which make the order of the Collector final, it becomes obligatory on the part of the Collector to adhere to the provisions of the law and strictly comply with the rules as to the mode of notice, enquiry including local enquiry etc. and record proper findings in such matters. The provisions contained in the Rules as to the method of notice and enquiry are meant as safeguards against arbitrary exercise of the wide powers conferred on the Collector under the Act. *Hira Lal Vishwakarma Vs. Vishwanath Sah*, 1978 BBCJ 623.

Initiation of proceeding necessary before passing any order under the Privileged Persons Homestead Tenancy Act. Therefore, *parchas* issued mutating the names and fixing fair rent without initiating any proceeding or without giving notice to the affected party is illegal. *Bhagrashan Rai Vs. State of Bihar*, 1979 BLJR 136.

Rule 5 envisages a local enquiry to be made. The non-compliance justifies interference by the Court in the exercise of its writ jurisdiction. *Bishundeo Choudhary Vs. State of Bihar*, 1975 BBCJ (N-3).

The S.D.O. followed the procedure laid down in rule 5, and made local inquiry personally and when he was satisfied with the correctness of the contents of the application made by the opposite party and further when he found in fact that the petitioner has ousted the opposite party from his homestead land, he decided to take action under the Act and issued notice accordingly. After hearing parties on all points he passed the impugned order. Held, that in such circumstances it could not be said that the Subdivisional Magistrate has no jurisdiction to consider the result of this local inquiry, *Ragho Singh Vs. State of Bihar*, 1957 BLJR 445 : AIR 1957 Pat. 163 : ILR 35 Pat. 1040.

Parcha ordered to be granted to a person who is neither a privileged person nor a privileged tenant without conducting an enquiry is illegal. *Rajeshwari Prasad Vs. State of Bihar*, 1990 (1) BLJ 112 : 1990 (1) PLJR 35 : 1989 (1) BLJR 448.

Circle officer granting a *parcha* in favour of a privileged tenant and thereafter reviewing his own order and granting fresh *parchas*—before a *parcha* can be issued necessary procedures have to be followed and necessary enquiries have to be made since such proceedings are quasi-judicial in nature—the circle officer has no authority to review his own order—order without jurisdiction and need to be quashed. *Latif Mian Vs. State of Bihar* 1998(2) PLJR 723.

Parcha issued by the Circle Inspector on the basis of enquiry conducted by *Halka Karmachari* without making any enquiry—not valid. *Dhaneshwar Manjhi Vs. State of Bihar*, 1998 (1) PLJR 54. *Deoraj Thakur Vs. State of Bihar*, 1993(2) PLJR 598.

Provisions of rule 5(2) are mandatory—notice in Form 'F' has to be issued to all the parties intimating them the date on which the proposed enquiry is going to be made and further directing them to produce all their evidences in support of or against the application—under rule 5(3) the enquiring officer is duty bound to make a record of the evidence produced before him and then only he has to submit his report. *Rajeshwar Prasad Vs. State of Bihar*, 1990(1) PLJR 35.

Provisions as to holding an enquiry under this Rule being mandatory, Collector's order declaring a person as a privileged person without such enquiry, must be quashed. *Hira Lal Vishwakarma Vs. Vishwanath Sah*, 1978 PLJR 398.

Where there is absence of finding about respondent being a privileged person or privileged tenant in preliminary as well as in final order and where no enquiry was made the circle Inspector himself. Impugned order of grant of purcha was incorrect and not final. Grant of purcha results in adversely affecting rights of the person to whom land belongs and it cannot be done without following procedures prescribed in law. *Om Prakash Singh Vs. State of Bihar* 2004 (2) PLJR 621.

The Anchaladhikari issued purchas to the private respondent under the Act without giving an opportunity of hearing to the petitioners in a most arbitrary manner. There is nothing on record to show the respondents being privileged persons and they had land less than one acre and no enquiry has been held. The requirements of the prescribed law not fully complied, Entire process dehors the law and not sustainable. *Yogendra Narain Jha Vs. State of Bihar* 2006 (1) PLJR 614.

As no notice was issued to the parties no record was maintained of the evidence produced in course of enquiry, no enquiry was made as to whether the person is a privileged person and he was living on the disputed land as a privileged tenant, the entire proceeding is vitiated and a purcha granted in such a proceeding is quite sustainable. *Rajendra Sah Vs. State of Bihar* 2006 (2) PLJR 443.

The issuance of basgit purcha was challenged after 20 Years by the purchasers of the original land holder on the ground that they were not noticed. It is only the original land holder who is entitled to the notice under the act. A subsequent purchaser, much after the settlement had no right to issue any notice. *Bachha Sah Vs. Manohar Thakur* 2006 (4) PLJR 102.

6. Issue of general notice to the landlords—As soon as may be after the commencement of the Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1970 (Bihar Act IX of 1970). The Collector shall publish a notice in Form "H" calling upon all the landlords of the privileged tenants whose lands are likely to be acquired by the State Government to submit a return in Form "I" within sixty days from the date of issue of the notice or within such period as may be allowed by the Collector, for payment of compensation.

7. Verification of application—The Collector on receiving the original return under rule 6 shall get it verified with reference to up-to-date rent receipts and other relevant revenue records including the record of rights maintained by the Collector, or other sources as may be considered necessary to ascertain the title and interest of the land owner concerned.

8. Determination of compensation payable to the land owners—The amount of compensation payable to the land owner shall be ten times of the rent payable to the landlord by the privileged tenant in respect of the homestead. In case where there is no valid contract between the landlord and his privileged tenant as to the rent payable for the homestead or where the rent contracted is unfair or inequitable, the Collector shall settle fair and equitable rent of the homestead under sub-section (3) of section 17-A.

9. Publication of draft compensation roll—After verification of the application of the landlord under rule 7 and determination of the amount of compensation under rule 8, the Collector shall publish the draft of the compensation roll by affixing a copy thereof together with a public notice in Form "K". The draft

compensation roll shall be published for a period of 15 days and the Collector shall also invite objection within 15 days after the expiry of the period of the publication. After the expiry of the period of filing objections, the Collector shall hear the parties on the objection and after hearing the parties he may either reject the objection, modify any entry or entries in the draft compensation roll.

10. Payment of compensation—After all objections relating to a landlord filed on publication of the draft compensation roll under rule 9 have been disposed of, the Collector shall make payment of the total amount of compensation to the landlord in one instalment and the amount of compensation shall be in cash and it shall be rounded up to the nearest five paise. No interest should be payable on the amount of compensation.

11. Payment of rent by the privileged tenant—The privileged tenants who become direct tenants of the State, shall pay rent of homestead to the Government and rent receipts shall be issued for their holding in the same manner as the rent receipts are being issued to the other tenants.

12. Proportionate reduction in the total rent demand payable by the landlord—The rent payable by the landlord to the State Government shall be proportionately reduced taking into account the area of the homestead deemed to have been acquired by the State Government.

13. Maintenance of Register—(1) The Collector shall maintain a register in Form "J".

FORM A

APPLICATION UNDER SECTION 5 (1) OF THE BIHAR PRIVILEGED PERSONS HOMESTEAD TENANCY ACT, 1947

To,

THE COLLECTOR

1. Name and address of the applicant/
privileged tenant—
Resident of
Thana
Subdivision
District
2. Name and address of landlord by
whom ejected—
Resident of
Thana
Subdivision
District
3. Details of the homestead or part
thereof from which ejected including
area and place where situated.
4. Date since when the applicant has
been holding the above homestead.
5. Date when the applicant was ejected
from the above homestead.
6. Relief prayed for

Signature of applicant.

FORM B

APPLICATION UNDER SECTION 6 (1) OF THE BIHAR PRIVILEGED PERSONS HOMESTEAD TENANCY ACT, 1947

To,

THE COLLECTOR OF

1. Name and address of the applicant—
Resident of
Thana
Subdivision
District
2. Whether the applicant is a landlord or
a privileged tenant
landlord
3. If _____ name and address
privileged tenant
landlord
of the _____ tenant concerned—
privileged tenant
Resident of
Thana
Subdivision
District

4. Details of the holding for which fair and equitable rent has to be determined including area and place situated.
5. The amount or rate of rent existing.
6. Relief prayed for

Signature of applicant.

FORM C

APPLICATION UNDER THE FIRST PROVISOR TO SECTION 8(1) OF THE BIHAR PRIVILEGED PERSONS HOMESTEAD TENANCY ACT, 1947.

To,

- THE COLLECTOR OF
1. Name and address of the landlord—
Resident of
Thana
Subdivision
District
 2. Name and address of privileged tenant—
Resident of
Thana
Subdivision
District
 3. Details (including area and situation) of the holding to be ejected from.
 4. Ground on which application for ejection is made, whether under clause (a) or (b) or both of section 8(1).
 5. If under (a) state the use made of the holding and how rendered unfit for the purposes of tenancy
 6. If under (b), state when rent paid last.
 7. Relief prayed for

Signature of applicant.

FORM D

APPLICATION UNDER SECTION 13(1) OF THE BIHAR PRIVILEGED PERSONS HOMESTEAD TENANCY ACT, 1947

To,

- THE COLLECTOR OF
1. Name and address of the mortgagor—
Resident of
Thana
Subdivision
District
 2. Name and address of the mortgagee—
Resident of
Thana
Subdivision
District

3. Name and address of the landlord—
Resident of
Thana
Subdivision
District
4. Details of the holding mortgaged—
5. Number and date of registration of mortgage under the Indian Registration Act.
6. State how mortgagee legally liable to pay rent of mortgaged property—
7. State *kist* or *kists* for which rent not paid by the mortgagee—
8. State when mortgagor deposited arrears of rent with costs with the Collector (number and date of challan to be given in each case—
9. Relief prayed for

Signature of applicant.

FORM E

APPLICATION UNDER SECTION 15(1) OF THE BIHAR PRIVILEGED PERSONS HOMESTEAD TENANCY ACT, 1947

To,

- THE COLLECTOR OF
1. Name and address of the applicant—
Resident of
Village
Thana
Subdivision
District
 2. Name and address of the privileged tenant making an improper transfer, if he is not the applicant
 3. Name and address of the transferee.
 4. State whether whole or part of the holding improperly transferred ...
 5. Nature of transfer, how it contravenes provision of section 9 (state as far as known)

Signature of applicant.

FORM F

NOTICE UNDER SUB-RULE (2) OF RULE 5 OF THE BIHAR PRIVILEGED PERSONS HOMESTEAD TENANCY RULES, 1948

To,

.....
Whereas the undersigned will hold enquiry on the spot on the
..... day of 200 regarding

an application filed by ... under*
of the Bihar Privileged Persons Homestead Tenancy Act, 1948
... you are hereby directed to appear on the above date before the undersigned with all the evidence in your possession in support of, or against the applicant.

Date _____ Enquiring Officer _____
Note—The serving peon shall unite his service report and, if possible obtain signature or thumb impression of a witness of the village where the notice is served.

FORM G

RECORD OF HOMESTEAD UNDER SUB-RULE (5) OF RULE 5 OF THE BIHAR PRIVILEGED PERSONS HOMESTEAD TENANCY RULES, 1948

Name of Village ... Thana no.
Anchal ... Thana ... P.O.
Name of the owner of the land (with full particulars).

Name of tenant (with parentage, full address and shares).	Khata no.	Khesra no.	Area.	Boundary	Nature of land	Fair rent fixed by the Collector	Status (Kaiyami or Shikmi dakhalkar).	Case no. Under Section of the Bihar Privileged Persons Homestead Tenancy Act.	Remarks.
1	2	3	4	5	6	7	8	9	10

N
S
E
W] Collector.

*Here state the provisions of the Act.
Here state the purpose for which application is made.

FORM H

GENERAL NOTICE.

Form of the General Notice to be published under section 17A calling upon the landlord whose lands are deemed to be acquired by the State.
For publication at village ... P.S. Thana
... Thana No.

1. Forms H to K inserted by G.S.R. 22, dated 25-2-1971.

Notice is hereby publicly given to all land holders that the portion of their lands which is in occupation by the privileged tenant has been acquired by the State Government on payment of compensation at the prescribed rate under section 17A of the Bihar Privileged Persons Homestead Tenancy Act, 1947 and the same may be treated as settled with the privileged tenant for homestead purposes.

Now all the landholders are informed that they should file an application in Form "I" to the Collector within sixty days from the issue of the notice for payment of compensation.

Date ...
Office Seal _____ Signature of the Collector under the Act.

FORM I

FORM OF APPLICATION TO BE FILED BY THE LAND HOLDERS FOR PAYMENT OF COMPENSATION

To.
The Collector (Under the Act)
Sir,

Whereas after the commencement of the Bihar Privileged Persons Homestead Tenancy (Amendment) Act, 1970 my ...
... Khatas ... Dhurs ... Dismal ...
... of land has been acquired by the State Government.

Now, therefore, I (Name) ... Land-holder/
guardian of the land-holder (Name) ... who is a minor,
a resident of village ... P.S. ... district ...
hereby submit to you, the following information for payment of compensation and apportionment of rent of my holding—

- (1) name and address of the privileged tenants whose rights have been recorded under the B.P.P.H. T. Act.
- (2) Total area of the entire land—
- (3) Area of the land recorded in the favour of tenant—
- (4) Total rent payable to Government—
- (5) Amount of rent, payable by privileged tenant ...
- (6) Share of each of the land owners, if there be more than one owner, in the land.

Date _____ Signature of the land-holder/guardian of the minor land-holder with full address.

FORM J

FORM OF REGISTER TO BE MAINTAINED BY THE COLLECTOR UNDER THE ACT

1. Serial no.
2. Name of the land-holder with full address.
3. Name of the privileged tenant and his full address.
4. Location and description of homestead land in respect of which compensation has been paid—

- (1) Name of Village—
- (2) Khata no.—
- (3) Plot no.—
- (4) Area—
5. (1) Rent to be paid by the land holder after acquisition of homestead tenancy by Government.
- (2) Rent payable by the privileged tenant—
6. Amount of compensation paid—
7. Remarks—

FORM K**PUBLIC NOTICE**

To whomsoever it may concern

Whereas the amount of compensation payable in respect of landlord's interest mentioned in the draft compensation roll attached herewith has been determined.

And whereas the amount of compensation specified in the said draft compensation roll is the entire amount of compensation payable in respect of the interest of landlord of the land on which the privileged tenants are situated.

Therefore, it is notified for general information that objection, if any, in respect of any entry in the draft compensation roll may be filed by the landlord or any person in my court on or before

Given in my hand and seal of the Court this day, the 200 ...

Collector under the Act.

State Government Decisions

Regarding—Amendment to the rules framed under the Bihar Privileged Persons Homestead Tenancy Act, 1947—Recording of right to Privileged tenant.

Rule 5 of the Bihar Privileged Persons Homestead Tenancy Rules, 1948, published with Bihar Government notification No. 1142-1 [T11/48-R, dated the 23rd February, 1948, has been amended vide Government notification No. A/T-1024/65—6969-R, dated the 6th September, 1965. A copy of this notification has been published in extraordinary issue of the *Bihar Gazette*, dated the 9th September, 1965.

2. The intention of this amendment is explained below—

- (i) Under sub-rule 5 power to hold local enquiry was with the Collector or an officer not below the rank of Sub-Deputy Collector, deputed by the Collector for the purpose. In the amended rule the words "Sub-Deputy Collectors", have been replaced by "Circle Inspector", or "Welfare Inspector". The enquiry can now be entrusted to a Circle Inspector or Welfare Inspector and this will expedite disposal of the cases. The officers exercising the power of Collectors are, however, expected to check up carefully report of their field staff before passing orders.

1. Vide Memo No. AIT-2024/65—7585 R, dated 23-11-1965.

- (ii) After sub-rule (1) of rule 5, a new sub-rule has been inserted. Under the new sub-rule, the Collector is required to prepare a record of homestead held by a privileged tenant in Form 'G' (parcha). This Parcha will be prepared in triplicate in each case. The original will be kept with the record in the office of the Collector, duplicate thereof, with the signature and seal of the Collector, shall be made over to the landlord and the third copy delivered to the privileged tenant. This Parcha will enable the privileged tenant to protect himself from any harassment or litigation. This Parcha in Form 'G' will be used for Form No. 35 indicated in para 11] (4) (iii) of the printed instructions issued with the Department letter No. 6064 LR, dated the 3rd July, 1965, relating to the Second Special Drive.

3. Government are dissatisfied with the progress of recording of the privileged tenants inspite of repeated directions. They desire that privileged tenants should not be made to run to the Camps or Anchals for getting their tenancies recorded. As already explained in the printed circulars regarding Second Special Drive, it is not necessary to start individual cases for recording of the privileged tenants. The field staff should move in the village and note the details of the privileged tenancy in Form no. 26. It has been considered necessary to amend Form 26 to enable the details required for filling up Form 'G' during field enquiry. A revised Form 26 is annexed which will replace the existing Form 26 of the Special Drive.

4. The names of the privileged tenants with their parentage, full address and shares should be noted in column 2. Khata no. or Batta Khata no. should be noted in column 3 and Khesra no. or Batta Khesra no. should be noted in column

4. The area of the entire homestead including the building with 'Sahan' and 'Bari' apportioned thereto shall be noted in column 5. In column 6 should be noted the names of the privileged raiyats holding lands to the north and south of the plot to enable the tenancy to be identified. The classification to the land accepted during the last Settlement Operations shall be noted in column 7. The status of the tenant should be noted in column 9. If a privileged tenant has been illegally dispossessed, his name with other details should be entered in the appropriate column and the names of persons in illegal occupation noted in the remarks column (column 12) with the year from which the illegal occupation started, e.g.

These details will enable the Collector to institute *sou motu* cases for restoration under section 5 of the Act.

5. The rent of the land held by the privileged tenant should be determined simultaneously. It may be mentioned that under section 4 of the Bihar Privileged Persons Homestead Tenancy Act 1947 a privileged tenant has the permanent tenancy in homestead held by him subject to payment of such rent as may be agreed upon between him and the landlord, or as may be fixed by the Collector under the provision of section 6 of the Act. The determination of the rent even where there is no objection should be done by the Anchal Adhikari or the Revenue Officer, possibly but in no case it should be left to an officer below the rank of Circle Inspector. If the rent is not disputed the amount should be entered in column 8 of Form no. 26 in the pen of and under the dated initial of the Circle Inspector or the Anchal Adhikari.

6. In case where there is no contract or valid contract between the landlord and the privileged tenant as to rent payable for the holding or where the rent is alleged to be unfair or inequitable, the Collector may settle a fair and equitable rent for such holding either on an application filed either by the privileged tenant or the landlord or on his own motion. In setting such fair and equitable rent the Collector may make such enquiry as he deems fit and take into consideration the importance of the area where such holding is situated and the rents, if any, prevailing in the area for other similar holding. It will be necessary to start individual case records for fixation of rent under section 6 of the Act. The Collector will also have to hear the parties before passing orders. The cases should be heard personally by the Anchal Adhikaris invariably in the Campus either in the village or near about to avoid hardships to the tenants. The fair and equitable rent determined under section 6 should be noted in column 8 of Form 26 by the Anchal Adhikari, in his own pen. If no rent is paid for the holding the entry in this column should be (Belagan, Kabil-lagan or Belagan). The case number under which the rent is fixed or the rights determined should be noted in column 10.

7. Cases for restoration of pension should be instituted in the Anchal Office by the Collector *suo motu* on the basis of the information regarding dispossession available from Form 26. According to section 5(2) of the Act the Collector has the power, after making such enquiry as he deems fit to put privileged tenant in possession of the homestead or part thereof from which he has been so ejected. The Collector, of course has to hear both the parties before passing orders. These cases also should be tried in Camp Courts as far as practicable.

8. After the completion of Form 26 the Anchal Adhikari or the Revenue Officer should take up Bujharat of the entries of privileged persons in suitable Camps, the previous intimation of the dates of Bujharat should be sent to the villagers and to the Panchayats concerned well in advance. Steps should be taken to see that the privileged persons get sufficient prior notice of the dates. It may be useful to take the signature or L.T.I. of the privileged persons on the notice. The entries in Form 25 should be read out and explained to the privileged tenants and the representatives of the land lords, if present. The clerical mistake may be corrected by the Anchal Adhikari, initialled and dated. Dispute, if any, should be entered in the dispute list and decided immediately and the entries in Form 26 corrected on the basis of the decision.

9. The Anchal Adhikari or Revenue Officers should make a note in his own pen that the entries have been explained to the privileged tenants. The Parcha Form (Form G) should thereafter be filled up in triplicate in ink. The entries should be compared by Circle Inspector who will initial them in token of correctness. The rent column should be filled by the Anchal Adhikari or the Revenue Officer in his own pen. The Anchal Adhikari will thereafter sign the form and put his seal. A copy of the Parcha Form should be handed over to the privileged tenant and a copy to the landlord or his representative. The initials, signatures or thumb marks of the privileged tenant and the representative of the landlord should be taken in column 11 of Form no. 26 in token of their having received the copy of the Parcha.

10. A list of privileged tenants together with requisite details in Form no. 26 should also be given to the local Gram Panchayats for their information and record.

[FORM No. 26 (REVISED)]

Sl. No.	Name of village with Thana No.		Area (in acres)	Boundary	Nature of land	Fair rent fixed by the Collector	Status (Khayami or Sikmi or Dakhiikar)	Case No.... under sec.... of the Bihar Privileged Persons Homestead Tenancy Act	Signature or L.T.I. of recipient	Remarks	
	Khewat/ Batta Khewat No.	Khesra/ Batta Khesra No.									
1	2	3	4	5	6	7	8	9	10	11	12

ANNEXURE 'A'

LIST OF SCHEDULED TRIBES, SCHEDULED CASTES AND
BACKWARD CLASSES, IN BIHAR
SCHEDULE

List of scheduled tribes, scheduled castes as specified in Part II of the Schedule to the Constitution (Scheduled Tribe Order 1950) and (Scheduled Castes Order, 1950) as amended by Scheduled Castes and Scheduled Tribes (Amendment) Act, 1956 (Act 63 of 1956), vide also Scheduled Castes and Scheduled Tribes Orders, Scheduled Tribes Lists (Modification) Order, 1956, Bihar Gazette at page 111, dated 21-5-1957.

List of Scheduled Tribes

(1) Asur, (2) Baininga, (3) Bajara, (4) Bathudi, (5) Binjhia, (6) Binhere (7) Bedia, (8) Birjia, (9) Chiro, (10) Chik Baraik, (11) Gond, (12) Gorait, (13) Ho, (14) Karmali, (15) Kharia, (16) Kherwar, (17) Khond, (18) Kisan, (19) Kora, (20) Karwa, (21) Lohara or Lohra, (22) Mahli, (23) Mal Paharia, (24) Munda, (25) Oraon, (26) Parhaiya, (27) Santhal, (28) Sauria Paharia, (29) Savar,

In the districts of Ranchi, Singhbhum, Hazaribagh, Santhal Parganas and Manbhum "Bhumij".

Note—Any reference to a district or other territorial division of the State shall be construed as a reference to the district or the other territorial division as existing on 26th January, 1950.

List of Scheduled Castes

1. Throughout the State of Bihar—

(1) Bauri, (2) Bantar, (3) Bhogta, (4) Chamar or Mochi, (5) Chaupal, (6) Dhobi, (7) Dom or Danger, (8) Dusadh, Dhari or Dharhi, (9) Ghasi, (10) Halalkhor, (11) Hari, Mehtar or Bhanghi, (12) Kanjar, (13) Kuriar, (14) Lalbegi, (15) Dabgar, (16) Mushar, (17) Nat, (18) Pan or Sawasi, (19) Pasi, (20) Rajwar, (21) Turi.

2. In Palamau district "Bhumij" and "Bhuiyan".

List of Backward Classes.

(Vide Notification No./T. 3043/61-5423-R, dated 23d June, 1962 under section 40 (b) of C.N.T. Act which was published at Page 971 (Part II) of Bihar Gazette, dated 18-7-1962)

Caste and classes	Area in which recognised
1. Bari	Throughout the State of Bihar
2. Banapar	"
3. Bediya	"
4. Beidar	"
5. Bhatiara	"
6. Bherihar (including Gareri)	"
7. Bind	"
8. Chik (Muslim)	"
9. Dafali (Muslim)	"
10. Dhanuk	"

Caste and classes	Area in which recognised
11. Dhobi (Muslim)	"
12. Gorhi (including Chhabi)	"
13. Hajam	"
14. Kahar	"
15. Kasab (Kasai-Muslim)	"
16. Kewat (Keut)	"
17. Khatik	"
18. Mali (Malakar)	"
19. Dhunia (Muslim)	"
20. Mallah (including Surahiya)	"
21. Madari (Muslim)	"
22. Mehtar, Lalbegi, Halalkhor and Bhanghi (Muslim)	"
23. Miri asin (Muslim)	"
24. Nat (Muslim)	"
25. Noniya	"
26. Pamaria (Muslim)	"
27. Shekhara	"
28. Tanti (Tantwa)	"
29. Turhas	Chotanagpur Division
30. Bhar	"
31. Bhuinhar	"
32. Dhanwar	"
33. Gulgulia	"
34. Kwar	"
35. Khetauri	"
36. Kurmi (Mahto)	"
37. Majhwar	"
38. Malar (Malhor)	"
39. Pradhan	"
40. Tamaria	"
41. Bhuiyan	Throughout Chotanagpur excepting the district of Palamau
42. Agarea	Latehar and Gumla Sub-division
43. Bagdi	District of Dhanbad
44. Bhas Aar	District of Palamau
45. Kaibarta	District of Dhanbad
46. Karora	District of Singhbhum
47. Maulik	District of Dhanbad
48. Bahira	District of Dhanbad and Ranchi
49. Pando	District of Ranchi
50. Pangani	District of Ranchi
51. Saunta (Sauta)	District of Singhbhum

ANNEXURE 'B'

The Constitution (Scheduled Caste) Order, 1950 [C.O. 19]
 (Published with Ministry of Law Notification No. S.R.O. 385, dated the 10th August, 1950, Gazette of India, Extra-Ordinary, 1950, Part II, Section 3, Page 163.)
Part III

1. *Throughout the State—*
 Bantar, Bauri, Bhogte, Chamar or Mochi Chaupal, Dabgar, Dhobi, Dom or Dhangad, Dusadh including Dhari or Dharhi, Ghasi, Halalkhor, Hari, Mehtar or Bhangi, Kanjari, Kurariar, Lalbegi, Musahar, Nat, Pan or Sawasi, Pasi, Rajwar, Turi.
2. *In Patna and Tirhut Division and the district of Monghyr, Bhagalpur, Palamau and Purnea—*
 Bhumij.
3. *In Patna, Shahabad, Gaya and Palamau districts—*
 Bhuiyan.

The Constitution (Scheduled Tribes) Order, 1950 [C.O. 22]
 (Published with the Ministry of Law Notification No. S.R.O. 510, dated the 6th September, 1950. Gazette of India, Extra-ordinary, 1950, Part II, Section 3, Page 597.)

For list see Page
List of Socially and educationally backward classes of citizens in Bihar under the B.T. Act, 1885.

Notification No. A/T—1015/55-1091 R. dated 7th February, 1956—In exercise of the powers conferred by Explanation (3) to section 49B of the Bihar Tenancy Act, 1885 (VIII of 1885) the Governor of Bihar is pleased to declare the classes of citizens in column 1 of the schedule below, who are residents of the areas specified in column 2 thereof, to be socially and educationally backward.

SCHEDULE

Classes of citizens	Area
1. Bari	Throughout the State
2. Banapar	"
3. Bidya	"
4. Bellar	"
5. Bhatiara (Muslim)	"
6. Bherihar (Includes Gareri)	"
7. Bind	"
8. Chik (Muslim)	"
9. Dafali (Muslim)	"
10. Dharuk	"
11. Dhobi (Professing the Muslim Religion)	"
12. Gorhi (including Chhabi)	"
13. Hazam	"
14. Kahar	"
15. Kassab (Kasai Muslim)	"
16. Kewat (Keut)	"
17. Khatik	"

Classes of citizens	Area
18. Mali (Malakar)	"
19. Dhunia (Muslim)	"
20. Mallah (including Surahiya)	"
21. Madari (Muslim)	"
22. Mehtar, Lalbegis, halalkhors and Bhangis (Professing the Muslim religion)	"
23. Miriasin (Muslim)	"
24. Nat (Muslim)	"
25. Noniya	"
26. Pamaria (Muslim)	"
27. Sheikhra	"
28. Talties (Tantwa)	"
29. Turhas	District of Purnea
30. Abdal	Patna and Tirhut Division
31. Aghori	Patna and Tirhut Division
32. Bhuiyas	Tirhut and Bhagalpur Division
33. Chain	North and South Bihar
34. Dhamin	North Bihar
35. Dhimar	Dist. of Darbhanga
36. Gandharb	North Bihar & Bhagalpur
37. Gangai (Ganesh)	Kishanganj Subdivision
38. Gangauta (Gantota)	Bhagalpur Division
39. Kadar	Kishanganj Subdivision
40. Kaibartha	Nawadah & Siwan Subdivision
41. Kalandar	North Bihar
42. Khatwe	Dist. of Purnea
43. Kochh	Bhabhua Subdivision
44. Korku	Dist. of Champaran
45. Mangar (Magar)	Dist. of Darbhanga
46. Madara	Dist. of Gaya
47. Muriari	Kishanganj Subdivision
48. Namsundra	Bhagalpur Division
49. Naiya	Dist. of Champaran
50. Tharu	Bhagalpur Division
51. Tiar	Bhagalpur Division

***Subject—Providing a minimum area of 2 decimals of homestead to privileged persons.**

I am directed to refer to this Department letter no. 6561-LR, dated the 24th July, 1970 in which it was clarified that the provisions of the Bihar Privileged Persons Homestead Tenancy Act, 1947 did not apply to either Gairmazrua Khas or Gairmazrua Aam lands. It was explained that where a privileged person had his homestead on Gairmazrua Khas land, his possession should be recognised and normal settlement made by the competent authority. In case of Gairmazrua Aam land, if such land has lost its Aam character and it is not used for community purposes, it had been explained that proposals for settlement of land with the privileged persons should be forwarded to Government.

2. In this Department letter no. 6780-LR, dated the 29th July 1970, attention was drawn to the definition of "Homestead" given in clause (d) of section 2 of the B.P.P.H.T. Act, 1947. The direction given in that letter was that in all cases where *Sahan* and *Bari* have been left out, these should be re-opened *suo moto* by the Anchal Adhikari, on application, and that steps should be taken for recording *Bari* and *Sahan*, in addition to the house and to distribute revised parchas to the privileged tenants.

3. Government regret to say that neither proposals for settlement of Gairmazrua Khas land for homestead purposes with privileged persons who do not belong to Scheduled Castes, Scheduled Tribes and the Backward Classes (Annexure I) nor for settling Gairmazrua Aam land with privileged persons have been received for their orders. Though action has been taken by Anchal Adhikaris to record *Bari* and *Sahan* yet the progress made in this direction is also inadequate.

4. Government are of the view that no privileged persons should have a homestead which is less in area than 2 decimals. Where the area at present shown on the parcha given to the privileged tenant is less than 2 decimals, Government desire that the following steps should be taken—

- (a) Inclusion of the areas of *Bari* and *Sahan* in the parcha where such area had been left out;
- (b) if Gairmazrua Khas land is available immediately adjacent to the homestead, settlement of requisite additional area with the privileged tenant. In case of Scheduled Castes, Scheduled Tribes, Backward Classes (Annexure I) and other entitled categories, such settlement will be made by the competent authority. In the case of others proposals will have to be forwarded with necessary details to Government for sanctioning the settlement.
- (c) Where Gairmazrua Aam land is available immediately adjacent to the homestead for which the parcha had already been given, settlement of requisite additional area with the privileged tenant. It is, however, emphasised that such settlement will be made only if the land has lost its Aam character and is no more used for community purposes and that proposals for settlement will have to be sent to Government for approval;
- (d) Where neither Gairmazrua Khas nor Gairmazrua Aam land is available immediately adjacent to the homestead of the privileged tenant, action will be necessary to acquire the additional area. It may, however, be

emphasised that the minimum area to be settled or acquired under (b), (c) or (d) above will be one decimal. Similarly action under (b), (c) or (d) will be taken if even after action under (a), the privileged tenants still continues to have an area of less than 2 decimals for his homestead.

5. In order to enable the Anchal Adhikaries to ascertain the cases in which action under the previous paragraph will be necessary, they will have to scrutinise all the records relating to the distribution of parchas to privileged tenants in their office and sort out those cases in which the area shown in the Parcha is less than 2 decimals. Thereafter local inspection will have to be made and action under (a) of the previous paragraph should be completed. Details of proposals for action under (b), (c) or (d) of the previous paragraph will then be submitted to the Additional Collectors through the Subdivisional Officers.

6. Action may be initiated immediately for the scrutiny of the records to ascertain the cases where the homesteads at present recorded have an area less than 2 decimals. The services of the Halka Karamcharis could be utilised for this purpose. It is anticipated that the average number of privileged tenants in a Halka will be around hundred and hence it should be possible for the Karamcharis to scrutinise the records and pickout the names of the privileged tenants with homesteads less than 2 decimals in area, within two days. Anchal Adhikaris should chalk out a programme for field inquiries by the Karamcharis taking into account the number of illages to be visited by the Karamcharies in their Halkas.

Circle Inspectors should frame four programmes, to synchronise with those of the Halka Karamcharis and should collect from them particulars of cases where *Bari* or *Sahan* has not been recorded. These should be verified by the Circle inspectors who should cover every halka under their charge in a cycle of 7 to 10 days and bring all these cases to the headquarters, where the Anchal Adhikaris will record orders for inclusion of the area of *Bari* or *Sahan* in the parchas already issued to the homestead tenants.

7. Where settlement of either Gairmazrua Khas or Gairmazrua Aam land has to be made, the procedure for inquiry and further action will be as communicated by the Revenue Department in their circulars issued on the subject from time to time. Cases requiring Government sanction should not, however, be sent piecemeal but should be forwarded to the Revenue Department so as to cover, in one proposal, all the privileged tenants in an Anchal.

8. Cases where acquisition of land is necessary will have to be personally inquired into by the Anchal Adhikaris who may get necessary maps prepared for acquisition, with the help of the Anchal Amin. Proposals for land acquisition will have to be sent to this Department with an estimate regarding the likely cost of acquisition. The proposals should not involve the acquisition of land of the categories, the acquisition of which is not permitted normally by the Government.

9. Copies of this letter are being forwarded to Subdivisional Officers, Anchal Adhikaris, etc. The receipt of this letter may kindly be acknowledged and a copy of the instructions issued by you on this subject to your subordinate officers may also kindly be sent to Government for information. [*Letter No. 5LR-232/71—5805—R, dated 16-8-1971]

*विषय : विशेषाधिकार प्राप्त (Privileged persons) व्यक्तियों के साथ गैरमजरुआ, मालिक एवं गैरमजरुआ आम जमीन की बन्दोबस्ती करने के निमित्त अनुमंडल पदाधिकारियों को शक्ति प्रदान करना ।

राजस्व विभागीय पत्रांक 5-एस०आर०-एल०ए०-211/70-6561 एल०आर०, दिनांक 24-10-1970 के क्रम में निदेशानुसार मुझे कहना है कि जमींदारी उन्मूलन के फलस्वरूप देहाती क्षेत्रों में कृषि योग्य बंजर भूमि एवं अन्य भूमि जो सरकार में निहित हो गयी है उसकी बन्दोबस्ती में निम्नांकित वर्ग के लोगों को प्राथमिकता दी जाती है :-

- (क) अनुसूचित जाति
- (ख) अनुसूचित जनजाति
- (ग) पिछड़ा वर्ग (सूची-1)
- (घ) कार्यरत सैनिक तथा वैसे सैनिक के परिवार जो युद्ध में वीरगति प्राप्त किये हों तथा
- (ङ) पूर्वी पाकिस्तान एवं बर्मा से आये हुए वे शरणार्थी जो 2 जनवरी, 1964 को या उसके बाद भारत में आये हों ।

उपर्युक्त (घ) को छोड़कर शेष वर्गों के लोगों के साथ जमीन बन्दोबस्ती करने की शक्ति प्रत्येक अनुमंडल पदाधिकारी को प्रदत्त है । (घ) में वर्णित लोगों के साथ जमीन बन्दोबस्ती करने में जिला के समाहर्ता सक्षम हैं ।

2. बिहार प्रिभिलेज्ड परसन्स होमस्टीड टेनेन्सी ऐक्ट के अन्तर्गत विशेषाधिकार प्राप्त व्यक्तियों को वास का पर्चा देने के दौरान यह पाया गया कि बहुत से ऐसे व्यक्ति हैं जिन लोगों ने गैरमजरुआ खास, मालिक या गैरमजरुआ आम जमीन पर भी मकान बना लिया है, उन्हें बिहार प्रिभिलेज्ड परसन्स होमस्टीड टेनेन्सी ऐक्ट के अन्तर्गत बन्दोबस्ती का पर्चा देना संभव नहीं है, क्योंकि उक्त अधिनियम सरकार में निहित जमीन पर लागू ही नहीं होता है । इसके निमित्त एक ही उपाय है कि उस जमीन की बन्दोबस्ती वैसे लोगों के साथ कर दी जाये । अनुसूचित जाति/अनुसूचित जन-जाति, पिछड़े वर्ग सूची-1 इत्यादि के अंतर्गत आने वाले विशेषाधिकार प्राप्त व्यक्तियों के साथ बन्दोबस्ती सम्प्रति प्रदत्त शक्तियों के अन्तर्गत स्थानीय पदाधिकारी (अनुमंडल अधिकारी/समाहर्ता) कर सकते हैं, परन्तु अन्य श्रेणी के विशेषाधिकार प्राप्त व्यक्ति के साथ सरकार द्वारा ही बन्दोबस्ती की जा सकती है । परन्तु इस प्रक्रिया में काफी श्रम/समय लगेगी । अतः सरकार ने पूर्ण विचार विमर्श के बाद विशेषाधिकार प्राप्त व्यक्तियों के साथ जमीन बन्दोबस्ती के लिए निम्न प्रकार शक्तियाँ प्रदत्त करने का निर्णय लिया है :-

(क) जिन गैरमजरुआ खास एवं मालिक जमीन पर विशेषाधिकार प्राप्त व्यक्ति का मकान बना हुआ है, उसकी बन्दोबस्ती उक्त व्यक्ति के साथ कर दी जाये । ऐसी बन्दोबस्ती करने की शक्ति सभी अनुमंडल पदाधिकारियों को प्रदत्त की जाती है ।

(ख) बन्दोबस्ती के दौरान घर एवं सहन की जमीन पर अगर 12.5 डिसिमिल से फाजिल हो तो उसकी बन्दोबस्ती में सरकार के आदेश की आवश्यकता होगी ।

(ग) ऐसी बन्दोबस्ती में विशेषाधिकार प्राप्त व्यक्तियों से 12.5 डिसिमिल तक जमीन के लिए कोई सलामी नहीं ली जायेगी ।

(घ) विशेषाधिकार प्राप्त व्यक्तियों के साथ गैरमजरुआ आम जमीन की बन्दोबस्ती उसी हालत में की जायेगी, जबकि जमीन की प्रकृति बदल गयी हो और आम जनता के उपयोग में नहीं हो । परन्तु आम जमीन की बन्दोबस्ती करने के पहले आम इस्तेहार द्वारा जनता को सूचित करना होगा ताकि कोई भी इस प्रस्ताव के विरुद्ध शक्ति दे सकेंगे । अगर वह जमीन आपत्ति रहित होगी, तब ही उसकी बन्दोबस्ती की जायेगी । विशेषाधिकार प्राप्त व्यक्तियों के साथ गैरमजरुआ/आम जमीन की बन्दोबस्ती (मकान के लिए) अनुमंडल पदाधिकारियों को ही रहेगा । पत्र प्रेषित होने की तिथि से ही आदेश लागू समझा जायेगा ।
खा०म० नीति 109/71-2034 रा०, दिनांक 3-5-1971 ।]

बिहार पदों एवं सेवाओं की रिक्तियों में आरक्षण की अद्यतन सूची [दिनांक 25-3-2010 तक संशोधित]

[बिहार सरकार, कार्मिक एवं प्रशासनिक सुधार विभाग, पत्रांक-11/वि०2-पि०व०आ०-06/2005 का० 7414, दिनांक 12-11-2008 की प्रतिलिपि ।] प्रेषक, सरयुग प्रसाद, सरकार के उप सचिव । सेवा में, सभी आयुक्त एवं सचिव/सभी प्रमण्डलीय आयुक्त/सभी जिला पदाधिकारी/सचिव, बिहार लोक सेवा आयोग, पटना/सचिव, कर्मचारी चयन आयोग, पटना/परीक्षा नियंत्रक, बिहार संयुक्त प्रवेश प्रतियोगिता परीक्षा पर्वद, पटना/सदस्य सचिव, पिछड़े वर्गों के लिए राज्य आयोग, पटना/सचिव अति पिछड़े वर्गों के लिए राज्य आयोग बिहार, पटना/सचिव, राज्य महादलित आयोग, पटना ।

विषय-बिहार पदों एवं सेवाओं की रिक्तियों में आरक्षण (अनुसूचित जातियों/अनुसूचित जनजातियों एवं अन्य पिछड़े वर्गों के लिए) अधिनियम-1991 बिहार अधिनियम-3/1992 की अत्यन्त पिछड़े वर्गों की सूची (अनुसूची-1) एवं पिछड़े वर्गों की सूची (अनुसूची-2) का सम्प्रेषण ।

निदेशानुसार उपर्युक्त विषय के संबंध में कहना है कि कार्मिक एवं प्रशासनिक सुधार विभाग के पत्रांक-1800, दिनांक 01-09-2005 द्वारा राज्य के अत्यन्त पिछड़े वर्गों एवं पिछड़े वर्गों की सूची परिचालित की गई थी । कालक्रम से बिहार अधिनियम-3/1992 में अधिसूचित अत्यन्त पिछड़े वर्गों एवं पिछड़े वर्गों की सूची में संशोधन किया जाता रहा है, जिसे जन साधारण की जानकारी के लिए पुनः परिचालित किये जाने की आवश्यकता महसूस की गई है ।

2. उक्त परिप्रेक्ष्य में बिहार अधिनियम-3, 1992 के अन्तर्गत अत्यन्त पिछड़े वर्गों की सूची (अनुसूची-1) एवं पिछड़े वर्गों की सूची (अनुसूची-2) की अद्यतन सूची सुलभ प्रसंग हेतु प्रेषित की जा रही है ।

3. अनुरोध है कि इसे अधीनस्थ कार्यालयों/पदाधिकारियों के बीच परिचालित कर दिया जाय, ताकि संबंधित व्यक्तियों को जाति प्रमाण-पत्र प्राप्त करने में कोई असुविधा न हो । परन्तु किसी जाति विशेष के संबंध में संदेह होने पर मूल अधिनियम एवं संकल्प की प्रविष्टि का संदर्भ लिया जाए ।

अत्यन्त पिछड़े वर्गों की सूची

[कृपया देखें धारा 2 (ज)]

अनुसूची-1

1. कपरिया	19. खतवे	38. धानुक
2. कानू/हलवाई	20. (विलोपित)	39. धामिन
3. (विलोपित)	21. गोड़ी (छावी)	40. धीमर
4. कलन्दर	22. गंगाई (नगेश)	41. धनवार
5. कोछ	23. गंगोता	42. नोनिया
6. कुर्मी (महतो) झारखंड स्वशासी क्षेत्र	24. विलोपित	43. नइया
7. केवट (कउट)	25. गंधर्व	44. नाई
8. कादर	26. गुलगुलिया	45. नामशुद्र
9. कोरा	27. विलोपित	46. पाण्डी
10. कोरकू	28. चांय	47. पाल (भेड़िहार, गड़ेरी)
11. केवर्त	29. चपोता	48. प्रधान
12. (विलोपित)	30. चन्द्रवंशी (कहार, कमकर)	49. पिनगनिया
13. खटवा	31. टिकुलहार	50. पहिरा
14. (विलोपित)	32. ढेकारू	51. वारी
15. खतौरी	33. तांती (ततवा)	52. बेलदार
16. खंगर	34. तमरिया	53. बिन्द
17. खटिक	35. तुरहा	54. (विलोपित)
18. खेलटा	36. तियर	55. सेखड़ा
	37. (विलोपित)	56. बागदी

57. भुईयार	78. अधारी	97. प्रजापति (कुम्हार)
58. भार	79. अबदल	98. राईन या कुंजरा (मुस्लिम)
59. (विलोपित)	80. कसाब (कसाई) (मुस्लिम)	99. सोयर
60. भास्कर	81. चीक (मुस्लिम)	100. ठकुराई (मुस्लिम)
61. माली (मालाकार)	82. डफाली (मुस्लिम)	101. नागर
62. मांगर	83. धुनिया (मुस्लिम)	102. शेरशाहबादी
63. मदार	84. धोबी (मुस्लिम)	103. बक्खो (मुस्लिम)
64. मल्लाह	85. नट (मुस्लिम)	104. अदरखी
65. मझवार	86. पमरिया (मुस्लिम)	105. छीपी
66. मारकन्डे	87. भठियारा (मुस्लिम)	106. तिली
67. मोरियारी	88. भाट (मुस्लिम)	107. इदरीसी या दर्जी (मुस्लिम)
68. मलार (पालहोर)	89. मेहतर, लालबेगीया, हलाल- खोर, भंगी (मुस्लिम)	108. सैकलगर (सिकलगर) (मुस्लिम)
69. मौलिक	90. मिरियासीन (मुस्लिम)	109. रंगरेज (मुस्लिम)
70. राजधोबी	91. मदारी (मुस्लिम)	110. सिन्दुरिया बनिया
71. राजभर	92. मोरशिकार (मुस्लिम)	111. मुकैरी (मुस्लिम)
72. रंगवा	93. साई/फकीर/दिवान/मदार (मुस्लिम)	112. ईटाफरोश/ईटाफरोश/गदहेड़ी /ईटपज इब्राहिमी (मुस्लिम)
73. वनपर	94. मोमिन (मुस्लिम) (जुलाहा/ अंसारी)	113. बड़ई
74. (विलोपित)	95. अमात	114. पटवा
75. सौटा (सोता)	96. चुड़ीहार (मुस्लिम)	115. कमार (लोहार और कर्मकार)
76. संतराश (केवल नवादा जिले के लिए)		115. देवहार
77. (विलोपित)		

नोट—उन जातियों तथा वर्गों को जिन्हें मुस्लिम नहीं लिखा गया है, हिन्दू तथा मुस्लिम दोनों जातियों का समझना चाहिए, जैसे तेली में दोनों—हिन्दू तथा मुलसमान तेली।

2. बिहार पदों एवं सेवाओं की रिक्तियों में आरक्षण (अनुसूचित जातियों/अनुसूचित जनजातियों एवं अन्य पिछड़े वर्गों के लिए) अधिनियम-1991 (बिहार अधिनियम 3/1992) के अत्यन्त पिछड़े वर्गों की सूची (अनुसूची-1) में जिन जातियों/वर्गों का समावेशन/विलोपन किया गया है, उसका विवरण निम्नांकित है।

सूची क्र०	जाति का नाम	अधिनियम/संकल्प संख्या
2	कानू/हलवाई, कानू के साथ हलवाई को जोड़ा गया	संकल्प सं०-1169, दिनांक 25-3-2010
6	कुर्मी (महतो) केवल छोटानागपुर डिविजन के लिए विलोपित कर कुर्मी (महतो) झारखंड स्वशासी क्षेत्र अंकित किया गया।	संकल्प सं०-110, दिनांक 24-7-1997
22	गंगाई (नगेश) के स्थान पर गंगाई (गणेश)	संकल्प सं०-2836, दिनांक 21-8-2007
24	विलोपित	संकल्प सं०-695, दिनांक 28-2-2007
27	विलोपित	संकल्प सं०-695, दिनांक 28-2-2007
30	कमकर	संकल्प सं०-8, दिनांक 8-1-2004
64	(सुरहिया) विलोपित	संकल्प सं०-653, दिनांक 22-2-2007
93	फकीर, दिवान, मदार (मुस्लिम)	संकल्प सं०-97, दिनांक 3-3-2003
94	जुलाहा/अंसारी	संकल्प सं०-432, दिनांक 16-9-2002
95	अमात	बिहार अधिनियम-6/1996
96	चुड़ीहार (मुस्लिम)	बिहार अधिनियम-6/1996
97	प्रजापति (कुम्हार)	बिहार अधिनियम-6/1996
98	राईन या कुंजरा (मुस्लिम)	बिहार अधिनियम-6/1996
99	सोयर	बिहार अधिनियम-6/1996
100	ठकुराई (मुस्लिम)	संकल्प सं०-178, दिनांक 18-12-1995

101	नागर	संकल्प सं०-135, दिनांक 4-9-1996
102	शेरशाहबादी	संकल्प सं०-135, दिनांक 4-9-1996
103	बक्खो (मुस्लिम)	संकल्प सं०-183, दिनांक 27-11-1996
104	अदरखी	संकल्प सं०-183, दिनांक 27-11-1996
105	छीपी	संकल्प सं०-109, दिनांक 24-7-1997
106	तिली	संकल्प सं०-34, दिनांक 17-3-1998
107	इदरीली या दर्जी (मुस्लिम)	संकल्प सं०-165, दिनांक 20-12-1997
108	सैकलगर (सिकलगर) मुस्लिम	संकल्प सं०-211, दिनांक 10-4-2001
109	रंगरेज (मुस्लिम)	संकल्प सं०-129, दिनांक 2-4-2002
110	सिन्दुरिया बनिया	संकल्प सं०-673, दिनांक 23-11-2001
111	मुकैरी (मुस्लिम)	संकल्प सं०-499, दिनांक 16-10-2003
112	ईटाफरोश/ईटाफरोश/गदहेड़ी इटपज इब्राहिमी (मुस्लिम)	संकल्प सं०-2844, दिनांक 12-06-2009
113	बड़ई	संकल्प सं०-2845, दिनांक 12-06-2009
114	पटवा	संकल्प सं० 1170, दिनांक 25-3-2010
115	कमार (लोहार और कर्मकार)	संकल्प सं० 2413, दिनांक 21-6-2010
115	देवहार	

नोट—बिहार पदों एवं सेवाओं की रिक्तियों में आरक्षण (अनुसूचित जातियों/अनुसूचित जनजातियों एवं अन्य पिछड़े वर्गों के लिए) अधिनियम-1991 (बिहार अधिनियम-3/1992) के अत्यन्त पिछड़े वर्गों की सूची (अनुसूची) के क्रमांक-3, 12, 14, 20, 24, 27, 37, 54, 59, 74, 77 पर अंकित जातियों को भारत सरकार द्वारा अनुसूचित जाति/अनुसूचित जनजाति की सूची में सम्मिलित किये जाने के फलस्वरूप स्वतः विलोपित समझे जायेंगे।

पिछड़े वर्गों की सूची
[कृपया देखें धारा 2 (ज)]

अनुसूची-2

1. (विलोपित)	कलवार), पटवा, कमलापुरी वैश्य, माहुरीवैश्य, अवधबनिया, बंगोवैश्य (बंगाली बनिया), वर्णवाल, अग्रहरीवैश्य, पोद्दार, कसौधन, गंधबनिक, बाथम वैश्य, गोलदार (पूर्वी/पश्चिमी चम्पारण हेतु)	34. ईसाई धर्मावलंबी (अन्य पिछड़ी जाति)
2. कणगजी	कैथल वैश्य/कथबनिया, सामरी वैश्य	35. कुर्मी
3. कण्मार (लोहार और कर्मकार)	21. (विलोपित)	36. भाट/भट/ब्रह्मभट/राजभट (हिन्दू)
4. कुशवाहा (कोईरी)	22. यादव-(गवाला, अहीर, गोर, घासी, मेहर, सदगोप, लक्ष्मी नारायण गोला)	37. दांगी
5. कोस्ता	23. राजवंशी (रिसिया या पोलिया)	38. कुल्हैया
6. गद्दी	24. (विलोपित)	39. जट (हिन्दू) (सहरसा, सुपौल, मधेपुरा और अररिया जिलों के लिए)
7. घटवार	25. रौतिया	40. जट (मुस्लिम) (मधुबनी, दरभंगा, सीतामढ़ी, खगड़िया एवं अररिया जिलों के लिए)
8. (विलोपित)	26. (विलोपित)	41. मडरिया (मुस्लिम) (मात्र भागलपुर जिला के सन्धौला प्रखंड एवं बांका जिला के घोरैया प्रखंड के लिए)
9. चनउ	27. लहेड़ी	42. दोनवार (केवल मधुबनी और सुपौल जिलों के लिए)
10. जदुपतिया	28. शिवहरी	43. सुरजापुरी मुस्लिम (शेख, सैयद, मल्लिक, मोगल, पठान को छोड़कर) (केवल पूर्णिया, कटिहार, किशनगंज एवं अररिया जिलों के लिए)
11. जोग	29. सोनार	44. मलिक (मुस्लिम)
12. तमोली	30. सूत्रधार	
13. तेली	31. सुकियार	
14. देवहार	32. (विलोपित)	
15. नालबंद (मुस्लिम)	33. ईसाई धर्मावलंबी (हरिजन)	
16. (विलोपित)		
17. परथा		
18. बड़ई		
19. बड़ई		
20. बनिया-(सूढ़ी, हलवाई, मोदक/मायरा, रोनियार, पनसारी- मोदी, कसेरा, केशरवानी, ठठेर, कलवार (कलाल/ एराकी), (विहायुत		

नोट—उन जातियाँ तथा वर्गों की जिन्हें जिन्हें मुस्लिम नहीं लिखा गया है, हिन्दू तथा मुस्लिम दोनों जातियों का समझना चाहिए। जैसी तेली में दोनों-हिन्दू तथा मुसलमान तेली।

2. बिहार पदों एवं सेवाओं की रिक्तियों में आरक्षण (अनुसूचित जातियों, अनुसूचित जनजातियों एवं उच्च पिछड़े वर्गों के लिए) अधिनियम-1991 (बिहार अधिनियम-3/1992) के पिछड़े वर्गों की सूची (अनुसूची-1) में जिन जातियों का समावेशन/विलोपन किया गया है, उसका विवरण निम्नांकित है:-

सूची क्र०	जाति का नाम	अधिनियम/संकल्प संख्या
20	कसौधन	बिहार अधिनियम-6/1996
20	कलाल/एराकी	संकल्प सं०-164, दिनांक 17-10-1996
20	गंधबनिक	संकल्प सं०-110, दिनांक 24-7-1997
20	वियाहुत कलवार	संकल्प सं०-79, दिनांक 28-5-1998
20	मोदक/मायरा	संकल्प सं०-615, दिनांक 15-10-2001
20	बाधम वैश्य	संकल्प सं०-102, दिनांक 21-3-2001
20	पोद्दार के स्थान पर वैश्य पोद्दार	संकल्प सं०-2078, दिनांक 15-6-2007
20	गोलदार (पूर्वी/पश्चिमी चम्पारण हेतु)	संकल्प सं०-01, दिनांक 2-1-2002
20	कैथल वैश्य/कथ बनिया	संकल्प सं०-248, दिनांक 24-6-2002
20	सामरी वैश्य	संकल्प सं०-03, दिनांक 09-01-2001
22	सदगोप	संकल्प सं०-283, दिनांक 5-6-2003
22	लक्ष्मी नारायण गोला	संकल्प सं०-328, दिनांक 22-12-2000
35	कुर्मी (महतो) से (महतो) विलोपित	संकल्प सं०-1292, दिनांक 13-4-2007
36	भाट/भट ब्रह्मभट/राजभट (हिन्दू)	संकल्प सं०-40, दिनांक 3-1-2007
37	दांगी	बिहार अधिनियम-6/1996
38	कुल्हैया	संकल्प सं०-135, दिनांक 4-9-1996
39	जट (हिन्दू) (सहरसा, सुपौल, मधुपुरा और अररिया जिलों के लिए)	संकल्प सं०-277, दिनांक 6-11-2000
40	जट (मुस्लिम) (मधुबनी, दरभंगा, सीतामढ़ी, खगड़िया एवं अररिया जिलों के लिए)	संकल्प सं०-277, दिनांक 6-11-2000
41	मड़रिया (मुस्लिम) (भागलपुर जिला के सन्हौला प्रखंड एवं बांका जिला के घोरैया प्रखंड के लिए)	संकल्प सं०-177, दिनांक 13-5-2002
42	दोनवार (मधुबनी और सुपौल जिलों के लिए)	संकल्प सं०-530, दिनांक 26-11-2002
43	सुरजापुरी मुस्लिम (शेख सैयद, मल्लिक, मोगल, पटान को छोड़कर) केवल पूर्णिया, कटिहार, किशनगंज, एवं अररिया जिलों के लिए)	संकल्प सं०-500, दिनांक 16-10-2003
44	मलिक (मुस्लिम)	संकल्प सं०-3176, दिनांक 29-05-2008

नोट 1. पिछड़े वर्गों के अनुसूची-2 के क्रमांक-1, 8, 16, 20 (सिन्दुरिया बनिया), 21, 27, 26, 32 में अंकित जातियों को विलोपित कर अत्यन्त पिछड़े वर्गों की सूची (अनुसूची-1) के क्रमांक-क्रमशः 95, 97, 110, 111, 109, 98 एवं 107 पर समावेशित किया गया।

2. भाट/भट/ब्रह्मभट/राजभट (हिन्दू) संकल्प सं०-40, दिनांक 3-1-2007 द्वारा प्रतिस्थापित।

GUIDELINES FOR RECORDING RIGHT OF PRIVILEGED TENANT

Government have highlighted the guidelines for recording right of privileged tenant by making amendment to the rules framed under the Bihar Privileged Persons Homestead Tenancy Act, 1947. The same was circulated vide Letter No. A/T-1024/65-7585 R., dated 23-9-1965. An extract of the same is given below—

1. Under sub-rule 5(1) power to hold local enquiry was with the Collector or an officer not below the rank of a Sub-Deputy Collector, deputed by the Collector for the purpose. In the amended rule the words "Sub-Deputy Collectors" have been replaced by "Circle Inspector" or "Welfare Inspector". The enquiry can now be entrusted to a Circle Inspector or Welfare Inspector and this will expedite disposal of the cases. The officer exercising the power of Collectors are, however, expected to check up carefully the enquiry report of their field staff before passing orders.

2. After sub-rule (4) of rule 5, a new sub-rule has been inserted. Under the new sub-rule, the Collector is required to prepare a record of homestead held by a privileged tenant in Form 'G' (*Parcha*). This *Parcha* will be prepared in triplicate in each case. The original will be kept with the record in the office of the Collector, a duplicate thereof, with the signature and seal of the Collector, shall be made over to the landlord and the third copy delivered to the privileged tenant. This *Parcha* will enable the privileged tenant to protect himself from any harassment or litigation. This *Parcha* in Form 'G' will be used for Form no. 35 indicated in paragraph 11(4) (ii) of the printed instructions issued with this Department letter no. 6064-L.R., dated the 3rd July 1965, relating to the Second Special Drive.

3. Government are dissatisfied with the progress of recording of the privileged tenants in spite of repeated direction. They desire that privileged tenants should not be made to run to the Camps or Anchals for getting their tenancies recorded. As already explained in the printed circulars regarding Second Special Drive, it is not necessary to start individual cases for recording of the privileged tenants. The field staff should move in the villages and note the details of the privileged tenancy in Form no. 26. It has been considered necessary to amend Form 26 to enable the details required for filling up Form G during field enquiry. A revised Form 26 is annexed which will replace the existing Form 26 of the Special Drive.

4. The names of the privileged tenants with their parentage. Full address and shares should be noted in column 2, Khata no. or Batta Khata no.

should be noted in column 3 and Khesra no. or Batta Khesra no. should be noted in column 4. The area of the entire homestead including the building with 'Sahan' and 'Bari' apportioned thereto shall be noted in column 5. In column 6 should be noted the names of privileged raiyats holding lands to the north and south of the plot to enable the tenancy to be identified. The classification of the land accepted during the last Settlement Operations shall be noted in column 7. The status of the tenant should be noted in column 9. If a privileged tenant has been illegally dispossessed, his name with other details should be entered in the appropriate column and the names of persons in illegal occupation noted in the remarks column (column 12) with the year from which the illegal occupation started.

These details will enable the Collector to institute *suo moto* cases for restoration under section 5 of the Act.

5. The rent of the land held by the privileged tenant should be determined simultaneously. It may be mentioned that under section 4 of the Bihar Privileged Persons Homestead Tenancy Act, 1947, a privileged tenant has the permanent tenancy in a homestead held by him subject to payment of such rent as may be agreed upon between him and the landlord, or as may be fixed by the Collector under the provision of section 6 of the Act. The determination of the rent even where there is no objection should be done by the Anchal Adhikari or the Revenue Officer as far as possible but in no case it should be left to an officer below the rank of Circle Inspector. If the rent is not disputed the amount should be entered in column 8 of Form no. 26 in the pen and under the dated initial of the Circle Inspector or the Anchal Adhikari.

6. In case where there is no contract or valid contract between the landlord and the privileged tenant as to rent payable for the holding or where the rent is alleged to be unfair or inequitable, the Collector may settle a fair and equitable rent for such holding either on an application filed either by the privileged tenant or the landlord or on his own motion. In settling such fair and equitable rent the Collector may make such enquiry as he deems fit and take into consideration the importance of the area where such holding is situated and the rents, if any, prevailing in the area for other similar holdings. It will be necessary to start individual case-records for fixation of rent under section 6 of the Act. The Collector will also have to hear the parties before passing orders. The cases should be heard personally by the Anchal Adhikari invariably in the camps either in the village or near-about to avoid hardships to the tenants. The fair and equitable rent determined under section 6 should be noted in column 8 of Form 26 by the Anchal Adhikari in his own pen. If no rent is paid for the

holding the entry in this column should be *Belagan*, *Kabil-lagan* or *Belagan*. The case number under which the rent is fixed or the rights determined should be noted in column 10.

7. Cases for restoration of possession should be instituted in the Anchal Office by the Collector *suo moto* on the basis of the information regarding dispossession available from Form 26. According to section 5(2) of the Act the Collector has the power, after making such enquiry as he deems fit to put a privileged tenant in possession of the homestead or part thereof from which he has been so ejected. The Collector, of course, has to hear both the parties before passing orders. These cases also should be tried in Camp Courts as far as practicable.

8. After the completion of Form 26 the Anchal Adhikari or the Revenue Officer should take up Bujharat of the entries or privileged persons in suitable Camps, the previous intimation of the dates of Bujharat should be sent to the villagers and to the Panchayats concerned, well in advance. Steps should be taken to see that the privileged persons get sufficient prior notice of the dates. It may be useful to take the signature or LTI of the privileged persons on the notice. The entries in Form 26 should be read out and explained to the privileged tenants and the representatives of the landlords, if present. The clerical mistake may be corrected by the Anchal Adhikari, initialled and dated. Dispute, if any, should be entered in the dispute list and decided immediately and the entries in Form 26 corrected on the basis of the decision.

9. The Anchal Adhikari or Revenue Officer should make a note in his own pen that the entries have been explained to the privileged tenants. The *Parcha* (Form G) should thereafter be filled up in triplicate in ink. The entries should be compared by Circle Inspector, who will initial them in token of correctness. The rent column should be filled by the Anchal Adhikari or the Revenue Officer in his own pen. The Anchal Adhikari will thereafter sign the form and put his seal. A copy of the *Parcha* form should be handed over to the privileged tenant and a copy to the landlord or his representative. The initials, signatures or thumb marks of the privileged tenant and the representative of the landlord should be taken in column 11 of Form no. 26 in token of their having received the copy of the *Parcha*.

10. A list of privileged tenants together with requisite details in Form no. 26 should also be given to the local Gram Panchayats for their information and record.