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P-W. Department

G.O. NO-3327

Dated: 6-12-1887

A/4

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

General  
Account.

READ—the following letter from R. G. MACDONALD, Esq., Officiating Under Secretary to the Government of India, Public Works Department (Account—General), to the Secretary to the Government of Madras, Public Works Department, dated Calcutta, 28th November 1887, No. 285 A.G.:—

With reference to the Proceedings of the Government of Madras in the Revenue Department, No. 767, dated 8th August 1887, regarding the procedure for the payment of compensation for lands acquired by private negotiation, I am directed to state that the procedure to be observed in such cases should follow the lines of that laid down for acquisition under the Land Acquisition Act, i.e., the officer who settles the price, &c., should draw up the form A as in the case of an award, and this should be made the basis of the subsequent payments and audit.

ORDER—dated 6th December 1887, No. 3327 W., Public Works.

Communicated to the Revenue Department with reference to proceedings in that department, No. 767, dated 8th August 1887.

(True Extract.)

Captain, R.E.,  
Under Secy. to Govt., P.W.D.

To the Revenue Department.

- „ Examiner, Public Works Accounts.
- „ Chief Engineer for Irrigation.
- „ Consulting Engineer for Railways.
- „ Consulting Architect to Government.

To Superintending Engineers.

To the Engineer-in-Chief, Madras State Railway Surveys.

- „ Examiner, Guaranteed Railway Accounts.
- „ Examiner, State Railway Accounts.

Est. J. Moser.  
Spare Copies.

GENERAL  
ACCOUNT.

Govt. of (1887) Madras.  
PUBLIC WORKS.

Dated December, 6th.

Recd.

Encl.

G.O., 6th Dec. 1887, No. 3327 W.

DECEMBER.

Lands

Letter from the Government of India regarding the procedure for the payment of compensation for — acquired by private negotiations, communicated to the Revenue Department.

8th August 1887, Nos. 767, 767A, REVENUE.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

Read—the following Proceedings of the Board of Revenue (Land Revenue), dated 4th July 1887, No. 309:—

H. S. THOMAS, Esq., F.R.S., F.Z.S.

Read—again the following Proceedings of the Board of Revenue (Land Revenue), dated 16th April 1887, Mis. No. 172:—

Read—the following letter from L. R. BURROWS, Esq., Collector of the Nilgiris, to the Secretary to the Board of Revenue, dated Ootacamund, 11th January 1887, No. 3:—

The procedure observed in the payment of compensation for lands acquired under the Land Acquisition Act (X of 1870) has recently been modified, and the new rules relating thereto are contained in the Government of India resolution printed in Board's Proceedings, dated 13th August 1886, No. 1813.

2. The form of compensation bill hitherto submitted to the department applying for the acquisition of lands was prescribed in the Accountant-General's circular No. 26, dated 17th June 1881, and it related to acquisitions under the Act as well as to lands purchased on behalf of Government by private negotiations. Since the receipt of the Government of India resolution above mentioned, the Accountant-General has, in his circular No. 21, dated 15th October 1886, cancelled the previous circular.

3. The new rules are silent as to the procedure to be observed in the payment of compensation for lands acquired without the necessity of having recourse to the Land Acquisition Act, and I have the honor to request instructions as to whether in such cases I may adopt the forms prescribed in the new rules with such alterations as may be necessary. If this course is approved, there appears to be no reason why the compensation statement A should not be sent direct to the Examiner of the department for which lands may be acquired, without the previous countersignature of any other officers.

Reference on the above, dated 9th March 1887.

Forwarded to the Examiner of Public Works Accounts for favor of his opinion on paragraph 3 of the above letter.

(Signed) M. HAMMICK,  
Acting Secretary.

To the Examiner of Public Works Accounts,  
with letter in original to be returned.

Read—the following letter from Major C. H. P. CHRISTIE, R.E., Examiner, Public Works Accounts, to the Secretary to the Board of Revenue, dated Madras, 25th March 1887, No. 14 B.R.:—

With reference to the Proceedings of the Board of Revenue, No. 123, of 9th instant, I have the honor to inquire whether land is ever acquired for public purposes without having recourse to the Land Acquisition Act; and if so, under what circumstances.

Resolution—dated 16th April 1887, Mis. No. 172.

The Examiner will be informed that lands required for public purposes are in the great majority of cases acquired by private negotiation with reference to paragraph 2 of the Government of India letter communicated with G.O., dated 12th August 1878, No. 1289, and the revised rule received with that letter.

(True Copies and Extract.)

(Signed) M. HAMMICK,  
Acting Secretary.

To the Examiners, Public Works Accounts.

Read—also the following letter from Major C. H. P. CHRISTIE, R.E., Examiner, Public Works Accounts, to the Secretary to the Board of Revenue, in the Department of Land Revenue, dated Madras, 4th June 1887, No. 8 B.R.:

With reference to the Proceedings of the Board of Revenue, No. 123, dated 9th March 1887, and subsequent correspondence, I have the honor to state that the practice of acquiring land by private negotiation appears to be implicitly prohibited by the resolution of the Government of India, Finance and Commerce, No. 1580, dated 29th June 1886, printed in the Proceedings of the Board of Revenue, No. 1813, of 13th August 1886, and that consequently the question of the procedure to be followed when land is acquired by private negotiation cannot arise in future.

2. The rules circulated with Government of India (Revenue, Agriculture and Commerce) letter No. 4, of 20th July 1878, printed in the Proceedings of the Board of Revenue, No. 1289, dated 12th August 1878, expressly provided for the contingency of land being acquired by private negotiations. But the letter which accompanied these rules drew special attention to the advantages of proceeding under the Act, and apparently even then the Government of India considered that acquisition by private negotiation should be exception rather than the rule.

3. In the resolution referred to in the first paragraph of this letter, the Government of India rules *in supersession of all previous orders* that after all preliminaries in respect to estimate, &c., have been duly carried out, the land *will be taken up under the Act*. There is no mention whatever of acquisition by private negotiation, and the presumption appears to be that the omission is deliberate and intentional. Indeed, in view of the prominence given to the matter on the former occasion, it seems impossible that the omission can have been accidental.

4. Should the Board not concur in the opinion here expressed, I beg that the matter may be referred for the orders of Government.

Resolution—dated 4th July 1887, No. 309.

Submitted for the orders of Government.

2. In their letter communicated with G.O., dated 28th June 1877, No. 2137, the Government of India directed that, save in exceptional cases, land required for public purposes should generally be acquired under Act X of 1870. But this order was subsequently modified by their letter printed in G.O., 12th August 1878, No. 1289, so as to leave the practice of acquiring land by private negotiation undisturbed. The Government of India point out in these letters that acquisition under the Act gives an indefeasible title, but leave full discretion to this Government to authorize acquisition by private negotiation where the title is undisputed and economy favors such a course. The Examiner of Public Works Accounts in the letter read above considers that the practice of acquiring lands by private negotiation is by implication prohibited by the recent orders of the India Government, communicated with G.O., dated 5th

August 1886, No. 664, Revenue. The Board are unable to concur in this opinion. It seems to them that these rules, which merely consolidate\* and in some respects amend the existing orders regarding the payment of compensation for land taken up under the Land Acquisition Act, so far from prohibiting the acquisition by private negotiation, do not touch upon the question at all. In very many cases in the Presidency the acquisition of land by private negotiation is perfectly safe and no difficulty attends the transaction. The Board would much regret to see the powers of District officers curtailed in the manner suggested by the Examiner of Public Works Accounts.

(True Copies and Extract.)

(Signed) M. HAMMICK,  
Acting Secretary.

To the Secretary to Government, Revenue Department.

Copy to the Examiner, Public Works Accounts.  
" " Collector of Nilgiris.

ORDER—dated 8th August 1887, No. 767, Revenue.

Miscellaneous.

The Government concur in the Board's view that the resolution of the Government of India, dated 29th June 1886, No. 1580, merely consolidates and amends the orders relating to the payment of compensation for lands acquired *under the Act* and that it does not modify the orders contained in letter from the Government of India, Department of Revenue, Agriculture and Commerce, dated 20th July 1878, No. 4, permitting the acquisition of land *by private negotiation* in cases in which that may be found to be the more expedient course.

2. Ordered that a copy of these Proceedings be forwarded for the information of the Government of India.

(True Extract.)

Ag. Secretary to Government.

To the Commissioners of Land Revenue,  
" the Public Works Department.

No. 767-A.

Copy to the Government of India, Department of Finance and Commerce.

(Signed) J. F. PRICE,  
Ag. Secretary to Government.

Exd. W. H. French.

85 Copies.

When the property taken up by Government is near a treasury, the system of payment by cheques may be as convenient as payments in cash by the Land Acquisition officer. But where the property is situated at a distance from a treasury, and when the Land Acquisition officer pays the compensation at or near the village in which the owners reside, a course which is enjoined in paragraph 9 of the Resolution of 29th June 1886, the making of payments by means of cheques would probably be

CO-314 (2-5-1957)

inconvenient to the payees, and the advantage of making final payments on the spot would be lost. The Governor-General in Council is therefore not prepared to direct that all payments shall be made by cheque. There is, however, no objection to a Local Government directing any particular Land Acquisition officer to make all his payments by cheque if it appears that this practice will not cause inconvenience of the kind above referred to.

The rules proposed by the Government of Bengal in order to safe-guard the use of cheques are approved. Those rules should be observed by all officers paying compensation for land who draw money from the treasury by cheque, whether in lump sums to be distributed to the payees in cash by the officer, or in detail, each cheque being payable to one of the persons to whom compensation is due.

*Order—*

Ordered that this resolution be communicated to all Local Governments and Administrations, to the Comptroller-General, to all Accountants-General and Comptrollers, and to the Public Works Department, in continuation of communication No. 1580, dated the 29th June 1886.

(Signed) J. F. FINLAY,  
Offg. Under-Secy. to the Govt. of India.

ORDER—dated 6th September 1886, No. 780, Revenue.

Miscellaneous.

Communicated to departments concerned, the Board of Revenue and the Accountant-General, with reference to G.O., 14th July 1886, No. 645, Financial.

(True Extract.)

*Brook*  
Secretary to Government.

To the Financial Department.  
" the Public Works Department.  
" the Military Department.  
" the Board of Revenue.  
" the Accountant-General.

Exd. W. H. French.

100 Copies.

3327/5

2867-45-279  
2050-45-279  
428-45-279  
758-45-279

Gobi. of (1886) Madras.  
REVENUE.

Communicated to officers  
Concerned for info-  
- mation in continua-  
- tion of G.O. No.  
2033 W. dated 13 Aug 1886.

Issued  
Recd. 10/9/86 Encl.  
G.O., 6th September 1886, No. 780.

3052 (Revenue) 1.10.77  
3113 (Revenue) 16.10.77  
2137 (Revenue) 20.6.77  
471 (Revenue) 5.5.73  
835. 31-31-76

Let. Engr. for Design ✓  
Comm. Engr. for Sigs ✓  
Supdy. Engrs ✓  
Supdy. Works J. En. S. ✓  
C. A. to Govt ✓  
Engr. in ch. in S. Ry. Surveys ✓  
Exr. P.W. Accs ✓  
Exr. State & Gd. Ry. Accs ✓  
Secy. Code Committee

SEPTEMBER.

Land Acquisition Act.

Resolution of the Government of India regard-  
ing payments of awards under the — by cheques,  
communicated to certain authorities.

2 Copies to be kept in  
with order

All communications  
should be addressed to  
the Secretary.

No. 285 Ag.  
GOVERNMENT OF INDIA.  
PUBLIC WORKS DEPARTMENT.

ACCOUNT.  
General

332/6

To The Secretary to the  
Government of Madras,  
Public Works Department  
Calcutta 28 November, 1887.

Sir,  
With reference to the Proceedings of the Government  
of Madras in the Revenue Department No. 767 dated 8<sup>th</sup> August  
1887, regarding the procedure for the payment of compensation  
for lands acquired by private negotiation, I am directed  
to state that the procedure to be observed in such cases  
should follow the lines of that laid down for acquisition  
under the Land Acquisition Act, i.e. the officer who settles  
the price you should draw up the form A as in the  
case of an award, and this should be made the  
basis of the subsequent payments and audit.

Yours most obedt servant  
R. G. G. G. G.  
Offg. Secy to Govt of India

211

you  
report

22207 dated 6/21/07

Communicated to  
The Revenue Department with  
reference to proceedings in  
that Department 40767 dated 8/2  
just day.

WV  
5/12/07

John

5/12/07

24240 7/9/07  
24024 7/9/06  
20330 7/10/06  
7102 7/10/05

Revenue Department  
examiner C. W. accounts  
Chief Engineer for Irrigation  
Chief Engineer for Railways  
Chief Engineer for State  
Superintendent of Highways  
Examiner guaranteed by accounts  
Examiner State Railway accounts

9/12

7861

8 Dec 3027 W

Lands

Letter from the Govt of  
India regarding the pro-  
cedure for the payment  
of compensation for  
land acquired by private  
negotiations, and to  
be accepted.

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