

**THE RAJASTHAN COLONISATION (ALLOTMENT
AND SALE OF GOVERNMENT LAND TO
PONG DAM OUSTEES AND THEIR
TRANSFEREES IN THE INDIRA GANDHI
CANAL COLONY) RULES, 1972**

C O N T E N T S

Rules	Pages
1. Short title, Extent and Commencement	311
2. Definitions.	311
3. Reservations.....	312
4. Eligibility and extent of allotment.	312
5. Procedure of allotment.	313
6. Terms and conditions of allotment.	315
6-A. [XXX].....	319
7. Scale of price and mode of payment.	319
7-A.	321
8. Cancellation of allotment.....	322
8-A. Review and Restoration.	322
8-AA. Further review.....	324
9. Applicability of rules to old allotments.....	326
10. Appeal.	326
10-A. [X X X].....	326
11. Powers of Colonisation Commissioner.	326
FORMS.....	326-334
NOTIFICATIONS UNDER (Rulewise).	334-335

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*[Noti. No. S.O 49 F. 4(a)(1) Rev/Col./68, dated 15-9-1972—Raj. Gaz., Pt. IV-(C),
Sub-Pt. II, Exty., dt. 16-9-1972]*

And as amended subsequently by the following notifications:—

1. Noti. dt. 02.03.1973—Raj. Gaz., Pt. IV-(C), Exty., dt. 02.03.1973.

2. Noti. dt. 10.07.1973—Raj. Gaz., Pt. IV-(C), dt. 12.07.1973.
3. Noti. dt. 07.01.1974—Raj. Gaz., Pt. IV-(C), Exty., dt. 07.01.1974.
4. Noti. dt. 13.03.1976—Raj. Gaz., Pt. IV-(C), Exty., dt. 13.03.1976.
- 4-A. Noti. dt. 25.08.1976—Raj. Gaz., Pt. IV-(C), Exty., dt. 13.03.1976.
- 4-B. Noti. dt. 09.03.1977—Raj. Gaz., Pt. IV-(C), Exty., dt. 24.03.1977.
5. Noti. No. F. 4(3) Rev. /Col /82, dt. 22.04.1982—Raj. Gaz., Pt. IV-(C), Exty., dt. 22.04.1982, p. 15.
6. Noti. No. F. 4(24) Rev. /Col /82, dt. 24.01.1984—Raj. Gaz., Pt. IV-(C), Exty., dt. 01.02.1984, p. 383.
7. Noti. No. F. 1(12) Rev./Col /73, dt. 22.10.1984—Raj. Gaz., Pt. IV-(C), Exty., dt. 29.10.1984, p. 153.
8. Noti. No. F. 4(24) Rev./Col /82, dt. 18.01.1985—Raj. Gaz., Pt. IV-(C), dt. 24.01.1985, p. 397.
9. Noti. No. F. 1(12) Rev./Col /73, dt. 22.10.1984—Raj. Gaz., Pt. IV-(C), dt. 07.03.1985, p. 116].
10. Noti. No. F. 1(12) Rev. /Col /73, dt. 13.06.1985—Raj. Gaz., Pt. IV-(C), dt. 08.08.1985, p. 120.
11. Noti. No. F. 1(14) Col. /91, GSR. 54, dt. 12.03.1992—Raj. Gaz., Pt. IV-(C) Exty., dt. 13.03.1992, p. 165, w.e.f. 13.03.1992].
12. Noti. No. F. 1(14) Col. /91, GSR. 95, dt. 02.04.1992—Raj. Gaz., Pt. IV-(C), dt. 04.06.1992, p. 235].
13. Noti. No. F. 1(14) Col. /91, dt. 08.04.1992—Raj. Gaz., Pt. IV-(C) Exty., dt. 14.05.1992, p. 69].
14. Noti. No. F. 1(14) Col. /91, GSR 139, dt. 18.02.1997—Raj. Gaz., Exty., Pt. IV-C(I), dt. 01.03.1997, p. 258 w.e.f. 18.02.1997 = **1997 RSCS/Pt. II/P. 359/H. 240**
15. Noti. No. F. 4(4) Col. /99, GSR. 12, dt. 15.04.2000—Raj. Gaz., Exty., Pt. IV-C(I), dt. 23.05.2000, p. 23(2), w.e.f. 15.04.2000 = **2001 RSCS/Pt. II/P. 289/H. 199**
16. Noti. No. F. 6 (112) Col./92/Pt. IV, GSR 48, dt. 04.09.2000—Raj. Gaz., Exty., Pt. IV-C(I), dt. 13.09.2000, p. 91(1), w.e.f. 04.09.2000 = **2001 RSCS/Pt. II/P. 355/H. 234**
17. Noti. No. F. 4(4) Col./99, GSR. 52, dt. 27.07.2001—Raj. Gaz., Exty., Pt. IV-C(I), dt. 06.08.2001, p. 85(4), w.e.f. 27.07.2001 = **2001 RSCS/Pt. II/P. 134/H. 120**
18. Noti. No. F. 4(4) Col. /99, GSR. 138, dt. 29.09.2008—Raj. Gaz., Exty., Pt. IV-C(I), dt. 13.10.2008, p. 181(1), w.e.f. 29.09.2008 = **2009 RSCS/Pt. II/P. 682/H. 351**

NOTE.—In the footnotes appearing hereinafter, reference to amending Notifications is made by Serial No. as given to them above.

In exercise of the powers conferred by section 28 read with section 7 of the Rajasthan Colonisation Act, 1954 (Rajasthan Act 27 of 1954) the State

Government hereby makes the following rules for allotment of Government land to Oustees of Pong Dam in the Indira Gandhi Canal Colony, namely:—

1. Short title, Extent and Commencement.—(a) These rules may be called the Rajasthan Colonisation (Allotment ¹[and sale] of Government land to Pong Dam Oustees ¹[and their transferees] in the Indira Gandhi Canal Colony) Rules, 1972.

(b) They shall extend to the Indira Gandhi Canal Colony.

(c) They shall come into force on the date to be notified by the State Government.

COMMENTARY

“Rajasthan Canal Area”—*Explained.*—The Rajasthan Canal is the name given to a canal project which has to pass through the province of Rajasthan and is very easily ascertainable.

As far as the lands of the appellants are concerned which are served by the Rajasthan Canal or its distributaries or its minors, there can be no doubt that they are situate in that part of the earth's surface which can legitimately be called the Rajasthan Canal Area. *Lt. Col. Maharaja Himmatsingh and Ors. vs. State of Rajasthan and Ors.*, 1973 WLN 108.

2. Definitions.—(1) In these rules unless there is anything repugnant to the subject or context:—

- (i) “Act” means the Rajasthan Colonisation Act, 1954 (Rajasthan Act 27 of 1954);
- (ii) “Allotting Authority” means the Collector as defined in clause (i) of section 2 of the Act;
- (iii) “Certificate” means a certificate issued under Rule 5;
- (iv) “Certifying Authority” means an Officer, not lower than the rank of a Deputy Secretary, of Himachal Pradesh Government, appointed by it as certifying authority;
- (v) “Colonisation Commissioner” means an officer appointed by the State Government as such and shall include an Additional Colonisation Commissioner;
- ²[(vi) “Family” in relation to the Pong Dam Oustee, in the life time of a father, includes his wife, his children, and grand children, whether recorded as co-sharers alongwith him or not and shall include the legal successors of the father in the event of his death after 31st day of March, 1961; but does not include such of the said members who had attained the age of maturity and who were recorded as a separate land owner in a separate khewat number of the Jama bandi on or before the said date.]

1. Inserted by No. 11, G.S.R. 54, dt. 12.3.1992 (w.e.f. 13.3.1992)

2. Subs. by No. 1 [2-3-1973].

- (vii) "Form" means a form annexed to these rules;
- (viii) "Identity Card" means an identity card issued under Rule 5;
- ¹[(ix) "Pong Dam Oustee" here referred to as an oustee, means a person residing permanently within the area acquired for the construction of Pong Dam Reservoir on or earlier than the 31st March, 1961, whether as land owner, tenant, landless labourer or an artisan.

Explanation.—For the purpose of this clause, a person absent from the area as aforesaid in connection with his business, profession or service would also be treated as a person residing permanently within such area.]

(2) Words and expressions defined in the Act and in the Rajasthan Colonisation (General Colony) Conditions, 1955, shall wherever used in these rules, be construed to have the same meaning as assigned to them in the said Act or in the said conditions.

3. Reservations.—(1) The State Government ¹[shall] reserve land in specific areas of Indira Gandhi Canal Colony for allotment to Oustees and the allotment under these rules shall be made only out of this land.

(2) The allotting authority shall prepare a list or lists of such reserve land in Form I.

¹4. Eligibility and extent of allotment.—(1) Subject to the provisions contained in these rules an oustee land owner, who held land upto 20 standard acres of which 30% or more has been acquired or who held land more than 29 standard acres of which 50% or more has been acquired in connection with construction of Pong Dam Reservoir and the possession of the same has been taken or is likely to be taken over in consequence of such acquisition after harvesting of the crop standing at the time of the issue of certificate by the Certifying Authority under sub-rule (2) of Rule 5, shall in relation to himself, his Oustees family be a person eligible for allotment of land under these rules:

Provided that if an Oustee land owner after acquisition is left with 30 standard acres or more of land, he shall not be eligible for any allotment under these rules:

Provided further that in case the land of any member of the family of an Oustee has also been acquired as aforesaid such member of the family shall not be treated as a separate Oustee and shall not be entitled to any separate allotment, of land under these rules:

Provided further that where an Oustee land owner or a member of his family has died after 31st day of March, 1961, his successors will not be treated as separate Oustees and not be entitled to any separate allotment:

Provided also that if the proprietary or morussi rights in the land, which has been acquired for the Pong Dam Reservoir, have been obtained by an Oustee after 31st day of March, 1961, by any means other than lawful inheritance such Oustee land owner will neither be eligible nor entitled to any allotment of land under these rules.

¹ Subs. by No. 1 [2-3-1973].

(2) An Oustee land owner for himself and his Oustee family shall be eligible for allotment of land under these rules provided that his name appears in relation to the acquired land as a separate land owner in separate khewat number or numbers in the jamabandi upto 31st March, 1961 or as co-owner or co-sharer in the jamabandi, assessed and paying land revenue separately upto the said date and further that his name continues to appear as such till the date of acquisition.

(3) An Oustee land owner fulfilling the conditions of eligibility specified in sub-rules (1) and (2), may be allotted for himself and his family one square i.e. 15.625 acres of land under these rules by the Allotting Authority.

(4) An Oustee who is only a tenant, landless labourer or an artisan shall not be entitled to allotment of any agricultural land under these rules and he shall be entitled only to allotment of a house site for the rehabilitation of the oustees.

5. Procedure of allotment.—(1) The Government of Himachal Pradesh shall appoint one or more certifying authority for the purposes of these rules. The specimen signatures and other relevant particulars about such certifying authority shall be duly communicated by the Government of Himachal Pradesh to all the officers and authorities in Rajasthan as specified by the Colonisation Commissioner.

¹[(2) The Oustee shall present an application in duplicate to the Certifying Authority in Form II-A supported by an Affidavit in form V for the issue of a certificate in his favour. The Certifying Authority, if he finds the applicant eligible to allotment of land under these rules draw and prepare a certificate in Form II and Identity Card in Form III. He shall send one copy of the application presented before him by the Oustee duly verified along with one copy of the certificate and identity card directly to the allotting Authority by registered post or through special messenger. Two copies each of the certificate and identity card will be issued by him to the Oustee:]

²[Provided that no application presented by such Ousteas after four months from the date of receipt of compensation of lands acquired shall be considered by the certifying authority.]

(3) within ²[3 months] of the issue of the certificate and of the identity card by the certifying authority, the eligible oustee shall present in person to the allotting authority an application for allotment of land in Form IV. Every such application shall be supported by an affidavit in Form V and shall be accompanied by the certificate in triplicate and the identity card, in duplicate:

Provided that every such application presented after ²[3 months] of the date of issuing of the certificate shall not be considered by the allotting authority and shall be treated as time barred and cancelled:

¹[Provided further that the Colonisation Commissioner may, on sufficient cause being shown by the Oustee for not presenting the application within the time specified under this sub-rule, grant extension of time for the presentation of the application upto a period not exceeding three months.]

1. Subs. by No. 1 [2-3-1973]

2. Added by No. 2 [12-7-1973]

¹[(3-a) Notwithstanding anything contained in the above sub-rules, the applications of oustees which were rejected by the allotting authority before 9.4.92 shall be sent to the certifying authority of Government of Himachal Pradesh for re-examination of eligibility of applicants for allotment. The certifying authority of Government of Himachal Pradesh shall forward these applications with his recommendations to the allotting authority for further necessary action.]

(4) Immediately on receipt of an application, the allotting authority shall register it in Form VI and shall issue to the applicant a receipt in Form VII;

²[(5) The allotting authority shall scrutinize the applications and other connected documents presented to him and if after scrutiny he comes to the conclusion that there is a doubt in regard to eligibility of the Oustee applicant, he shall refer the matter to the Colonisation Commissioner, who in turn may further refer the matter to the Government of Himachal Pradesh for clarification of the doubt.]

³[(6) After such scrutiny and on receipt of clarification required, if any, the Allotting authority shall decide regarding the eligibility of the Oustee applicant and shall pass final orders on the application and shall communicate the same to the applicant in Form VIII.]

(7) In case the application is granted and the Oustee applicant is allotted land which shall be done only out of land reserved for the purpose, the Oustee applicant shall deposit the prescribed instalment of price in the concerned sub-treasury and shall thereafter take possession of the allotted land within ⁴[90 days] of the receipt of notice under sub-rule (6). In case he fails to deposit the instalment of price and take possession of the land within the stipulated period the allotment shall be deemed to have been cancelled and the land may be allotted to any other person:

⁵[Provided, however, that the period of 60 days from the date of publication in the official Gazette of the Rajasthan Colonisation (Allotment of Government Land to Pong Dam Oustees in the Indira Gandhi Canal Colony) (Amendment) Rules, 1982 shall be provided to eligible persons who are eligible under Rule 8-A of these rules to apply for the review of the orders cancelling the allotments of land previously made to them.]

⁶[Provided further that a period of ⁷[45 days from the date of order of review as provided in] the Rajasthan Colonisation (Allotment of Government Land to Pong Dam Oustees in the Indira Gandhi Canal Colony) (Amendment) Rules, 1984 shall be allowed for deposit of first instalment and taking possession by the

1. Ins. by Noti. No. F. 6(112) Col./92/Pt. IV, dt. 4.9.2000—Raj. Gaz., Exty., Pt. IV-C(1), dt. 13.9.2000, p. 91(1) = **2001 RSCS/Pt. II/P. 355/H. 234**

2. Subs. by No. 1 [2-3-1973]

3. Subs. and added by No. 1 [2-3-1973]

4. Subs. for "45 days" by No. 5 [22-4-1982].

5. Added by No. 5 [22-4-1982]

6. Added by No. 7 [29-10-1984]

7. Subs. by No. 10 [8-8-1985] for "45 days from the date of coming into force of".

persons in whose cases of fresh allotment has been made under Rule 8-A or 8-AA of these rules.]

(8) At the time of giving possession of allotted land to the Oustee applicant, the concerned Tehsildar, Colonisation shall give him a certificate of possession in Form IX and shall forward forthwith a copy of it to the allotting authority.

COMMENTARY

Rule 5(b) & (7).—Where applicant violated the condition by not depositing the first instalment money within 45 days and possession not taken, allotment automatically stood cancelled by efflux of time. *Dayal Singh vs. State of Rajasthan, 1980 RRD (NUC) 39.*

6. Terms and conditions of allotment.—All allotments of land made under these rules shall be made and shall be deemed to have been made under the following terms and conditions:—

- (1) The allottee shall pay to the State Government the price for the allotted land @ of such scale and in such manner as laid down in Rule 7 of these rules.
- (2) Subject to the provisions contained in these rules, the Rajasthan Colonisation (General Colony) Conditions, 1955 shall apply.
- ¹[(3) Initially, the allotment shall be on gair Khatedari tenure only, but khatedari rights shall accrue in the land so allotted after the expiry of ²[three years] from the date of allotment or after the full price of the land together with other dues of the State Government, if any, have been paid by him to the State Government whichever is later:

Provided that the right to sell the allotted land shall not accrue to the allottee before the expiry of ³[three years] from the date of allotment:

Provided further that an allottee to whom land is allotted under these rules shall be given khatedari rights at once if he pays all price of allotment payable by him and difference amount of reserve price for general allotment prevailing at the time of giving khatedari rights, with a premium at the rate of 2000/- per bigha for irrigated land Rs. 1,000/- per bigha for unirrigated land. After

1. Subs. by Noti. No. F. 4(4) Col./99, dt. 15.4.2000—Raj. Gaz., Exty., Pt. IV-C(1), dt. 23.5.2000, p. 23(2). **2002 RSCS/Pt. II/P. 199/H. 289**, for the following:—

“(3) Initially, the allotment shall be on Ghair Khatedari tenure only, but Khatedar rights shall accrue in the land so allotted after the expiry of ten years from the date of allotment or after the full price of the land, together with other dues of the State Government if any, have been paid by him to the State Government, whichever is later:

Provided that the right to sell the allotted land shall not accrue to allottee before the expiry of 20 years from the date of allotment].”

2. Subs. by Noti. No. F. 4(4) Col./99, dt. 29.9.2008—Raj. Gaz., Exty., Pt. IV-C(1), dt. 13.10.2008, p.181(1). [w.e.f 29.9.2008] = **2009 RSCS/Pt. II/P. 682/H. 351** for the following:— “five years”

3. Subs. by Noti. No. F. 4(4) Col./99, dt. 29.9.2008—Raj. Gaz., Exty., Pt. IV-C(1), dt. 13.10.2008, p.181(1). [w.e.f 29.9.2008] = **2009 RSCS/Pt. II/P. 682/H. 351** for the following expression: “ten years”

accrual of Khatedari rights, such allottee may sell his land subject to the provisions of Sec. 13 of the Rajasthan Colonisation Act.]

- (4) During the period of ghair-khatedari tenure, the allottee shall not have any alienable and transferable rights in land and shall not transfer or alienate the land to any other person in any way e.g. by sale, mortgage, gift, transfer, lease or otherwise. No transfer or alienation of land even in the form of a Nokername, Mukhtiarname, Tebilname, Ikramname or the like shall be permissible.

¹[Provided that after the expiry of ²[three years] from the date of taking over possession by the allottee and subject to allottee having paid the full price of land allotted to him, the Colonisation Commissioner may, on the application of the allottee, after satisfying that hard and exceptional circumstances exist, allow the allottee to relinquish the land allotted to him in favour of the State Government on refund of the price paid by him for the said land:

Provided further that no order under the first proviso allowing relinquishment shall be passed by the Colonisation Commissioner without obtaining the previous approval of the State Government. In case the State Government refuses to give such approval, the Colonisation Commissioner may allow the allottee to transfer the land in favour of any other person.]

- (5) ³[within six months of the date of possession] the allottee shall have to start living permanently in the chak abadi of the allotted land.

⁴[(6) The allottee shall cultivate the allotted land personally within the meaning assigned to the expression "land cultivated personally" in clause (VI) of section 2 of the Act.]

⁵[(7) The allottee shall undertake cultivation on 50% of the irrigated (Command Area) allotted land in the first year following the

1. Added by No. 1 [2-3-1973]

2. Subs. by Noti. No. F. 4(4) Col./99, dt. 29.9.2008—Raj. Gaz., Exty., Pt. IV-C(1), dt. 13.10.2008, p. 181(1) [w.e.f.29.9.2008] = **2009 RSCS/Pt. II/P. 351/H. 682** for the following:— "10 years"

3. Added and/or Subs. by No.1 [2.3.1973].

4. Subs. by No. 5 [22-4-1982], for the following:

"(6) The allottee shall cultivate the allotted land personally and this personal cultivation shall exclude any other means of cultivation except by means of his own labour, or by the labour of any other member of one's family or by hired labour under one's family member's personal supervision and presence:

Provided that in the case of a person who is widow or a minor or subject to any physical or mental disability or is a member of the Armed Forces of India or who being a student of an educational institution recognised by the State Government, is below the age of 25 years, land shall be deemed to be cultivated personally even in the absence of such personal supervision."

5. Subs. by No. 5 [22-4-1982], for the following:

"(7) The allottee shall bring the entire culturable allotted land under plough within period of 6 months of the date of allotment and shall fully utilise the irrigation water for cultivation of allotted land."

commencement of irrigation, and on the whole of the command area land by the end of the second year. The allotted un-irrigated land shall be brought under cultivation by the end of the third year from the date of allotment.]

¹[(8) Except where the allottee is a member of the Armed Forces of India, he or a member of his family ²[or his brother] shall remain personally present on the allotted land at the time of every annual inspection during Girdawari.]

(9) The allottee has to produce his identity card on demand as and when demanded by the Colonisation or Revenue Authorities of the area.

³[(9-A) An allottee, possession of whose acquired land had not been taken before the allotment of land to him under these rules, shall have to produce before the Allotting Authority a certificate from the land Acquisition Officer of Himachal Pradesh Government regarding handing over of the possession by him of the acquired land within a period of two months of the harvesting of the crop standing at the time of issue of the certificate by the Certifying Authority.]

(10) In case of any breach of any terms and conditions by the allottee, the allotment of land made to him shall be liable to be cancelled by the allotting authority or by the Collector and the land shall revert to the State Government free from all encumbrances and without any liability of payment of compensation. He shall be further liable to any action which may be taken under the provisions of the Act and the Rajasthan Colonisation (General Colony) Conditions, 1955.

COMMENTARY

[1] *Sub-rule (7).*—It is true that the sub-rule (7) enjoins upon the allottee to bring under plough the entire culturable allotted land within six months of date of allotment. Even if the non-petitioner did not comply with the stipulations of the sub-rule, still he cannot be said to have violated the same. *State of Rajasthan vs. Bilochiram, 1983 RRD 749.*

[2] *Sub-Rule (10).*—Allotment proceedings—Possession cannot be taken by appointment of receiver under S.151 of Civil Procedure Code—In case of violation of conditions of allotment, proceedings can be taken only in accordance with the rules for dispossession of the allottee. *Milkiyat Singh vs. State of Rajasthan, 1993 RRD 218.*

[3] Transferee is a necessary party in resumption proceeding for violation of Rule 6(4). *Gilo vs. Dharmu, 1990 RRD 572.*

[4] *Sub-rules (4) and (10).*—There is no provision in the Colonisation Act

1. Subs. by No. 1 [2-3-1973]

2. Ins. by No. 7 [29-10-1984]

3. Added by No. 1 [2-3-1973]

like that of S.212 of the Raj. Tenancy Act, 1955 and as such in allotment proceedings neither the authority making allotment nor the appellate authority has any power to appoint receiver. *Munishram vs. State of Rajasthan*, **1992 RRD 549**.

[5] *Rule 6 (3), Proviso — Whether ultra vires to section 41 of Rajasthan Tenancy Act, 1955.* — Held, restriction that the land cannot be sold before the expiry of twenty years from the date of allotment is a reasonable restriction in the interest of genuine original allottees.— *Moti Ram vs. State of Rajasthan*, **1999 (2) WLN 656 (Raj.) = 1999 RBJ 532 = RLW 1999 (3) Raj. 1692 = 1999 (2) DNJ (Raj.) 586 = 2000 (1) RLR 203 = 2000 AIHC 492 (Raj.) = 2000 (1) WLC (Raj.) 626**.

[6] *Rule 6 (4).* — Mere mutation entry in pursuance of bogus Will will not entitle for allotment of land where land is transferred by way of such Will. When original allottee has illegally transferred the land in breach of rule then that allotment has to be cancelled. *Vijaypal Singh & Another vs. State of Rajasthan.*, **AIR 1999 Raj. 131 = 1999 (1) RLW 684 Raj. = 1999 (1) WLN 76 = 1999 RBJ 230 = 1999 (2) WLC (Raj.) 600 = 2000 (1) RLR 324 = 2000 RRD 82**.

[7] The petitioner who is transferee, from the outstee allottee did not get any rights whatsoever by such transfer because the transfer was obviously in violation of the terms of allotment and, as such, void. The possession of the petitioner on the land is nothing more than that of a trespasser. *Gurdeep Singh vs. Special Judge, Pong Dam Oustees Matters, Sriganaganagar*, **1998 (2) WLN 131 = 1998 (3) RLW 1526 Raj. = 1998 (3) WLC (Raj.) 607 = 1998 AIHC 4678 (Raj.) = 1998 (2) RLR 436 = 1999 RRC 375 = 1999 RRD 192**.

[8] *Sub-rule (10).*—With the amendment of rules, transfers can be regularised on payment of cost of the land and penalty hence, an allotment cannot be cancelled without giving proper notice to the parties concerned. Even a transferee needs such a notice and an opportunity of being heard. *Thakar Ram vs. State of Rajasthan*, **1992 RRD 398** and *Mst. Rukmani vs. State of Rajasthan*, **1992 RRD 399**. See also *Gurjeetsingh vs. State of Rajasthan*, **1992 RRD 251**.

[9] Production of all evidence. See *Karamchand vs. State*, **1982 RRD 342**.

[10] Where the disputed land transferred by gair khatedar through Will to her daughter it was held that SDO was right in cancelling the mutation attested by Gram Panchayat on the basis of that Will. *Paramjit singh vs. Mst. Champarani & Ors.*, **1999 RRC 454 = 1999 RRD 339**.

[11] *Judicial review — Scope of.*—Where the Hon'ble Supreme Court nominated to District Judge for recording of findings it was held that such findings were binding on transferor, transferee and the Government. There is no scope for Judicial review this attempt is clear defiance of decision / direction of the Supreme Court. *Pradeshik Kisan Pong Bandh Bhumi Kharidar Samiti vs. Shri Ram Singh & Ors.*, **RLW 2006 (2) RJ 1098 (HC) = 2007 (1) RRT 517 (HC) (DB)**.

[12] *Violation of Condition- cancellation of allotment.*— Where petitioner

was allotted land in 1973 which was transferred in 1983 that is, within 20 years. It was held that condition was violated which could not be mitigated by fact that sale in question was not registered. Allotment rightly cancelled. *Kalidas vs. State of Rajasthan.*, **2003 WLC (Raj.) UC 162(DB).**

[13] Cases relating to Pong Dam Oustees came to be examined by SDO (Revenue). Order of SDO challenged by way of review petition before Special Judge as per direction issued by Hon'ble Supreme Court. Order of Special Judge challenged to. Held, special Judge was appointed as per direction of Supreme Court for reviewing such cases. High Court would not interfere with order of Special Judge. *Surati Devi & Ors. vs. State of Rajasthan & Ors.*, **2009 (4) CDR 2043 (Raj.)**

¹[6-A. xxx]

7. Scale of price and mode of payment.—(1) For the land allotted under these rules, the allottee shall pay to the State Government the price at the following scales:—

1. Deleted by Noti. No. F.1(14) Col./91, dt. 18.2.97—Raj. Gaz., Exty., Pt. IV-C(I), dt. 1.3.97, p.258 = **1997 RSCS/Pt. II/P. 359/H. 240** the existing Rule 6-A was:—

[6-A. Sale of Special Allotment to the transferees of Pong Dam Oustees.—(1) Notwithstanding anything to the contrary contained in these rules, the land reverted to the State Government under the sub-rule (10) of rule 6 as a result of transfer or alienation of the allotted land in breach of sub-rule (4) of rule 6 of the rules, may be sold by way of special allotment, to the purported transferee who has been a bona fide resident of Rajasthan and has not been involved in antinational activities, and who is also in possession of the land as on 31st December, 1991 and continues to be in possession till the date of reversion, after holding such enquiry as the Collector deems proper, subject to the ceiling area applicable to the purported transferee under the Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (Rajasthan Act 11 of 1973).

(2) *Application for allotment.*—The purported transferee in possession of the land may apply for allotment of land to the allotting authority in the prescribed application Form X on or before ¹[a date to be notified by the State Government from time to time]. An application shall be verified by the applicant as a plaint according to the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908).

(3) *Price and mode of payment.*—(a) The allotment shall be made subject to clearance of all dues of the State Government in respect of the land and also subject to the payment of a sum of Rs. 3.00 lakhs per 25 bighas to the State Government by the purported transferee in case of irrigated or command land and a sum of Rs. 1.00 lakh per 25 bighas in case of barani or uncommand land. Such purported transferee in possession, shall thereafter be entitled to khatedari rights, under the Rajasthan Tenancy Act, 1955 (Rajasthan Act No. 3 of 1955).

(b) If the allottee opts for availing the facility of instalments, the price shall be payable in three instalments, the first instalment of 50% of the price shall be paid at the time of issue of the order of allotment and the remaining amount in two equal half yearly instalments. The due date in respect of the half yearly instalments shall be the date of the month corresponding to the date on which the allotment was made. Interest at the rate of 12% per annum shall be charged in default of the payment of an instalment on the due date:

Provided that where the allottee pays to the State Government, the entire price of the land in lump sum at the time of issue of the allotment order, the amount of price payable by him shall be deemed to be 25% less than the price under the rule 3 (a).

(c) Provisions contained in the Rajasthan Colonisation (General Colony) Conditions, 1955 shall apply *mutatis mutandis* to allotment of land made under these rules.² Earlier the above rule 6-A was ins by No. 11 [13-3-1992]

S. No.	Soil Class of allotted land	Price per square of 15.625 acres.
1.	Nali	¹ [Rs. 35,000
2.	Light Loam	Rs. 29,531.25
3.	Sandy Loam	Rs. 21,875
² [4.	Un-command	Rs. 6,562.50]

(2) For the Johad paitan land the price to be paid shall be double of the above scale as in sub-rule (1).

(3) In case the allotted land is developed land and the State Government has paid any development charges for the same, the same together with interest @ 6 p.a. shall also be paid to the State Government together with the price as mentioned in sub-rule (1) and (2).

(4) No betterment charges shall be levied on the land allotted under these rules.

(5) The price under above sub-rules (1) and (2) shall be paid in 20 annual instalments in the concerned sub-treasury. The first instalment shall be paid and deposited before taking possession of the allotted land under Rule 5(7) of these rules and second and subsequent instalments shall be paid by him on or before the 15th day of July every year. The development charges if any, shall be paid together with the 1st Instalment:

³[Provided that where order of restoration of the original allotment is made, then the period of 20 years for the payment of all the instalments shall remain the same and shall be reckoned from the date of original allotment but the payment of the price outstanding calculated at the scale of price applicable on the date of original allotment shall be re-scheduled and shall be made in equated annual instalments within the remaining number of years left out of the said total period of 20 years alongwith interest at the rate of 6% per annum on the instalments which had become overdue upto the date of order of re-scheduling:

Provided further that where fresh order of allotment is made under Rule 8-A or Rule 8-AA, the allottee shall pay the price in 20 equal instalments commencing from the date of fresh allotment calculated at the scale of price in force on the commencement of Rajasthan Colonisation (Allotment of Government Land to Pong Dam Oustees in Indira Gandhi Canal Colony) (Amendment) Rules, 1982 and the amount of any instalment deposited by the allottee shall be adjusted.]

(6) The allotting authority shall prepare a demand statement in respect of

1. Subs. by No. 4 [13-3-1976]

2. Added by No. 1 [2-3-1973]

3. Proviso inserted by No. 5 [22-4-1982] and subs. by No. 7 [29-10-1984] for the following:—

“Provided that in the case of those person whose allotments had been cancelled for not paying the instalments as aforesaid and their allotment orders are reviewed and restored, the period of 20 years shall be reckoned from the date on which the original allotment order which was cancelled, had been issued, but the payment of the remaining instalments now due shall be rescheduled and spread over the remaining years in equated annual instalments and interest at the rate of 6% per annum shall be payable by the allottee on instalments which had become over due before such rescheduling.”

instalments which may become due and shall proceed to effect recovery of the same till the total price of the allotted lands has been realised from the allottee. For this purpose soon after the allotment of land is made, the allotting authority shall maintain such ledgers and other accounts registers in respect of each allottee as may be prescribed by the Colonisation Commissioner.

(7) All dues outstanding against an allottee under these rules shall be recoverable as arrears of land revenue.

COMMENTARY

[1] Allotting Authority directed to re-calculate the amount payable by the applicant in view of the Rules of 1972. *Smt. Gohari vs. State of Rajasthan, 1983 RRD 832.*

[2] In the present case petitioner was allotted land and he was paying instalments. On non-payment of some instalments allotment was cancelled but he remained in possession of that land. On filing review petition which was accepted and cancellation of allotment was set aside but he was directed to deposit instalments within 90 days. Petitioner filed application praying that amount to be deposited be disclosed and instalments be rescheduled. Respondent again cancelled allotment and an order was passed directing petitioner to deposit instalments within 45 days. Held, both these orders directing petitioner to deposit instalments within 90 days or 45 days were wholly illegal. *Smt. Shanti Devi vs. State of Rajasthan & Anr., 2005 (3) DNJ (Raj.) 1159.*

[7-A. Notwithstanding anything contained in these rules, an order of cancellation of allotment passed due to non-payment of any installment, may be revoked by the Allotting Authority, if the allottee pays interest @ 18% per annum on the amount of such installment from its due date until its payment plus @ 6% more interest from the date of default by way of compensation unless in the meantime the land has been allotted to someone else.]

COMMENTARY

[1] Due to short of rainfall and convenience allottee could not deposit installments but now allottee paid all outstanding amount held, such amount was liable to be adjusted and on depositing the entire amount, allotment shall stand restored. *State of Rajasthan vs. Rama, 2005 RRD 380 = 2005 RBJ 554 = 2005 (2) RRT 1340.*

[2] *Scope when respondent failed to deposit amount of Najrana.*— Respondents in pursuance of judgment of Board of Revenue sent a banker's cheque of Rs. 9400/- (with interest) to petitioner. Held, there was no infirmity found in judgment of Board of Revenue. *State of Rajasthan vs. L.Rs. of Ganpat Singh & Ors., 2010 (2) CDR 706 (Raj.).*

1. Inserted by Noti. No. F. 4(4) Col./99, dt. 27.7.2001—Raj. Gaz., Exty., Pt. IV-C(1), dt. 6.8.2002, p.85(4) = 2002 RSCS/Pt. II/P. 134/H. 120

8. Cancellation of allotment.—(1) Without prejudice to the provisions contained in the Act or in these rules, if at any time after an allotment, it is found by the allotting authority, either on complaint or otherwise, that an allotment of land under these rules was made upon a false, incorrect or misleading statement of facts or information made or given by the allottee to the allotting authority or to any officer or authority of the Himachal Pradesh Government, such allotment shall be cancelled by the allotting authority and the allotted land shall revert back to the State Government without any payment of compensation.

(2) Before passing an order of cancellation under sub-rule (1), the allotting authority shall give to the allottee concerned, an opportunity of being heard.

(3) For the purpose of proceeding under this rule, the allotting authority may ask for any relevant information or record from any officer or authority of Himachal Pradesh Government, who shall supply it to the allotting authority within the requisite time.

[8-A. Review and Revision.—Notwithstanding anything contained in these rules, the order of cancellation of allotment may be reviewed and, after due enquiry, it may be withdrawn and the order of restoration of the original allotment may be passed by the Allotting Authority on an application presented, within sixty days from the date of coming into force of the Rajasthan Colonisation (Allotment of Government Land to Pong Dam Oustees in the Indira Gandhi Canal Colony) (Amendment) Rules, 1982, by a person who was previously allotted land under these Rules in the following cases:—

- (i) in which the lands originally allotted were not situated in the command area of the Rajasthan Canal Project, or
- (ii) in which the lands originally allotted were situated in the command area but are still not irrigable:

Provided, however, that in the meanwhile, the lands so allotted were not transferred by the allottees.

Explanation.—I. In the cases mentioned at clauses (i) and (ii), alternative command area lands, which are irrigable, shall be allotted to the allottees concerned.

II. For the purposes of this rule, the term “irrigable” shall mean that water for irrigation is made available at the outlet of the minor canal concerned, as the construction of field channels is the responsibility of the allottee;

- (iii) in which the allottee had not brought the entire (culturable) allotted land under cultivation within the prescribed period of six months;
- (iv) in which the allottee had not taken possession of the allotted land within the prescribed period of 45 days of the receipt of no-time of allotments,

1. Inserted by No. 5 [22-4-1982]

- (v) in which the allottee had failed to pay the prescribed instalments of the reserve price of the land allotted in time;
- (vi) in which the allottee had not cultivated the land personally; and
- ¹[(vii) in which the allottee had not started living permanently in the Chak Abadi of the allotted land within six months of date of taking of possession of the allotted land, and:

Provided that no order of restoration of the original allotment shall be passed under any of the above clauses, in any case in which an allottee had transferred the land previously allotted to him:

Provided further that upon restoration of the previous allotment, if the land originally allotted has, meanwhile, been allotted to any other person equivalent area of land shall be allotted elsewhere in the command area to the allottee.]

¹[Provided further that no order of restoration of the original allotment shall be made unless the allottee had started living permanently in the Chak Abadi of the allotted land or in the chak in which the allotted land is situated, before the order of cancellation of allotment and makes an application for review within 60 days from the commencement of Rajasthan Colonisation (Allotment of Land to Pong Dam Oustees in the Indira Gandhi Canal Colony) (Amendment) Rules 1984:

Provided also that no order of restoration of the original allotment shall be made unless the allottee had taken over possession of the allotted land before the order of cancellation of allotment:

Provided also that where an allottee had failed to take possession in accordance with sub-rule (7) of Rule 5, a fresh order of allotment shall be made and not an order of restoration.]

COMMENTARY

[1] The rule neither bars nor prohibits the appeal against the order of allotting authority to the Revenue Appellate Authority nor implies the pending appeals before the RAA will become infructuous. As a matter of fact the rule has given an additional option to such allottees to file a review application before the allotting authority that too within sixty days. *Amarsingh vs. State of Rajasthan, 1988 RRD 306.*

[2] The rule was introduced to give one more opportunity to the allottees to start cultivate the land if they had not done so in the past. Therefore, the application for review could not have been rejected on the ground that the allottee is not residing on the allotted land and is not cultivating the same. *Amru vs. State of Rajasthan, 1988 RRD 529.*

[3] A perusal of Rule 8-AA also shows that whether the same land is to be restored or a fresh allotment is to be made is governed by Rule 8-A. A combined reading of rule 8-A and 8-AA shows that the case must fall in any of the following categories for taking advantage of Rule 8-A and 8-AA:—

- (i) in which the land originally allotted were not situated in the command area of the Rajasthan Canal Project or

- (ii) in which the land originally allotted were situated in the command area but are still not irrigable;
- (iii) in which the allottee had not brought the entire (culturable) allotted land under cultivation within the prescribed period of six months;
- (iv) in which the allottee had not taken possession of the allotted land within the prescribed period of 45 days of the receipt of notice of allotment;
- (v) in which the allottee had failed to pay the prescribed instalment of the reserve price of the land allotted in time;
- (vi) in which the allottee had not cultivated the land personally; and
- (vii) in which the allottee has not started living permanently in the chak abadi of the allotted land within six months of the date of taking of possession of the allotted land. *Dunichand vs. Munshi*, **1990 RRD 137**.

[4] In the present case petitioner was allotted land and she was paying instalments. On non-payment of some instalments allotment was cancelled but she remained in possession of that land. On filing review petition which was accepted and cancellation of allotment was set aside but she was directed to deposit instalments within 90 days. Petitioner filed application praying that amount to be deposited be disclosed and instalments be rescheduled. Respondent again cancelled allotment and an order was passed directing petitioner to deposit instalments within 45 days. Held, both these orders directing petitioner to deposit instalments within 90 days or 45 days were wholly illegal. *Smt. Shanti Devi vs. State of Rajasthan & Anr.*, **2005 (2) RRT 1273 = 2005 (3) DNJ (Raj.) 1159 = 2005 (4) WLC (Raj.) 286**.

[5] Cases relating to Pong Dam Oustees came to be examined by SDO (Revenue). Order of SDO challenged by way of review petition before Special Judge as per direction issued by Hon'ble Supreme Court. Order of Special Judge challenged to. Held, special Judge was appointed as per direction of Supreme Court for reviewing such cases. High Court would not interfere with order of Special Judge. *Surati Devi & Ors. vs. State of Rajasthan & Ors.*, **2009 (4) CDR 2043 (Raj.)**.

[6] In the present case petitioners were pong dam oustees and land allotted to them was allotted to others and their applications were rejected without hearing by the SDO it was held that petitioners were to be allotted land from reserve land as per rules of allotment. *Babu Ram & Ors. vs. State of Rajasthan*, **2011 RRD 402**. See also *Pranveer Singh vs. State of Rajasthan*, **2011 RRD 233**.

¹**8-AA. Further review.**—(1) All applications for review under Rule 8-A pending before the allotting authority on the date of commencement of Rajasthan Colonisation (Allotment of Land to Pong Dam Oustees in the Indira Gandhi Canal Colony) (Amendment) Rules 1984: shall be heard and decided by him under and in accordance with these rules.

(2) Where a review application has already been decided by the Allotting Authority under Rule 8-A as it stood immediately before the date of commencement of the Rajasthan Colonisation (Allotment of Land to Pong Dam Oustees in the Indira Gandhi Canal Colony) (Amendment) Rules 1984 and the Allotting Authority is of the opinion that the order made by him on such review application is not consistent with the provisions of these rules, or where the order of restoration made under Rule 8-A before the aforesaid date of such commencement is deemed to have been cancelled in accordance with sub-rule (7) of Rule 5, he shall of his own motion further review the order and shall after giving the affected persons an opportunity of being heard, make an order of restoration or an order of allotment, as the case may be, under and in accordance with these rules.

Explanation.—In this rule, the expression “these rules” shall mean the Rajasthan Colonisation (Allotment of Land to Pong Dam Oustees in the Indira Gandhi Canal Colony) Rules 1972 as amended by the Rajasthan Colonisation (Allotment of Land to Pong Dam Oustees in the Indira Gandhi Canal Colony) (Amendment) Rules 1984.]

(2) Before passing an order of cancellation under sub-rule (1), the allotting authority shall give to the allottee concerned, an opportunity of being heard.

(3) For the purpose of proceeding under this rule, the allotting authority may ask for any relevant information or record from any officer or authority of Himachal Pradesh Government, who shall supply it to the allotting authority within the requisite time.

COMMENTARY

[1] The requirement of fair play and natural justice is that the affected party should be given an opportunity of being heard before an adverse order is passed against him. There is no notice available in the Additional Col. Commissioner's file committing fraud upon the court and not upon the party, Section 151 CPC could be resorted to, to set the mistake right. But where there is no fraud upon the court but the opposite party is duped in giving his consent then the proper way is by way of a suit. AIR 1943 Patna 13 Relied on. *Ramchander vs. Ramkaran*, 1991 RRD 478.

[2] The allotting authority has powers to further review the matter suo motu. If the applicant feels that the matter is capable of being further reviewed he can himself draw the attention of the allotting authority by applying for the same. *Fandiram vs. State of Rajasthan*, 1986 RRD 484.

[3] In the present case petitioner was allotted land and he was paying installments. On non-payment of some installments allotment was cancelled but he remained in possession of that land. On filing review petition which was accepted and cancellation of allotment was set aside but he was directed to deposit installments within 90 days. Petitioner filed application praying that amount to be deposited be disclosed and installments be rescheduled. Respondent again cancelled allotment and an order was passed directing petitioner to deposit installments within 45 days. Held, both these orders directing petitioner to deposit installments within 90 days or 45 days were wholly illegal. *Smt. Shanti Devi vs. State of Rajasthan & Anr.*, 2005 (3) DNJ (Raj.) 1159.

9. Applicability of rules to old allotments.—All allotments of land to the Oustees in Indira Gandhi Canal Colony made before the commencement of these rules shall be deemed to have been made under these rules and shall be subject to all the provisions, conditions, obligations, rights liabilities and stipulations etc. as mentioned in these rules.

10. Appeal.—Any person aggrieved by any order passed by an allotting authority under these rules, may appeal to the Colonisation Commissioner within 30 days from the date of such order.

10-A. ¹[xxx]

11. Powers of Colonisation Commissioner.—The Colonisation Commissioner shall have powers to issue instructions to all Colonisation Officers subordinate to him regarding laying down the procedure for preparation of records in regard to allotment of land and to carry out the purposes of these rules.

FORM I

[See Rule 3]

List of Government Land Reserved for Oustees

Name of Colony Tehsil

S. No.	Name of Chak/Village	Square No./Khasra No.	Details of areas in Bighas/Kilas	Soil class	Remarks
1	2	3	4	5	6

Signature of Allotting Authority

²[FORM II

[See Rule 5 (2)]

No.

Date

Certificate

It is hereby certified:—

1. that Shri/Smt./Kumari Son/Daughter/ widow/
wife of aged by caste resident of Tikka/

1. Deleted by Noti. No. F. 4(24)Rev/Col./82, dt. 26.9.95—Raj. Gaz., Exty., Pt. IV-C(i), dt. 31.10.95, p. 131(2) = **1996 RSCS/Pt. II/P. 52/H. 36**, the existing provision was:

“**10-A.** Any person against whom an order cancelling his allotment of land has been passed or whose application for allotment of lands has been rejected by the Allotting Authority has been upheld in the first appeal, shall, if he prefers a second appeal or a revision, deposit 25% of the reserve price of such land as security in the Government Treasury and furnish copy of the treasury challan with the memo of Appeal, Revision or Review. In case of his failure to make such deposit the second appeal or the revision or review shall not be entertained.”

2. Substituted, added Form No. II, IIA, IV and V by No. 1 [2-3-1973]

