

# The Punjab Village Common Lands Regulation Act 1961

February 26, 2013

## Punjab Act No. 18 of 1961

Received the assent of the President of India on 22nd April, 1961 and was first published in Punjab Gazettee (Extraordinary) Legislative Part -I, dated 4th May, 1961. Vaisakha 14, 1883 Saka.

An act to consolidate and amend the law regulating the rights in shamilat deh and abadi deh.

Be it enacted by the State of Punjab in the twelfth year of the Republic of India as follows:

## Section 1. Short title Extent and Commencement

(1) This act may be called the Village Common Lands (Regulation) Act, 1961.

(2) It extends the whole State of Punjab.

(3) It shall come into force at once.

## Section 2. Definition- In this Act, unless the context otherwise requires

1(a) "Collector" means the collector of district and includes any officer appointed by the State Government for performing the functions of the collector under this Act.

The power of collector have been delegated to the following officer district

mentioned against their names.

|   |   |  |
|---|---|--|
| 1 | Divisional Deputy Director, Rural Development & Panchayats, Patiala | Sirhind, Bassi Pathana and Dera Bassi Blocks of Patiala District.        |
| 2 | District Development and Panchayats Officer, Patiala                | Patiala, District excluding Sirhind, Bassi Pathana and Dera Bassi Block. |
| 3 | Principal, Gram Sewaks Training Centre, Nabha, District Patiala     | Anandpur Sahib and Nurbur Bedi Blocks of Ropar District.                 |
| 4 | District Development and Panchayat Officer, Ropar                   | Ropar District excluding Anandpur Sahib and Nurbur Bedi Blocks.          |

Per Gazette Notification S.O. 9/P.A. 18/61/S.2/85 Dated 15th Februry, 1985 .

The powers of collector have been delegated to the following officers district mentioned against their names.

|   |  |   |
|---|--|---|
| 1 | Divisional Deputy Director, Rural Development & Panchayat, Patiala | Sirhind, Bassi Pathana, Dera Bassi Blocks of Patiala District.        |
| 2 | Principal Gram Sewak training Centre, Nabha District Patiala       | Nabha and Samana Blocks of Patiala District.                          |
| 3 | District Development and Panchayat Officer, Patiala                | Patiala, Bhunderheri, Rajpura and Ghanaur Blocks of Patiala District. |

|   |   |                             |
|---|---|-----------------------------|
| 4 | District Development and Panchayat Officer, Ropar | Whole of the District Ropar |
|---|---|-----------------------------|

Per Gazette Notification No S.O.11/P.A. 18/61/S,.2/87 Dated 13th April 1987.

The powers of collector have been delegated to the following officer district mentioned against their names.

Punjab Village Common Lands Regulation Act, 1961 (Punjab Act No 18 of 1961), the President of India is pleased to appoint the following officers for performing the functions of the collector under the said Act the in respect of Ropar and Kapurthala districts for the areas specified against each.

|   |   |  |
|---|---|--|
| 1 | District Development and Panchayat Officer, Ropar                       | Whole of the Ropar district excluding Kharar Block |
| 2 | Deputy Director (Land Development) Chandigarh                           | Kharar Block of Ropar district.                    |
| 3 | Divisional Deputy Director, Rural Development and Panchayats, Jalandhar | Whole of the Kapurthala district.                  |

Per Gazett Notification No S.O.4/PA. 18/61/S. 2/89. Dated 20th April, 1989.

The powers of collector have been delegated to the following officer district mentioned against their names.

|   |   |   |
|---|---|---|
| 1 | District Development and Panchayat Officer in the State except those posted in the Districts of Patiala, Ropar, Gurdaspur and Ferozepur | Whole of the District within jurisdiction.  |
| 2 | Divisional Deputy Director Rural Development and Panchayats, Patiala  | Sirhind, Bassi Pathana and Dera Bassi Block of District of Patiala.   |
| 3 | Principal, Gram Sewaks Training centre,   | Nabha and Bhunerheri Block of District of Patiala   |
| 4 | District Development and Panchayat Officer, Patiala   | Patiala, Rajpura, Samana and Ghanaur Blocks of District of Patiala.   |
| 5 | District Development and Panchayat Officer, Gurdaspur   | Whole of the District of Gurdaspur, except Batala Sub-Division, Kahnawan and Dharriwal Blocks of this District. |

Per Gazette Notification S.O.77/P.A.18/61/S, 2/89 Dated 23rd Aug.1989.

(aa) "Commissioner" means the commissioner of division and includes any other officer not below the rank of a Joint Director Panchayats, appointed by the State Government for performing the function of commissioner under the Act;

(b) "Displaced person" means a person defined as such in the East Punjab Displaced Persons (Land Re-settlement) Act; 1949 or the Patiala and East Punjab State Union Displaced Person (Land Settlement) Ordinance 2006 BK.

1(bb) "Hilly area" means:

(i) [2Kangra, Kulu and Shimla Districts and the District of Lahaul and Spiti (transferred to H.P).

(ii) Dhar Kalan Block in Gurdaspur District (in Punjab)

(iii) Hoshiarpur I, Hoshiarpur II, Bhungra, 1[Hajipur], Dasuya, Mahilpur, Balachaur, Saroya (Gagrat, Nurpur Bedi 1[Ambunal and Anandpur Sahib, Block in Hisharpur district

(iv) 1[Ropar, Majri, Nalagarh, Manimajra],Raipur Rani, Naraingarh, Bilaspur and Chhachrauli Bock in Ambala District.

(c) "House" includes a court yard whether walled or not.

(d) "Inhabitant of a village" means a person, whether a proprietor, or non proprietor, who ordinarily resides in the village

Provided that temporary absence or absence in relation to employment elsewhere shall not affect his residence in the village

2[(e) "Panchayat" means a Gram Panchayat constituted under the Punjab Gram Panchayat Act, 1952]

(f) "Prescribed" means prescribed by the rules made under the Act.

(g) "Shamilat deh" includes

(1) Land described in the revenue records as Shamilat deh excluding abadi deh.

(2) Shamilat Tikkas,

(3) Land described in the revenue records as shamilat, Tarafs, Pattis Pannas and Tholas and used according to revenue records for the benefit or the village community or a part thereof for common purposes of village.

(4) Lands used or reserved for the benefit of the village, community including, streets, lanes, playgrounds, schools, drinking wells, or ponds within abadi deh or gora deh and



(5) Land in any village described as banjar qadim and used for common purposes of the village, according to revenue records, but does not include land which:

3[Proviso.....]

4[(i) becomes.....]

(ii) has been allotted on quasi permanent basis to displaced persons

(iii) has been partitioned and brought under cultivation by individual landholders before the 26th January, 1950.

(iv) having been acquired before the 26th January, 1950, by a person by purchase or in exchange for proprietary land from a co sharer in the shamilat deh and is so recorded in the jamabandi or is supported by a valid deed.;1[and is not in excess of the share of the co sharer in the shamilat deh.

(v) is described in the revenue records as Shamilat, Taraf, Patti Panna an Thola and not used; according to revenue records for the benefit to the village community or a part thereof or for common purposes of the village.

2[(vi) lies outside the abadi deh and was being used as gitwar, bara manure pit, house or for cottage industry, immediately before the commencement of this Act].

3(vii) is Shamilat deh.....]

(viii) was Shamilat deh was assessed to land revenue and has been in the individual cultivating possession of co-shares not being in excess of their respective shares in such shamilat deh on or before the 26th January, 1950, or

4[(ix) was being used as a place of worship or for purposes, subservient thereto, immediately before the commencement of this Act].

(h) "Shamilat Law" means:-

(i) in relation to land situated in the territory which immediately before the 1st November, 1956, was comprised in State of Punjab, the Punjab Village Common Lands( Regulation) Act, 1953, or

(ii) in relation to land situated in territory immediately before the 1st . November, 1956, was comprised in state of Patiala and East Punjab States Union; the Pepsu Village Common Lands Regulation Act, 1954;

(i) "State Government" means the Government of the State of Punjab.

### Section 3. Lands to which this Act applies

(1) The act shall apply and before the commencement of this Act the Shamilat Law shall be deemed always to have applied to all lands which are shamilat deh as defined in clause(g) of



section 2.

(2) Notwithstanding , anything contained in sub section (1) of section 4, where any land vested in the Panchayat under the shamilat law, but such. land has been excluded from Shamilat deh as defined in clause (g) of section 2, all rights, title and interest of the Panchayat in such land shall, as from the commencement of this Act, cease and such rights, title and interest shall be re-vested in the persons in whom the vested immediately before the commencement of the Shamilat law and the Panchayat shall deliver possession of such land to such person or persons:

Provided that where a Panchayat is unable to deliver possession of any such land on account of its having been sold or utilised for any of its purposes, such land shall not cease but the Panchayat shall, notwithstanding, anything contained in section 10, pay ,to the person or persons entitled to such land ,compensation to be determined in accordance with such principles and in such manner as may be prescribed.

## Section 4. Vesting of rights in Panchayat and non-proprietors

(1) Notwithstanding anything to the contrary contained in any other law for the time being in force or in any agreement, instrument, custom or usage or any decree or order of any court or other authority, all rights, title and interest whatever in the land:-

(a) Which is included in the Shamilat deh of any village and which has not vested in a Panchayat under the Shamilat law shall at the commencement of this Act vest in a Panchayat constituted for such village, and where no such Panchayat has been constituted for such village, and where no such Panchayat has been constituted for such village, vest in the Panchayat on such date as a Panchayat having jurisdiction over that village is constituted ;

(b) Which is situated within or outside the abadi deh of a village and which is under the house owned by a non-proprietor, shall, on the commencement of Shamilat law, be deemed to have been vested in such non-proprietor.

(2) Any land which is vested in a Panchayat under the Shamilat law shall be deemed to have been vested in the Panchayat under this Act.

(3) Nothing contained in clause (a) of sub-section (1) and in sub section (2) shall affect or shall be deemed ever to have affected the ;-

(i) existing rights, title or interests of persons who, though not entered as occupancy tenants in the revenue records are accorded a similar status by custom or otherwise, such as Dholdars, Bhondedars, Butimars, Basikhopohus, Saunjidars, Muqarrirdars;

(ii) rights of persons in cultivating possession of Shamilat deh, for more than twelve years 1[immediately preceding the commencement of this Act] without payment of rent or by payment of charges not exceeding the land revenue and cesses payable thereon.

(iii) rights of a mortgagee to whom such land is mortgaged with possession before the 26th January, 1950.

## Section 5. Regulation of use and occupation, etc of lands vested or deemed to have been vested in Panchayats

(1) All lands vested or deemed to have been vested in a Panchayat under this Act, shall be utilised or, disposed of by the Panchayat for the benefit of the inhabitants of the village concern in the manner prescribed.



Provided that where two or more villages have a common Panchayat, Shamilat deh of each village shall be utilised and disposed of, by the Panchayat for the benefit of the inhabitants of that village.

Provided further that where there are two or more Shamilat tikkas in a village, the Shamilat tikka shall be utilised and disposed of, by the Panchayat for the benefit of the inhabitants of that tikka.

1[ Provided further that where the cultivable area of land in Shamilat deh of any village, so vested or deemed to have been vested in panchayat is in excess of two-thirds of the total of that village (excluding abadi deh). then cultivable area upto the extent of two-thirds of such total area shall be left to the Panchayat and one-half of the remaining cultivable area of Shamilat deh, shall be utilised for the settlement of landless tenants any other tenants ejected or to be ejected of that village and the remaining cultivable area shall be utilised for distribution to small land owners of the village by the collector in consultation with the Panchayat, in such manner as may be prescribed].

(2) The area of Shamilat deh to be utilized for the purposes of the third proviso to sub-section (1) shall be demarcated by such officer in consultations with the Panchayat and in such manner as may be prescribed.

(3) The State Government or any officer authorised by it in this behalf may, from time to time, with a view to ensuring compliance with the provision of the second proviso to sub-section (1) or sub-section (2) issue to any panchayat such directions as may be deemed necessary.

2(4) Nothing contained in the third proviso to sub section (1) and in sub-section (2) and sub-section (3) shall apply to the "Hilly area".

3(5) Notwithstanding anything contained in the prereceding sub-sections, on land vested or deemed to have been vested in the panchayat under this Act, shall be disposed of by way of sale, gift or exchange, so as to have with the Panchayat, cultivable area which is less than fifty percent of the total cultivable area vested or deemed to have been vested in the Panchayat].

## Section 6. Appeal

(1) If any person is aggrieved by an act or decision of Panchayat under section 5, he may, within thirty days from the date of such act or decision, appeal to the Collector who may confirm, reverse or modify the act decision or make such other order as he thinks to be just and proper.

(2) The appellate order of the Collector shall be final.

## Section 7. Power to put panchayat in possession of Shamilat deh

(1) The collector shall, on an application made to him by a panchayat, or (a) 2[by an officer, duly authorised in this behalf by the state government by a general or special order], after making such enquiry, as he may think fit and in accordance with such procedure as may be prescribed put the panchayat in possession of the land or other immovable property in the Shamilat deh of that village which vests or is deemed to have been vested in it under this Act and for so doing the collector may exercise the powers of a revenue court in relation to execution of a decree for possession of land under the Punjab Tenancy Act, 1887.

(2) An appeal against the order of the collector under sub-section (1) shall lie to the Commissioner and the period of limitation for such an appeal shall be sixty days from the date



of the order appealed against.

## Section 7 A. Commissioner under this Act to exercise powers under Punjab Act 31 of 1973

For the purposes of appeals under section 9 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 hereinafter referred to be the said Act in relation to lands vested or deemed to have been vested in a panchayat under this Act, the Commissioner under this Act shall be deemed to be the Commissioner under the said Act].

## Section 8. Saving of existing Possession

(1) Where, on any land in the shamilat deh immediately before it vests or is deemed to have been vested in a Panchayat under this Act, a person is in cultivating possession and his uncut and ungathered crops are standing thereon, he shall not be ejected from such land, unless his crops have ripened and he has been allowed reasonable time to harvest them.

(2) Any person.....

## Section 9. Utilisation of Income

Any income accruing from the use and occupation of the lands vested or deemed to have been vested in a Panchayat shall be credited to the Panchayat fund and shall be utilised in the manner prescribed.

## Section 10. Bar of Compensation

No, persons shall be entitled to any compensation for any loss suffered or alleged to have been suffered as a result of the coming into force of this Act or of the Shamilat law.

## Section 10 A. Power of the Collector to cancel or vary leases etc. of lands vested in Panchayats

(1) Notwithstanding anything contained in this Act, or the Shamilat law or in any other law for the time being in force, the Collector in the area of his jurisdiction may call for the record of any lease contract or agreement entered into by the Panchayat in respect of land vested or deemed to be vested in it, whether such lease, contract or agreement is entered before or after the commencement of the Punjab Village Common Lands (Regulation) Amendment Act, 1964 and examine such record for the purpose of satisfying himself as to the legality or propriety of such lease, contract or agreement.

(2) Where, on examination of the record under sub-section (1) and after making such inquiry, if any, as he may deem fit, the Collector is satisfied that such lease, contract or agreement :

(i) has been entered into in contravention of any of the provisions of this Act or the Rules made there under ;

(ii) has been entered into as result of fraud or concealment of fact ; or

(iii) is detrimental to the interests of the panchayat as prescribed; the Collector may, notwithstanding anything as aforesaid, cancel the lease, contract or agreement or vary the terms thereof unconditionally or subject to such conditions as he may think fit ;



Provided that no order under this sub-section shall be passed by the collector without affording reasonable opportunity of being heard to the parties to the lease, contract or agreement.

(3) Where the terms of any lease, contract or agreement have been revised by the Collector under sub-section (2), the variation shall, notwithstanding anything contained in this Act or Shamilat law or in any other law for the time being in force be binding on the parties to the lease, contract or agreement as the case may be.

(4) Where the lessee or the person with whom a contract or agreement has entered into by a Panchayat refuses to accept the variation made by the Collector under this section in the terms of lease, contract or agreement, as the case may be, shall be deemed to be cancelled by the Collector under this section with effect the date of such refusal.

(5) Where, under this section, any lease, contract or agreement is cancelled or is deemed to be cancelled or its terms are varied, lessee or the person with whom the contract or agreement has been entered into, who suffers by such cancellation or variation, is entitled to receive compensation to be assessed by the Collector for any loss or damage caused to the lessee or such person, which naturally arose in the usual course of things from such cancellation or variation.

Provided that no such compensation shall be given for any remote or indirect loss or damage sustained by reason of such cancellation or variation.

(6) Notwithstanding anything contained in any law for the time being in force, the amount of compensation awarded by the Collector under this section shall be payable by the panchayat in the prescribed manner and shall be a valid charge on the Shabha funds.

(7) Any party to a lease, contract or agreement aggrieved by any order of the Collector made under this section may, within a period of thirty days from the date of such order, appeal to the Commissioner whose decision thereon shall be final.



## Section 11. Decision of claims of right, title or interest in Shamilat deh

(1) Any person claiming right, title or interest in any land, vested or deemed to have been vested in a panchayat under this Act or claiming that any land has not so vested in a Panchayat, may submit to the Collector, within such time, as may be prescribed, a statement of his claim in writing and signed and verified in the prescribed manner and the Collector shall have jurisdiction to decide such claim in such manner as may be prescribed.

(2) Any person or a Panchayat aggrieved by an order of the Collector made under sub-section (1) may, within sixty days from the date of the order, prefer an appeal to the Commissioner in such form and manner as may be prescribed and the Commissioner may after hearing the appeal, confirm, vary or reverse the order appealed from and may pass such as he deems fit.

## Section 12. Finality of orders

Save, as otherwise, expressly provided in this Act, every order made by the Collector or the Commissioner shall be final and shall not be called in question in any court by way of appeal or revision or in any original suit, application or execution proceedings.

## Section 13. Bar of Jurisdiction in Civil Courts

No civil court shall have jurisdiction:-



(a) to entertain or adjudicate upon any question, whether any property or any right to or interest in any property is or is not Shamilat deh vested or deemed to have been vested in a Panchayat under this Act ; or

(b) to question the legality of any action taken by the Commissioner or the Collector or the Panchayat, under this Act, or

(c) in respect of any matter which the Commissioner or the Collector is empowered by or under this Act to determine].

## Section 13 A. Penalties and procedure

(1) No person shall unless entitled or authorised so to do, by law or by an instrument or by order executed or issued by a competent authority under law, enter into the possession of any land vested or deemed to have been vested in a Panchayat under this Act or having lawfully entered into possession of such land ; unlawfully remain in possession thereof, on or after the expiry of the term of such lawful possession, if any.

(2) Any person who contravenes the provisions of sub-section (1) shall, notwithstanding any thing contained in any other law, be punished with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

(3) Any person who abets an offence punishable under this Act, shall be punished with the punishment provided for the offence.

(3) Notwithstanding, anything contained in the Code of Criminal Procedure 1973, an offence under this Act, shall be cognisable.



## Section 13 B. Provisions of this Act to be overriding

The provisions of this Act shall have effect, notwithstanding to the contrary in any law or any agreement, instrument, custom, or usage or any decree or order on any court or other authority].

## Section 14. Indemnity

No suit, prosecution or other legal proceedings shall lie against the Government or any person or authority for anything done or intended to be done in good faith, in pursuance of the provisions of this Act.

## Section 14 A. Saving

Nothing contained in this Act or the Shamilat law. shall: –

(a) affect or shall be deemed to have affected any right of the State Government in the land vested or deemed to be vested in a Panchayat under this Act ; or

(b) entitle or shall be deemed ever to have entitled a Panchayat or any other authority under this Act or the 'Shamilat law' to exercise any right or to do any act in respect of any land in the 'Hilly area' vested or deemed to be vested in the Panchayat whether such land has or has not been declared as a protected forest under section 29 of the Indian Forest Act, 1927, in contravention of the provisions of that Act or the Rules made thereunder.]

## Section 15. Power to make rules

(1) The State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the principles on which and extent to and the manner in which the inhabitants of the village shall make use of the lands vested or deemed to have been vested in the Panchayat ;

(b) the maximum and minimum area to be leased to any single person ;

(c) the prescribing of forms for such books, entries, statistics and accounts as may be considered necessary to be kept, made or compiled in any office or submitted to any authority ;

(d) determining the principles on which and the manner in which compensation may be paid under sub-section (2) of section 3 ;

(e) the terms and conditions on which the use and occupation of any such land is permitted ;

(f) the manner and the circumstances in which any such land may be disposed of, transferred or sold;

(g) the purpose for which any such land may given free of charge ;

(h) the regulation of procedure where a Panchayat 1 [sues or] is sued on its representative capacity;

(i) the manner or the order of priority in which the excess area shall be utilized by the Collector under sub-section (1) of section 5;

(j) the officer by whom and the manner in which the area of Shamilat deh referred to in sub-section (1) of section 5 shall be demarcated; and

(k) any other matter which can be or may be prescribed.

## Section 16. Repeal and Saving

(1) The State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the principles on which and extent to and the manner in which the inhabitants of the village shall make use of the lands vested or deemed to have been vested in the Panchayat ;

(b) the maximum and minimum area to be leased to any single person ;

(c) the prescribing of forms for such books, entries, statistics and accounts as may be considered necessary to be kept, made or compiled in any office or submitted to any authority ;



- (d) determining the principles on which and the manner in which compensation may be paid under sub-section (2) of section 3 ;
- (e) the terms and conditions on which the use and occupation of any such land is permitted ;
- (f) the manner and the circumstances in which any such land may be disposed of, transferred or sold;
- (g) the purpose for which any such land may given free of charge ;
- (h) the regulation of procedure where a Panchayat 1 [sues or] is sued on its representative capacity;
- (i) the manner or the order of priority in which the excess area shall be utilized by the Collector under sub-section (1) of section 5;
- (j) the officer by whom and the manner in which the area of Shamilat deh referred to in sub-section (1) of section 5 shall be demarcated; and
- (k) any other matter which can be or may be prescribed.

## Schedule 1. Short title

These rules may be called the Punjab Village Common Lands (Regulation) Rules, 1964

## Schedule 2. Definitions

In these rules, unless the context otherwise requires-

- (a) "Act" means the Punjab Village Common Lands (Regulation) Act, 1961.
- (b) "Form " means a form appended to these rules.
- (c) "Panchayat Samiti" means the Panchayat Samiti constituted under the Punjab Panchayat Samitis and Zila Parishads Act 1961 and having jurisdiction over the Sabha Area.
- (d) "Sabha Area" means an area declared to be a "Sabha Area" under section 4 of the Punjab Gram Panchayat Act 1952
- (e) "Zila Parishad" means the Zila Parishad constituted under the Punjab Panchayat Samitis and Zila Parishads Act, 1961, and having jurisdiction over the Sabha Area

## Schedule 3. The manner in which and the purposes for Shamilat deh may be used (Sections 5 and 15 (2)(a) of the Act)

- (1) The Panchayat shall prepare a land utilization plan of the land in Shamilat deh vested in it under the Act. 1[it shall be the duty of B.D.& P.O to assist the Gram Panchayats concerned in the preparation of the said plans]. Such Plan shall be subject to approval of-
  - (a) The Panchayat Samiti- where the area exceeds 100 acres but does not exceed 500 acres
  - 2[1000 acres];



3(b) the Zila Parishad- where the area exceeds 500 acres but does not exceed 1,000 acres];

(c) the Government- where the area exceeds 1,000 acres.

(2) The panchayat may make use of the land in Shamilat deh vested in it under the Act, either itself or through another, for any one or more of the following purposes:-

(i) Model farm;

(ii) Seed farm;

(iii) Nursery garden or any other horticultural purpose;

(iv) production of food, fibre or fodder crops;

(v) Diary farm;

(vi) Grazing of cattle 1[animals];

(vii) Tree plantation or any other purpose related to forestry;

(viii) Dyeing and tanning of skins and hides;

(ix) Storage of fuel, fodder and/ or grain;

(x) Bricks kilns 2[Pottery], extraction of shora 'sand stones, kankar, bajri, other minerals defined in the Punjab Minor Mineral 3(Concession) Rules 1964;

(xi) Cremation or burial ground;

(xxii) Manure pits;

(xxiii) Public latrines and / or urinals;

(xiv) Pathways 4[streets and lanes], roads, drains or water channels;

(xv) Playground, recreation parks or children' park or 5(balwaris);

(xvi) Leasing out, for the purposes of abadi to a family having insufficient housing accommodation or for the purpose of industrial project approved by the Government;

(xvii) School building, school library or any other structure for educational Purpose;

(xviii) Maternity or first-aid centres;

(xix) Hospital or dispensary;

(xx) Veterinary Hospital or dispensary;

(xxi) Vehicle Park;

(xxii) Panchayatghar 6[or village Chaupal] 7[or Community Center];

(xxiii) Ponds and fisheries;



(xxiv) Wells, hand pump, water works, or any water lifting devices;

(xivA) Thrasher floor 1[Thrashing ground];

2(xxiv:B) [Kohloo];

(xxv) Leasing out for cultivation; or

(vxva) (Thrashing Floors; 3(or)-in Pb;

(vxvi) Any other kindred common purpose with the approval of the Panchayat Samitis;.

(3) Subject to approval of Panchayat Samiti, a panchayat may unite with any other body or bodies being a Gram Panchyat, local authority or an institution or branch of institution' established for the development of Panchayat and recognised by Government in taking up any of the purpose specified in sub rule (2).

#### COMMENTS

The Panchayat has unfettered rights to use Shamilat deh vested in it either the Shamilat law or the present Act of 1961, except to the extent to which the statutory law and the rules indicate for any of the specified purpose it like and it is not necessary that what was grazing land out of Shamilat deh previous to such vesting must continue to be such<sup>4</sup>.

On cancellation of lease of Shamilat deh, given in contravention of the Rules, it has been held that infraction of the legal right resting in the petitioner is a foundation of jurisdiction under Art. 226 of the Constitution. Cancellation of the lease of Shamilat deh land granted to him in infringement of rule 3 of the Punjab Village Common Lands (Regulation ) Rules 1964, being null and void, gave him no such right the infraction of which he would complain, or in respect of which he could seek relief under the provisions of Articles 226 of the Constitution<sup>5</sup>.



## Schedule 4. Terms for saving existing possession ( Sections 5 and 15 (2)(f)of the Act)

1) Where a person <sup>7</sup>[other than that in whom the shamilat land has vested under the Act] has built a house or erected any other structure on any land in the Shamilat deh, before the coming into force of the Act, the Panchayat may allow such person to retain possession of the site by-

(a) Selling it to him at the market value prevailing at the time of the sale to be determined by the Collector or the officer appointed by him for the purpose: provided that the person concerned is unable to pay the entire amount immediately, it shall be recovered in such instalments to be spread over a period not exceeding five years as may be determined by the Panchayat or

(b) leasing out the site to him at an annual rent to be determined by the Collector or the officer appointed by him for the purpose at the rates prevailing at that time.

(2) Subject to sub-rule (1), the terms and conditions for sale or lease of land in Shamilat deh shall be determined by the Panchayat]

## Schedule 5. Exchange of land (Section 5 and 15 (2) (f) of the Act)

A Panchayat, if it is of opinion that it is necessary so to do for the benefit of the inhabitants of the village may with the prior approval of the Government, transfer any land in Shamilat deh by exchange with the land of an equivalent value 1[ to be determined by the Tehsildar in whose jurisdiction the land is situate]

2[" Provide that where the land is required, in connection with the Integrated Rural Development Programme sponsored by the Government the Panchayat may, with the approval of the Collector, transfer any land in Shamilat deh by exchange with the land of an equivalent value"] ( b. alone)

## Schedule 6. Lease to be by auction

( Sections 5 and 15 (2) (f) of the Act).

(1) 5[Subject to the provisions of sub- rule (1) of rule], all leases of land in Shamilat deh shall be by auction after making publicity in the manner laid down in sub-rule 10. All documents executed in this connection shall be signed by a sarpanch or in his absence, 6[by Naib Sarpanch or in the absence of both] by a panch performing the duties of sarpanch and two other panches of the Gram Panchayat 7[two other panches authorised for the purpose by the Gram Panchayat.]

Provided that:-

1(a) " Out of the cultivable land proposed to be leased, thirty percent ten percent and ten percent, respectively shall be reserved for giving on lease by auction, to members of the Scheduled Caste; Backward Classes ; and dependants of defence personnel killed in any war after the independence of India.

Explanation:- if on two different dates fixed for auction, no such person is forthcoming or the Panchayat Samiti refuses to confirm the auction, under sub clause (1) of clause (a) of sub- rule (2), the reservation shall cease to have effect, and]

(b) any sarpanch or panch or member of his family such as father, grandfather, mother, grandmother, wife, son, grandson, great grandson or any other relative dependent on him shall not be allowed to bid for auction and to take land in Shamilat deh on lease- in Hr. only

(a) One-third of the cultivable land proposed to be leased, shall be reserved for giving on lease by auction to the members of the Scheduled Caste only and, if on two different dates fixed for auction no such person is forthcoming or Panchayat Samiti refused to confirm the auction under clause 2 (a) (i) the reservation shall cease to have effect, and- in Pb.

2[(b) any Sarpanch 3[Naib Sarpanch] or panch or member of his or her family such as father, father in-law, mother, mother-in-law, grandfather, grandfather-in-law, grandmother, grandmother-in law, wife, husband, son grandson or any other relative dependent on him or her shall not be allowed to bid for the auction and to take land in Shamilat deh on lease- in Pb alone]

(2) Lease of land in Shamilat deh already under plough shall not be given for period exceeding two years, while that of land, not under plough and infested with trees, bushes, etc. may be given for a period not exceeding five years to the highest bidder. The auction shall be subject to the approval of:-

(a) The Panchayat samiti-(i) where the area does not exceed 100 acres and the highest bid of the lease at the auction is less than the average lease rate of the similar land in the



neighborhood for the last five years; 4[in the preceding year] or (ii) where the area exceeds 100 acres, but does not 500 5[1000 acres,]

6[(b) The Zila Parishad- where the area exceeds 500 acres but does not exceed 1000 acres.]

(c) the Government- where the area exceeds 1000 acres:

[1][Provided that the Panchayat shall, within seven days of the date of auction, apply for approval of the Panchayat Samiti, Zila Parishad or the Government as the case may be, which shall accord the approval within a period, not exceeding one month from the date of auction the lease]:

Provided 2[further] that on the application of the lessee made before the expiry of the lease, the panchayat may renew the lease for a period not exceeding two years at a time, if it considers that renewal of lease is in the interest of better cultivation and is satisfied that the lessee has made improvement by rendering such land fit for cultivation or has made improvements by digging a well or installing a pumping set or a tube-well or constructing a pucca structure on such land:

Provided further that the annual rent of such land for which lease has been renewed shall be determined by the Collector or the officer appointed by him for the purpose on the basis of market rental value of similar lands in the neighbourhood.

(3) All lands near the abadi deh vested in the panchayat and used for industrial purpose may be leased out for a period not exceeding ten years by auction in February every year.

(4) All pounds used for the plantation of Shinghars and for stocking fish may be auctioned in the month of 3[March or April] September every year.

4[(4) Auction of every pond:-

(i) Used for plantation of shingaras may be made on yearly basis in the month of 5[July] every year, and 7n

(ii) used for stocking fish may be made for a period not exceeding ten years preferably in the month of September]:

6[Provided that where a Department of Punjab Government or of the Government of India or a member of the Fish Farmer Development Agency sponsored by the Government desires to take a pond on lease for rearing fish, the panchayat may lease to such Department for a period, not exceeding fifteen years or to such member for a minimum period of three years and maximum period of five years on such terms and conditions, as may be agreed upon between the parties- in Pb.]

1[(5) The leases of lands in Shamilat deh for extraction of Shora, sand, stone, kankar, bajri and other minor minerals (as defined in the Punjab Minor Mineral (Concession) Rules 1964) and grass, kahi and similar other products shall be auctioned at a time to be determined by the Panchayat where it may be considered to be of maximum advantage for the inhabitants of the village.]

2[5] The lease of lands in Shamilat deh for extraction of shora, sand, stone, kankar, bajri and other minor minerals as defined in the Punjab Minor Mineral Concession Rules 1964, and grass, kahi and similar other products, shall be auctioned at a time to be determined by the panchayat when it may be considered to be of maximum advantage for all the inhabitants of the village.]



(6) The Panchayat may auction every year the surplus and useless trees. All trees standing on the land in Shamilat deh shall be marked by 3[numbers of trees so marked] shall be specifically mentioned in the auction notice and the lease 3[the sale] deed.

(7) The lease of cultivable land in Shamilat deh shall be auctioned for rent in-cash ordinarily in month of October or November 4[at a time to be a determined by District Development and Panchayat Officer concerned of his district] to the maximum advantage of the inhabitants of the village and the annual lease money shall be paid as under ;-

(a) for the first year of the lease, one fourth of the annual rent shall be paid by the bidder on the spot and the remaining three-fourth, before the possession of the land is delivered to him.

Provided that the possession of the land shall not be delivered by the Panchayat to the lessees concerned earlier than February next. Where in any land uncut or ungathered crops of the previous lessees are standing in any part, the possession of that part shall be delivered when the crops have ripened and the person concerned has been allowed a reasonable time to harvest them.

(a) For the remaining years of lease, if any, the annual rent shall be paid in advance in February every year.

5[Rule 7-A (a) The auction lease of land in Shamilat deh, shall be held in presence of :-

(i) Social Education and Panchayat Officer of the Block 6[or the Extension Officer authorised by the Block Development and Panchayat Officer), where the land does not exceed twenty acres;

(ii) Block Development and Panchayat Officer of the Block where the land exceeds twenty acres but does not exceed one hundred acres;

(iii) District Development and Panchayat Officer of the District where the land exceeds one hundred acres;

(b) Where the lease money in auction of Shaimlat deh is less than that of previous year, the gram panchayat, conducting the auction shall obtain the approval of the panchayat samiti on the recommendation of:

(i) The Block Development and Panchayat Officer where the auction was held in the presence of the Social Education and Panchayat Officer (or the Extension Officer);

(ii) The District Development and Panchayat Officer-where the auction was held in the presence of Block Development and Panchayat Officer;

(iii) The Divisional Deputy Director Panchayat Raj-where the auction was held in the Presence of the District Development and Panchayat Officer;]

8. In every case of lease, a deed shall be duly executed by the lessee, and the lessee will surrender to the panchayat possession of the land leased to him, if he defaults in the payment of rent subject to the provisions of the Punjab Tenancy Act 1887, 1[after the expiry of the period of lease].

9. The Panchayat may by resolution passed in this behalf entrust the auction of lease, of any land in Shamilat deh to the panchayat samiti which may depute its executive officer to conduct the auction, after giving due publicity in the manner specified in sub-rule (10), at the cost of the Panchayat.





10 (1) The publicity to lease auction programme shall be given fifteen days before the date of auction, by specifying the description of land, of the date, time and place fixed for the auction of lease:-

[(a) through any [local] vernacular newspaper 2[with wide circulation as approved by the Government] and where the auction of stone quarries, bajri or other minor mineral etc. is to be held, also through an English newspaper 2[with wide circulation, as approved by the Government],

(b) by pasting a copy of auction notice on an outer door of the panchayat ghar, village patwar khana, office of Panchayat Samiti 3[and Zila Parishad] and at some other conspicuous place of Shamilat deh or of the estate in which the Shamilat deh is situated, and

(c) by beat of drum within the Sabha area.

(2) The terms and conditions of auction shall be announced at the time of auction.

1[(i) The auction of lease of any land in Shamilat deh vested in the Panchayat, shall be conducted in the presence and under the supervision of Block Development and Panchayat Officer and in case of his inability, an Extension Officer of the Block.]

(ii) The copy of every auction notice shall be sent to the Block Development and Panchayat Officer concerned, fifteen days before the date of auction.

(iii) The Block Development and Panchayat Officer or the Extension Officer as the case may be, shall present himself at every auction in respect of which a notice is sent to him.]

## Schedule 6 A. Lease of Kallar (salt) land in Shamilat deh for reclamation

Where survey conducted by the department of the Government or by an institution authorised in this behalf, it is found that the Shamilat deh of any panchayat contains Kallar (salt) such panchayat may lease out the said land without 3[by] auction for the purpose of reclamation to (any person or) such Department or the institution on the terms and conditions agreed upon, between the parties for a period, not exceeding ten years on an annual rent of not less than ten rupees per acre. The lease shall be subject to the approval of:-

I The Panchayat Samiti- Where the area exceeds 100 acres but does not exceed 500 acres.

II Zila Parishad- Where the area exceeds 500 acres, but does not exceed 1000 acres.

III The Government:- Where the area exceeds 1000 acres]

## Schedule 7. Lease of lands in Shamilat deh to Collective Farming Co-operative Societies

(Section 5 and 12(2) (f) of the Act).

(1) Subject to the provisions of Section 5 of the Act where in a village, cultivable area in Shamilat deh is 200 acres or more, such land may be leased out without auction to the Collective Farming Co-operative Society if any, constituted in the village under the Punjab Co-operative Societies Act, 1961, on such terms and conditions as may be agree to by the panchayat with the approval of the Zila Parishad [Panchayat Samiti]. Where there are more than



one Collective Farming Co-operative Societies in a village the land in Shamilat deh may be leased out to them in proportion to the strength of their members. The Co-operative Collective Farming Society shall execute a lease deed in favor of the Panchayat. The total period of the lease shall not exceed 5 years.

(2) Such lease shall be subject to review by the Zila Parishad 1[Panchayat Samiti] concerned annually so that the Panchayat of the society may not suffer due to subsequent events which may affect the fertility or improvement in the land.

(3) If, in any case, the Panchayat has purchased a tractor or other equipment for the cultivation of the land in Shamilat deh, the Co-operative Collective Farming Society may purchase or take on hire such machinery and equipment on such reasonable price or rent as the case may be, as may be mutually settled by the panchayat and said society.

(4) In case the Society used such land for any purposes other than cultivation and purposes subservient thereto or violates any terms or conditions of the lease or cease to cultivate such land collectively in accordance with the bye-laws of the Society, the Panchayat may resume the land without payment of any compensation ; or

2[(4) In case the society fails to comply with the terms and conditions of the lease, the lease shall come to an end and the land shall revert to the panchayat without payment of compensation thereof] and

3[14-A.If any question, dispute or double arises as to whether or not the lease has come to an end, it shall be referred by the either party to the Collector whose decision after hearing the parties shall be final].

(5) Lease money shall be payable by the Co-operative Collective Farming Society in advance [as provided in clauses (a) and (b) of sub-rule (7) of Rule 6.]



## Schedule 7 A. Lease [contranct or agreement detrimental to the Interests of Panchayat

[[Section 10-A (2) (iii) and 15 (2) (k)].

Any lease, contract or agreement shall be deemed to be detrimental to the interest of Panchayat if:-

(i) it has been granted or made as the case may be, otherwise than by following the procedure laid down for grant of lease or the making of contracts and agreements by the Panchayat or

(ii) it adversely affects any of the development schemes of the Panchayat; or

(iii) it has resulted or is likely to result in a loss to the Panchayat or

(iv) it is Benami.

## Schedule 7 B. Manner of payment of compensation assessed by the Collector under sub-section 5 of section 10-A

[Sections 10-A (6) and 15 (2) (k).

The amount of compensation assessed by the Collector under sub-section 10-A shall be paid by the panchayat direct to the payee against proper receipt or by money order, if the payee so desires after deducting therefrom money order commission or other expenses, if any:-

- (i) in lump sum where the amount of compensation does not exceed one hundred rupees; and
- (ii) in three equal instalments, where the amount of compensation exceeds one hundred rupees].

## Schedule 8. Use of Shamilat deh by residents

[Sections 5 and 15(2) (g) of the Act]

(1) The land in Samilat deh declared by the panchayat by a resolution in writing as pasturable, may be utilized by the residents of the village for-

- (a) grazing purposes; or
- (b) collecting dry fulwood from the jungle on terms laid down by the panchayat.

(2) Open spaces near the abadi deh may, with the previous permission of the panchayat and in the manner laid down by it be utilized by the inhabitants of the village for threshing the harvests.

1[(3) All inhabitants of the village are entitled to purchase or take on lease non-cultivable Shamilat deh from the Panchayat for residential, commercial or industrial purposes, on the terms and for the period settled by the Panchayat, but all such sales or leases shall be subject to the approval of 2[the "Director of Panchayat"];

3[Provided that members of the Scheduled Castes of the village may take on lease non cultivable shamilat land near the abadi deh up to one acre for installation of Maidani Brick Kiln at the rate of one hundred rupees per annum]

(4) The Panchayat may, if necessary, earmark suitable land for use as manure pits by the inhabitants of the village on such nominal charges as may be fixed by it:

Provided that the panchayat may exempt members of Scheduled Castes or Backward Classes or any landless labourer or tenant, on the ground of Poverty from payment of such charges.

## Schedule 9. Maximum area to be leased out

[Section 5 and 15 (2) (f) of the Act].

(1) The panchayat shall not lease cultivable land in Shamilat deh to a person.

1[(a) having a holding on ten acres or more; or]

(b) already holding lease under any other panchayat. Provided that the maximum area of land in Shamilat deh to be leased to a person shall not exceed ten acres at any time.

2 Except with the prior permission of panchayat samiti, the panchayat shall not lease more than one acre of land in Shamilat deh for residential, Industrial or commercial purposes near the village abadi to any one Person.



## Schedule 10. Land to be used free of charge

2[Section 15 (2) (g) 3[Section 5 and Section 15 (2) (g)].

The Panchayat may allow the use of land in Shamilat deh vested in it free of charge to the inhabitants of the village for any one or more of the following purposes:-

(a) Steeping of hemp or any other plant in ponds ;

4(b) residential purposes of members of the Scheduled Castes or Backward Classes or dependents of the defence personnel killed in any war after the Independence of India, or landless labourers or tenants in genuine cases on grounds of poverty;]

5[(b) Residential purposes of the members of Scheduled castes or Backward Classes or landless labourers or tenants or any other deserving person in genuine cases on grounds of poverty.]

any other suitable common purpose.

## Schedule 11. Purposes for which land may be hypothecated

6[Sections 5 and 15(2) (k)] 7[Section 15 (2) (e)].

A Panchayat may, with the prior sanction of the Zila Parishad 8[Panchayat Samiti] hypothecate the land in Shamilat deh vested in it for the purpose of borrowing money from the Government or a Co-operative Bank for the improvement of such land or for any other development scheme.

## Schedule 12. Purpose for which land may be sold

[Sections 5 and 15 (2) (f) of the Act}.

(1) A Panchayat may, with previous approval of the Government, sell land in shamilat deh vested in it under the Act for:-

(i) the purpose of constructing building for Block Samiti office or any department of or institution recognized by the Government ;

(ii) the purpose of any industrial or commercial concern; or executing such a scheme as may be a source of recurring income for the benefit of the inhabitant of the village.

1{(iv) residential purpose of the inhabitants of the village-in Pb.}

2{v) for the purpose of financing the construction of building for schools and for veterinary and civil dispensaries in the Sabha area}.

(2) Where it is proposed to sell the land in shamilat deh under sub-rule (1), the panchayat shall forward to Government a copy of its resolution passed by a majority of the three-fourth of its members proposing to sell the land through the Panchayat Samiti and Deputy Commissioner 3(Divisional Deputy Director Panchayati Raj} stating-

(a) the area and location of the land proposed for sale;

(b) the estimated income from the sale and whether the income would increase, if the land is sold after some years;



(c) the reasons as to why the panchayat wants to sell the land and the plans for utilization of the income from the sale.

(3) The publicity for sale of land in shamilat deh by auction shall be made by the Deputy Commissioner in accordance with the procedure laid down in sub- rule (10) or Rule 6 on receipt of the approval of Government who shall also decide whether the land should be sold in one or more lots and the officer who should ( would in Hr.)) be present at the auction:

4[Provided that nothing contained in this sub rule shall apply to the sale of shamilat land for the purpose specified in clause (i) of sub-rule (1).

## Schedule 13. Purposes for which land may be gifted

A Panchayat may gift land in shamilat deh vested in it under the Act for the purpose of hospital, dispensary or educational or charitable institutions as may be approved by the Government with the previous approval of::

(a) The Zila Parishad – where the area does not exceed two acres;

(b) The Government -where the area exceeds two acres {Pb.}

(1) A Panchayat may, with the previous approval of the Government, gift the land in Shamilat deh vested in it under the Act for the purposes of a hospital, dispensary or educational or charitable institution {or for such other purposes as may be approved} by the Government 3[to be for the benefit of the inhabitants of the village concerned].

4[(2) Panchayat may, with the previous approval of the Government, gift the land in shamilat deh vested in it under the Act for the purpose of construction of houses, laying out common places and providing other amenities under the Model village Scheme approved by the Government for the benefit of the inhabitants of the village.)



## Schedule 13 A. Gift of land to members of Scheduled Castes and Backward Classes for residential purpose

(1) The terms and conditions on which the land under Section 5-A may be gifted shall be as under:

(a) the donee shall not sell, mortgage or dispose of the land in any other manner, whatsoever before the expiry of a period of twenty years from the date of the housing board gift; 6{Provided that donee may mortgage the land with 7{ any Schedule Bank or the Government} for the purpose of raising loan for the construction of the house}

(b) the donee shall construct a house on the land within a period of two years from the date of the gift;

(c ) the donee shall use the land for residential purposes and for no other purpose; and no other purpose; and

(d) in case of death of the donee, his legal heirs shall be bound by the conditions therein contained.

(2) In case of breach of any of the terms and conditions specified in sub-rule (1) the panchayat shall, after affording a reasonable opportunity of being heard to the donee, cancel the gift and

resume the gifted land. In such event, the donee shall not be entitled to any compensation in respect of any development or construction made by him on such land}.

Giving of the land to landless worker.

A Panchayat may, with the previous approval of the Government, give land in shamilat deh free of cost, to a landless worker residing in the Sabha area for construction of a house for his residence;

Provided that the landless worker to whom such land is given, shall not be entitled to sell, exchange or mortgage it except mortgaging it for the purposes of raising loan to construct a house on it}- in Pb.

## Schedule 14. Utilization of the income from the shamilat deh

Section 9 and 15 (2) (f) of the Act}

The income derived by a panchayat from the use and occupation of land in shamilat deh vested 2( or deemed to have been vested ) in it shall be utilized for the benefit of the inhabitants of the village, as laid down in the Punjab Gram Panchayat Act 1952 and for the improvement, maintenance and management of the shamilat deh.

## Schedule 15. Payment of compensation

Payment of compensation under Section 3(2) [ Section 3(2) and 15(2)(d) of the Act].

(1) Any person who is entitled to compensation under sub section (2) of Section 3 of the Act may, within a period of twelve months from the date of commencement of these rules, apply to the Collector 3( Assistant Collector) for the determination of amount of compensation payable to him by the Panchayat: Provided that the Collector 3[Assistant Collector} may entertain the application after the expiry of the said period of twelve months, if he is satisfied that the applicant was prevented by a sufficient cause from filing the application in time.

(2) On receipt of an application, the Collector 3[Assistant Collector] shall-issue notice to the panchayat and after giving an opportunity of being heard and after making such enquiry as may be considered necessary, shall determine the amount of compensation payable by the panchayat.

(3) Where there is any dispute as to the person or persons who are entitled to the compensation, the Collector 3[Assistant Collector] shall decide such dispute and if the Collector 3[ Assistant Collector] finds that more than one person are entitled to compensation, he shall apportion the amount there of amongst such persons.

(4) The amount of compensation shall be determined in accordance with the following principles:

(a) if the lands has been sold by the panchayat; the amount of compensation of the land shall be the same as received by it from the vendee.

(b) if the land is utilized by the panchayat for any of its purposes, the amount of compensation shall be determined by working out an average of the sale proceeds of the lands of the same nature and kind sold in the village 1{or neighboring villages} during the last three years and if no such lands has been sold in the village, 1{or neighboring village} reasonable price as may be determined.



Provided that the payment of such compensation shall be made in six equal annual installments, if the amount involved is more than Rs.300

## Schedule 16. Procedure where a Panchayat sues or is sued in its representative capacity

{Sections {15 (2) 2[h] of the Act) [Section 15 (2)(b)}.

(1) The Panchayat shall by a resolution to be recorded in the proceeding book, appoint its sarpanch 3{or N S}or any other Panch to contest any suit filed by or against the panchayat. The sarpanch 3 {N S} or Panch so appointed shall file a copy of the resolution duly attested by the sarpanch 3(or N.S.) under the seal of the panchayat in the court along with other documents.

(2) The actual expenditure incurred in the defense of the case shall be chargeable to the funds of the Panchayat.

(3) The sarpanch 4{or Naib Sarpanch) or Panch so appointed shall not be competent to compound or admit claim of the party suing the panchayat without prior authorization by the panchayat by a resolution in writing passed in a meeting specifically called for the purpose. If any decree or order is passed by the court as a result of fraud, misrepresentation, concealment of facts or collusion with the opposite party, the sarpanch 4{or Naib Sarpanch } or Panch shall be personally liable for the loss caused to the panchayat.

### COMMENTS

Where a Panch or a sarpanch is even authorised to defend a claim, he or they cannot admit the claim in the absence of a resolution to that effect in a meeting specially called for the purpose. So also unless there is a proper resolution in favour of either a sarpanch or a panch, he cannot even defend the suit<sup>5</sup>



## Schedule 16 A. Non- cooperation of member alleged- loss-not liable

To start proceedings for ejectment of an unauthorised occupant, the resolution has to be passed by the Gram Panchayat under Rule 16 of the Act. Where it is alleged that a number did not co-operate in getting vacated unauthorized occupation, and as such the member is liable for loss or misappropriation of money or property belonging to the Panchayat without indicating as to in which manner the non-cooperation was done by the member. There are also not allegations that the member did not participate) in proceedings for passing resolution, so the provision of Sections 105 (2) of Gram Panchayat Act 1952, are not attracted and he cannot be made liable for loss etc. thus caused <sup>1</sup>

## Schedule 17. The manner and the order of priority in which the{ excess} area is to be utilized by the Collector

The manner and the order of priority in which the{ excess} area is to be utilized by the Collector under sub-section (1) of section 5{ Sections 5 (1) and 15 (2) of the Act }

(1)(i) The landless tenants and other tenants ejected or to be ejected in the village shall apply to the panchayat for the allotment of surplus area of shamilat deh earmarked for the purpose not later than October every year. Such application shall be acknowledged in writing and entered in the register of tenants by the panchayat

(ii) The panchayat shall formulate a proposal (with the help of concerned Block Development and Panchayat officer) in the month of January every year for the allotment of the surplus area to the tenants and send the proposal to the Collector through the panchayat samiti for approval. The Collector shall ordinarily approve the proposal of the panchayat. Where, however there are complaints, the Collector may modify the proposal to the panchayat for submitting a revised proposal.

(iii) Where there are more tenants than the surplus area with the panchayat, preference shall be determined by the order in which applications for resettlement were made and where the applications had been made simultaneously the priority shall be decided by drawing lots.

(2) (i) An application for distribution of the remaining excess area of shamilat deh, if any, shall be made to the panchayat within one month of the date of determination of such area by the panchayat.

(ii) Such applications shall be acknowledged and entered by the panchayat in the register to be maintained for the purpose.

(iii) The panchayat shall submit a proposal to the Collector in this behalf within two months of the notification of the surplus area through panchayat samiti

(iv) In cases where the demand for the remaining excess area exceeds the available area, priority shall be given to the smallest landowners and where there are more than one; to all land owners having equal land holdings, the priority shall be decided by drawing lots-in Hr.

4{17

(1)(i) The landless tenants and other tenants ejected or to be ejected in the village shall apply to the panchayat for the allotment of the excess area of shamilat deh available for the purpose under third proviso to sub-section (I) of Section 5, not later than the end of October each year. Each such application shall be acknowledged in writing and entered in register of tenants, by the panchayat.

(ii) The panchayat shall, in the month of January, every year, formulate its proposal for the allotment of the area referred to in clause (i) to the tenants and send the same to the Collector through the panchayat samiti for approval. The Collector may accept the proposal of the panchayat, with or without any modification, or return the same to the panchayat, for sending a revised proposal.

(iii) Where the area available for allotment to the tenants is not sufficient to satisfy all the applicants; preference for the purposes of allotment shall be determined by the order in which applications for allotment were made and where the applications were made on the same day, the priority shall be decided by drawing lots.

2(i) Applications for a allotment of excess of Shamilat deh available for distribution amongst small landowners under the third proviso to sub-section(1) of Section 5 shall be made to the panchayats within one month of the date of determination of such areas by the panchayat.

(ii) Each such application shall be acknowledged in writing and entered in the register maintained for this purpose, by the panchayat.

(iii) The panchayat shall submit its proposals to the Collector through the panchayat samiti within two months of the date of determination of the excess area by the panchayat.





(iv) Where the area available for distribution among small landowners is not sufficient to satisfy all the applicants, priority shall be given to the smallest landowners and where there are more than one, to all land owners having equal land-holdings priority shall be decided by drawing lots.}

(3) In case a tenant or small land- holder does not take possession of the area allotted to him within six months from date of allotment, the allotment shall be inoperative and that area shall be utilized for resettlement of another tenants or small land-holders as the case may be- in Pb. only}

## Schedule 18. Demarcation of the surplus area

Demarcation of the surplus area 1( excess) area ( Sections 5 (a) and 15(2) (j) of the Act).

(1) The panchayat having excess area in accordance with Section 5 of the Act shall notify to the patwari concerned the area to be kept under its control and that to be allotted to landless tenants and other ejected or to be ejected or to be distributed among small land-holders of the village.

(2) The Patwari shall, after verifying all the particulars of the land so notified, send a statement giving full details of the land to 1[the Assistant Collector Ist Grade in duplicate who shall retain one copy of the statement and forward the other to the ] Collector concerned who shall order the demarcation of the excess area by an officer not below the rank of an Assistant Collector Ist Grade, ( Naib Tehsildar)- ( in Pb.)

## Schedule 19. Unauthorized occupation of shamilat deh

Unauthorized occupation of shamilat deh ( Sections 7 and 15 (2)(k)of the Act).

For purposes of Section 7 of the Act, a person shall be deemed to be in unauthorised occupation of any land in shamilat deh:-

(a) Where he has, whether before or after the commencement of the Act entered into possession therefore otherwise than under and in pursuance 4{of} any allotment, lease or grant by the panchayat; or.

(b) Where he being an allottee; lessee or grantee, has, by reason of the determination or cancellation of his allotment lease or grant in accordance with the terms in this behalf therein contained ceased whether before or after the commencement of the Act to be entitled to occupy or hold such land in shamilat deh, or.

(c ) where any person authorised to occupy any land in shamilat deh has, whether before or after the commencement of the Act;-

(i) Sub-let in contravention of the terms of allotment, lease or grant, without the permission of the panchayat or of any other authority competent to permit such sub-letting, the whole or an part of such land in shamilat deh; or

(i) otherwise acted in contravention of any of the terms express or implied under which he is authorised to occupy such land in shamilat deh.

Explanation:- For purposes of clause (a), a person shall not, merely reason of the fact that he has paid any rent, be deemed to have entered into possession as allottee, lessee or grantee.}

Rule 19 Section 7



Where, the ejectment of the tenants is sought on the ground that the period of lease had expired but the tenants filed suit for permanent injunction against the Gram Panchayat in Civil Court restraining the latter from dispossessing them. The Civil Court held the plaintiff petitioners to be tenants-at-will under the Gram Panchayat on the basis of the entries in the revenue records and that the relationship of landlord and tenant are established between the parties, the petitioners cannot be termed as unauthorised occupants of the land and ejectment order got quashed<sup>1</sup>

## Schedule 20. Issue of notice to show causes against order of eviction ( Sections 7 and 15 (2)(k) of the Act)

(1) If the Assistant Collector of the Ist Grade is of opinion that any persons are in unauthorised occupation of or claim interest in the land in shamilat deh situated within his jurisdiction and that they should be evicted, he shall issue, in the manner hereinafter provided, a notice in writing upon all the persons concerned to show cause why an order of eviction should not be made.

(2) The notice shall:-

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are or may be, in occupation of, or claim interest in the land in shamilat deh, show cause, if any, against the proposed order on or before such date as is specified in the notice being a date not earlier than ten days from the date of issue thereof.

(3) The Assistant Collector shall cause the notice to be affixed 3[ on some conspicuous place] outside the Panchayat ghar or any other building used as office by the panchayat and at some conspicuous places of the estate in which the land in shamilat deh is situated, where upon he notice shall be deemed to have been duly given to all persons concerned.

(4) Where the Assistant Collector knows or has reasons to believe that any persons are in occupation of the land in shamilat deh, then, without prejudice to the provisions of sub- rule (3), he may cause a copy of the notice to be served on every such person [by delivering or tendering it to that person or 4[by registered post with acknowledgement due}.

## Schedule 20 A. Damages

(1) If any person who is a lessee of any land vested or deemed to have been vested in a panchayat does not deliver to the panchayat vacant possession of the land, immediately after the expiry of the period he fails to do so, he liable to pay damages to the panchayat equivalent to twenty times, the amount which would have payable to the panchayat had the lease of such land continued during the period.

(2) The provisions contained in sub- rule (1) shall be deemed to be one of the terms of each lease of land granted by the panchayat after the commencement of the Punjab Village Common Lands Regulation (3rd Amendment )Rules 1978}

## Schedule 20 B. Scope and Applicability

Where the lands in question are not "Village Common Land, but" common purposes lands "The provisions of the Village Common Land Act or of Rule 20-A" framed there under do not apply, so as to inflate the lease rent of Rs. 125 to Rs.2500 per year by way of penalty and his detention squarely. Moreover the instant lease was not lease granted by the panchayat after the



commencement of such rule in order to attract Rule 20-A, while the lease related to the year 1975 much before the enactment of Rule 20-A in 1978. It was held that such slip shot attempts by administrative functionaries which tend to violate the liberty principle enshrined in the constitution of India for the safeguard of citizens cannot be easily overlooked and detention of petitioner was set-aside<sup>1</sup>

## Schedule 21. Eviction of unauthorised persons

Eviction of unauthorised persons 9 Sections 7 and 15 (2)(k) of the Act}-in Hr.

(1) If, after considering the cause, if any, shown by any person in pursuance of notice under Rule 20 and any evidence, he may produce in support of the same after giving him a reasonable opportunity of being heard, { the Assistant Collector of the First Grade} is satisfied that the land in shamilat deh is in an unauthorised occupation, the Assistant Collector {of the First Grade} may, on a date to be fixed for the purpose make an order of eviction for reasons to be recorded therein, directing that the land in shamilat shall be vacated by all persons who may be in unauthorised occupation thereof or a part thereof and cause a copy of the order to be affixed on the outer door of the panchayat ghar and at so is other conspicuous places of the shamilat deh or of the estate in which the land in shamilat is situated.

(2) If any person refuses or fails to comply with the order of eviction within thrity days of the date of its publication the Collector or any other officer duly authorised by him in this behalf, may evict that person from and take possession of, the land in shamilat deh and may for that purpose, use such force as may be necessary.}

## Schedule 22. Maintenance of forms

Maintenance of forms:( Sections 15 (2) (c) of the Act).

The panchayat shall maintain the under mentioned forms for the management of land in shamilat deh.

- (i) Register containing the description of the shamilat deh (From I )
- (ii) Map containing the description of the shamilat deh.
- (iii) Agreement register for lease or pattas etc. (Form II).
- (iv) Accounts Ledger for the rents and receipts (Form III)
- (v) Register of tenants (Form IV).
- (vi) Form of lease deed (Form V).

## Schedule 23. Repeal

The Punjab Village Common Lands ( Regulation ) Rules, 1955, published with Punjab Government Revenue Department Notification No.5557-R (c) 54-216.dated 18 Feburary,1955 and published with the Pepsu Government Revenue Department Notification No. 6 Agr. dated the 15th October,1955 are hereby repealed [:-]1 [ :]

Provided that any action taken or anything done under the Rules hereby repealed shall be deemed to have been taken or done under the corresponding provision of these rules.



## [FORM I]

1{ See Rule 22(2)}

Register containing the description of shamilat deh.

Name of Gram Panchayat .....

Tehsil and District .....

1. Serial No.
2. Description of land .
3. No. of trees growing on the land.
4. Details of the land given on lease/sold.
5. period for which lease has been decided or conditions of sale.
6. Total amount of lease or sale proceeds.
7. Amount collected as lease 2[ lease money or] sale proceeds.
8. Balance.
9. To whom leased or sold.
10. Signatures of the sarpanch.
11. Signatures of Leases/Purchasers
12. Remarks.

## [FORM II]

1{See Rule 22(2)}

Agreement Register for lease or patta

Name of Gram Panchayat .....

Tehsil and District .....

1. Serial No.
2. Description of land to be auctioned.
3. Name and address of bidders.
4. Last bid.
5. Signature of bidders.
6. Signature of auctioneer.



7. Signature of Sarpanch.

8. Amount received cash.

[Form III]

1{See Rule 22(2)}

Register of Rents and Receipts

Name of Gram Panchayat .....

Tehsil and Distt.....

1. Serial No.

2. Nos. of the files.

3. Area of the fields.

4. Name of the tenants,

5. Rate fixed.

6. Rent in arrears.

7. Total sum recoverable.

8. Sum recovered.

9. Receipt No. and date.

[FORM IV]

1{See Rule 22(2)}

Register of Tenants

1. Serial No.

2. Excess area with the Panchayat under Section 5.

3. Names of the persons who have applied for allotment of excess area.

4. Name of persons whom excess area has been allotted.

5. Conditions of tenancy etc.

6. Date of the deed.

[FORM V]

{See Rule 22(2)}



This deed of lease made this.....day of ..... between the panchayat .....( hereinafter referred to as the lessor) of the one part and Shri .....son of .....resident of village.....Tehsil.....district.....(hereinafter called the 'lessee' which expression shall include his heirs, executors, administrator, successors, and assignees) of the other part.

And whereas the lessor has agreed to left and the lessee has agreed to take the land hereinafter described and intended to be hereby demised { leased} upon the terms and subject to the conditions hereinafter appearing.

Now, therefore, this deed witnessed that the lessor does hereby grant to the lessee through auction a lease of the piece of land measuring .....bighas ..... biswas pertaining to khasra No .....situated in village.....Tehsil .....district .....to hold the same in accordance with the Punjab Village Common Lands ( Regulation ) Rules 1964 and subject to the following conditions:-

(1) The lessee hereby takes the aforesaid land for the term of ..... year and beginning from kharif-rabi .....on the yearly rent of Rs.....per bigha/acre. The lessee has paid Rs. ....in advance and shall pay to the lessor Rs..... for the 1st year on ..... and thereafter the yearly rent of Rs- ..... shall be paid in advance in the month of February every year.

(2) That the lessee shall pay, when due in respect of the said land or any part thereof:-

(a) full assessments, cesses, water rates and other charges imposed by competent authority under any law for the time being in force;

(b) lease money in accordance with the Punjab Village Common Lands (Regulation) Rules 1964.

(3) That the lessee shall not assign transfer in any way, mortgage or Subject the land hereby demised or premises thereon or any part thereof

(4) That the lessee shall use the land only for the purpose of cultivation of food, fibre or fodder crops according to improved methods of cultivation and for no other purpose.

(5) That the lessee shall be responsible for removing the bushes, Leveling the fields, cleaning the khals, making bunds, clearing mud out of water courses etc, in the demised area,

(6) That all matters, relating to cultivation, e.g. ploughing, watering Cropping digging, manuring use of fertilizers and control of etc. will be carried out as recommended by the Agriculture Department and under the instructions and guidance of the Extension officer ( Agri. ) V.L.W. of the area.

(7) That the lessee shall bear full costs of seeds, fertilizer, insecticides, etc

(8) That the lessee shall look after the crops, fencing, trees, and other necessary fixtures on the land.

(9) That the lessor shall have a right of purchase of exchange of the whole of the lessee's produce or a part thereof, at the current market rates for seed purposes.

(10) That the lessee shall have to abide by the Regulations of the Irrigation Department in default of which, he will have to pay the penalty which may be imposed by the authorities of said Departments for wastage of water.

(11) That the lessee can keep two milch cattle and two young stock per plough. urine and dung etc. of farm animals shall have to be stored in a manure bit under the instructions of the Extensions Officer ( Agri.) of the area.



(12) That during the period of lease, the lessee shall keep his ordinary place of residence at ..... and shall not reside elsewhere without the permission of the sarpanch.

(13) That if the lessee neglects his duties; the lessor will have the right to get there duties performed at his (lessee's) expense.

(14) That the lessor shall have a right to get damage from the lessee for any loss which may result from his non-compliance with any of the above conditions.

(15) That in the event of lessee's death, his heir shall be allowed to continue the tenancy till the expiry of the lease period. In the event of the lessee's leaving the land of his own accord before the expiry of the lease, he shall forfeit his right to crops and shall not be entitled to any compensation for such forfeiture.

(16) That, in case there is breach on the part of the lessee of any of the conditions herein contained and to be observed and performed by him, the lessor or any person authorised by him in this behalf, may terminate the lease and re-enter the demised premises and in such case, the lessee shall not be entitled to get any compensation, whatsoever.

(17) That, in case, the lessee fails to pay the rent to or cultivate the lands he shall deliver the possession of the land in question to the sarpanch of the Panchayat ( lessor) or any other person authorised by the lessor. The lessee shall, on the expiry of lease, vacate, and give possession of the land to the lessor.

(18) That, if any difference or dispute shall arise during the pendency of the lease between the parties hereto in regard to any matter or thing concerning this lease and the terms thereof, such difference or dispute shall be referred to the District Development and Panchayat Officer of the district concerned whose decision shall be binding on the parties and shall be final and conclusive.

(19) In witness whereof the parties to this agreement have hereunder set and subscribed their hands on the dates hereinafter mentioned respectively.

Witness..... Signature of the lessee, revenue ticket, survey etc.

Witness ..... Signature of the Sarpanch/Panch on behalf of the Panchayat.

## Appendix- A. The Punjab Village Common Lands (Regulation) Act. 1953

The following Act of the State Legislature received the assent of the President on the 26th December, 1953, and was published in the Punjab Gazette, Extraordinary, dated the 9 the January, 1954:-

PUNJAB ACT No. 1 of 1954

An Act to regulate the rights in shamilat deh and abadi deh. It is hereby enacted as follows :-

1 Short title, extent and commencement:-

(1) This Act may be called the Punjab Village Common Lands (Regulation) Act.

1953.



(2) It shall extend to the whole of the State of Punjab:

Provided that nothing contained in this Act shall apply to any land which:-

(i) becomes shamilat due to river action;

(ii) which has been allotted on quasi-permanent basis to a displaced person;

(3) It shall come into force at once.

## 2 Definitions,-

In this Act, unless the context otherwise requires:-

(a) 'house' includes a courtyard whether walled or not:

(b) "Government" means Government of the State of Punjab;

(c) "Collector" means the Collector of the District in which the village is situated or any other officer, not below the rank of an Assistant Collector of the First Grade, appointed by Government to perform the duties of a Collector under this Act:

(d) "prescribed" means prescribed by rules made under this Act:

(e) "appointed date" in the case of a village which is subject to the jurisdiction of a Panchayat at the commencement of this Act, shall be the date of such commencement: and in other cases; the date on which a panchayat with jurisdiction over that village is constituted:

(f) "inhabitant" of a village means, a person whether a proprietor or a non- proprietor, who ordinarily resides in the village;

Provided that temporary absence in relation to employment elsewhere shall not affect his residence in the village :

(g) "Panchayat" means a Panchayat constituted or continued under the Punjab Gram Panchayat Act, 1952:

(h) "displaced person" means a person defined as such in the East Punjab Displaced persons ( Land Resettlement) Act, 1949.

## 3 Vesting of rights in Panchayats and in non-proprietors

Notwithstanding anything to the contrary contained in any other law for the time being in force, and notwithstanding any agreement, instrument, custom or usage or any decree or order of any Court or other authority, all rights, title and interest whatever in the land:-

(a) Which is included in shamilat deh of any village, shall, on the appointed date, vest in a Panchayat having jurisdiction over the village:

(b) Which is situated in the abadi deh of a village and which is under the house owned by a non-proprietor, shall at the commencement of the Act, vest in the said non-proprietor, shall at the commencement of the Act, vest in the said non-proprietor.

## 4 Regulation of use and occupation, etc. of lands.





All lands vested in a panchayat by virtue of the provisions of this Act shall be utilised or disposed of by the panchayat for the benefit of the inhabitants of village concerned in the manner prescribed.

#### 5 Saving of existing Possession.

(1) Where, before the appointed date, on any land which vests in a panchayat under the provisions of this Act-

(a) a person is in cultivation possession and his uncut and ungathered crops are standing thereon, he shall not be ejected from such land, unless the crops have ripened and he has been allowed reasonable time to harvest them;

(b) a person has built or erected any house or any other structure, he shall be allowed by the panchayat to retain possession of the same on such terms and conditions as may be determined by the panchayat, subject to any rules which may be framed in this behalf.

(2) If any person has a grievance against any determination made by a panchayat under sub-section (1), an appeal shall lie to the Collector, whose order thereon shall be final.

#### 6 Utilisation of Income.

Any income accruing from the use any occupation of the lands vested in a panchayat shall be credited to the panchayat fund and shall be utilised in the manner prescribed.

#### 7 Bar of Compensation.

No person shall be entitled to any compensation for any loss suffered or alleged to have been suffered as a result of the coming into force of this Act.

#### 8 Bar of Jurisdiction of Civil Court.

No. Civil Court shall have any jurisdiction over any matter arising out of the operation of this Act.

#### 9 Indemnity.

No suit prosecution or other legal proceedings shall lie against the Government or any person or authority for anything done or intended to be done in good faith in pursuance of the provisions of this Act.

#### 10 Power to make rules.

(1) The State Government may, by notification, in the official Gazette, makes rules for carrying out the purposes of this Act.

(2) in particular and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) The principles on which, the extent and manner in which, the inhabitants of the village shall make use of the lands vested in a Panchayat:

(b) The maximum and minimum area to be leased to any single person :



(c ) prescribing the forms for such books, enteries, statistics, and accounts as may be considered necessary to be kept, made or complied in any office or submitted to any authority.

(d) The terms and conditions on which the use and occupation of any land vested in a panchayat is permitted;

(e) The manner and circumstances in which any land may be disposed of, transferred or sold;

(f) The purposes for which any land may be given free of charge:

(g) Any other matter which can be or may be prescribed.

## Appendix- B. The Punjab Village Common Lands Regulation Rules, 1955

The 18th February, 1955

No. 5557-R (CH-54/216)

In exercise of the powers conferred under sub-section (1) of section 10 of the Punjab Village Common Lands ( Regulation) Act No. 1 of 1954, and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following rules for carrying out the purposes of the said Act:-

1 Short title.-

These rules be called the Punjab Village Common Lands (Regulation ) Rules, 1955.

2 Purpose for which the Shamilat deh may be used:-

(1) The Panchayat shall make use of the Shamilat deh vested in it under the Act, either itself or through another, in the manner set forth below:-

(a) When it is cultivable land, for any one or more of the following purposes:-

(i) model farm:

(ii) better seed farm:

(iii) nursery or garden:

(iv) production of fodder:

(v) dairy farm :

(vi) grazing of cattle,

(vii) tree plantation, or

(viii) any other kindred common purpose.

(b) When it is non- cultivable lands for any one or more of the following purposes.-

(i) dyeing and tanning of skins :



- (ii) storage or fuel and fodder;
  - (iii) brick kilns, extraction of shora, sand stones, kankar bajri and other minor minerals;
  - (iv) cremation or burial ground ; or
  - (v) any other kindred common purpose;
- (c) When it is near the abadi deh, for any one or more of the following purposes:-
- (i) manure pits;
  - (ii) public latrines;
  - (iii) pathways and drains ;
  - (iv) playgrounds, recreation parks, and children's parks;
  - (v) planting of trees :
  - (vi) leasing out, for the purposes of abadi, to a family having insufficient accommodation;
  - (vii) schools, library or reading room;
  - (viii) maternity or first-aid centres;
  - (ix) hospital or dispensary ;
  - (x) veterinary hospital or dispensary;
  - (xxi) vehicle park ;
  - (xxii) Panchayat ghar and janj-ghar ;
  - (xxiii) ponds and fisheries ;
  - (xxiv) wells, hands-pumps and waterworks; or
  - (xxv) any other kindred common purpose.

### 3 Terms for saving existing possession-

- (i) If a tenant or a member of his family, or previous co-sharer, is proved to be in cultivating possession of land for 20 years or more, he should be allowed to cultivate the land on the same terms and conditions as applied to him on the appointed date:

Provided that, if such a person also owns land, he will not be entitled to the benefit of this provision if, on the appointed date the area of the land owned by him is 10 acres, he will benefit by this provision only to the extent of the difference between 10 acres and the area owned by him on the appointed date, provided further, if such a person wants to purchase such land he shall but only to the extent defined in the first proviso, be allowed to do on application made to the panchayat and on payment of money according to the scale laid down in the Punjab Occupancy. Tenants ( Vesting of Proprietary Rights) Act 1952.



(ii) Where a person has built a house or erected any other structure on the shamilat deh, the panchayat may allow such person to retain possession of the site by-

(a) selling it to him at the rate of Rs. 4 or 2 per square yard, as the case may be, provided that, the person concerned is unable to pay the entire amount immediately, it shall be recovered in three years, by yearly installments ; or

(b) leasing out the site to him at the annual rate of three pice or an anna per square yard, as the case may be.

(iii) The terms and conditions for sale or lease of land as provided in sub- rule (ii) above shall be determined by the panchayat.

#### COMMENTS

Rule 3 (ii) of the said rules specifically deal with built up houses or erected structures on the shamilat land. The language of Rule 3 (ii) makes it clear that the panchayat, in the sale is determining authority of the circumstances warranting the transfer of land under encroachment of the person who has raised structure over it. The Collector of the District does not figure anywhere in Rule 3(ii) of the said rules and hence his approval is not necessary to a case falling under the said rule1.

#### 4 Lease to be by auction.-

(i) All leases of shamilat land shall be by auction.

(ii) Only cultivable land may be auctioned on a long term lease, while non-cultivable land shall not be leased for a period exceeding five years.

(iii) All lands near the abadi deh vested in the panchayat and used for industrial purpose shall be leased out for one year or more, as the case may be, by auction in February every year.

(iv) All ponds used for the plantation of singharas and for stocking fish shall also be auctioned in February every year.

(vi) The panchayat may auction, in February every year, surplus and useless trees growing on shamilat deh.

(vii) The long term lease of cultivable land shall be auctioned for rent in cash, in the month of February (Phagan), the maximum advantage of the panchayat, and the annual lease money shall be payable in February every year.

(viii) In the case of annual lease, one-fourth of the amount of the bid shall be paid by the bidder on the spot and the remaining three- fourth before possession of the land is delivered to him.

(ix) In every case of lease, a lease deed shall be duly executed by the leasee, who shall be bound to surrender to the panchayat possession of the land leased to him if he defaults in the payment of rent subject to the relevant provisions contained in the Punjab Tenancy Act, 1887.

#### 5 The use of shamilat deh by residents-

(i) All pasturable land may be utilized by the residents of the village for-

(a) Grazing purposes; or



(b) collecting dry fuel wood from the jungle on terms laid down by the panchayat.

(ii) open spaces near the abadi deh may, with the previous permission of the panchayat and in the manner laid down by it, utilised by the inhabitants of the village for threshing the harvest.

(iii) All inhabitants of the village are entitled to purchase or lease non-cultivated shamilat land from the panchayat, for residential, commercial or industrial purposes, on the terms and for the period settled by the panchayat, but all such leases or sales shall be subject to the approval for the Collector of the district.

(iv) All inhabitants of the village are entitled to the use of open spaces for manure pits and the panchayat may also allow land for 'baras' on suitable payment. Before, however, allowing any open space to be used by the inhabitants in this manner, the panchayat shall consider the genuineness of the necessity.

#### COMMENTS

Reading of Rule 5 (iii) of the 1955 Rules, shows that it concerns with the non- cultivable Shamilat land belonging to panchayat, which may be acquired or sought to be acquired by the inhabitants of village for residential, commercial or industrial purposes. It does not apply to the case where construction has already been made by any inhabitant of the village on a particular part of shamilat deh.

6 Maximum area that may be leased by the panchayat:-

(i) The panchayat shall not lease cultivable shamilat deh to persons having a holding of 10 acres, or more and to a person whose holding is less than 10 acres, the area of cultivable shamilat deh that may be leased to him by the panchayat shall be such that the total of the area leased and the holding shall not exceed 10 acres.

(ii) The panchayat shall not lease more than one acre of shamilat and near the abadi to any person.

7 Land to be used free of charge under section 10 (2) (f) of the Act:-

The panchayat may allow the use of shamilat deh vested in it free of charge to the inhabitants of the village for any one or more of the following purposes:-

(a) threshing or winnowing of harvest:

(b) grazing

(c) steeping of hemp or any other plant in ponds

(d) residential purposes to the members of the Scheduled Castes and Backward Classes:

(e) any other common suitable purpose.

17A A panchayat may, with the sanction of the Collector, hypothecate the land vested in it under the Act for the purpose of borrowing money from the Government for the improvement of such land.}

7B A panchayat may, with the previous approval of the Government, sell the land vested in it under the Act for:



(i) the purpose of construction a building for Block Samiti office or any department of or institution recognized by the Government ;

(ii) the purpose of any industrial or commercial concern; or

(iii) executing such a scheme as may be a source of recurring income to the Panchayat:

Provided that the Government shall not approve a sale referred to in clause (ii) or (iii) above, unless there is unanimous resolution of the Panchayat for effecting such a sale}.

7C A panchayat may with the previous approval of the Director of Panchayats Punjab, gift the land vested in it under the Act for the purposes of such hospital, dispensary or educational or charitable institution as may be recognized by the Government.

8 Utilization of the income under Section 6 of the Act:-

The income derived by a panchayat from the use and occupation of the land vested in it shall be utilized for the common good of the village, as laid down in the Punjab Gram Panchayat Act, No. IV of 1953 and for the improvement, maintenance and management of the shamilat deh.

9 Maintenance of form. –

The Panchayat shall maintain the under mentioned forms for the management of shamilat deh.

(i) Map containing the description of shamilat deh (Form 1).

(ii) Map containing the description of the shamilat deh along with land revenue etc.

(iii) Account ledger of the sale- proceed (Form II).

(iv) Agreement register for leases or pattas (Form III).

(v) Account ledger for rents and receipts (Form IV).

(vi) A register of tenants (Form V).

(vii) Counterfoils of receipts (Form VII).

(viii) Register showing expenditure (Form VII)

(ix) Form of lease deed (Form VIII) (Forms omitted).



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