

THE ¹[Khyber Pakhtunkhwa]. LAND REFORMS RULES, 1972

(Gazette of ²[Khyber Pakhtunkhwa]., Extraordinary, 19th April, 1972).

No. 417/LR-II, dated 30-3-1972.-- In exercise of the powers conferred by paragraph 6 of the Land Reforms Regulation, 1972 (MLR No. 115) the ³[Khyber Pakhtunkhwa], Land Commission is pleased to make the following Rules for carrying out the purposes of the Regulation:--

CHAPTER I.—Preliminary

1. Short title, extents and commencement.— (1) These Rules may be called the ⁴[Khyber Pakhtunkhwa] Land Reforms Rules, 1972.

(2) They extend to all the areas of the Province of ⁵[Khyber Pakhtunkhwa].

(3) They shall come into force at once.

2. Definitions.-- (1) In these Rules, unless the context otherwise required, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:---

(a) "Chief Land Commissioner" means the Chief Land Commissioner nominated by the Commission under paragraph 4 (4) of the Regulation and shall include any person for the time being functioning as such;

(b) "Commission" means Land Commission of the ⁶[Khyber Pakhtunkhwa] constituted under sub-para (1) of para 4 of the Regulation;

(c) "Days" include holidays;

(d) "Officer" means an officer appointed by or under the authority of the Commission and includes a Land Commissioner, a Deputy Land Commissioner, an Assistant Land Commissioner, a Sub-Assistant Land Commissioner or any other officer for the time being functioning as such; and

(e) "Regulation" means the Land Reforms Regulation, 1972 (MLR No. 115), and all amending Regulations, Ordinances and Orders issued thereunder by the President.

(f) "Rules" means the ⁷[Khyber Pakhtunkhwa] Land Reforms Rules, 1972.

1 Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

2 Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

3 Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

4 Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

5 Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

6 Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

7 Sub. by the Khyber Pakhtunkhwa Act No. IV of 2011.

(2) Words expressions used but not defined in the Rules and defined in the Regulation shall have the same meaning as assigned to them in the Regulations, Ordinances and Orders of the President.

CHAPTER II--POWERS

Powers of the Chief Land Commissioner.-- (1) Subject to the general superintendence and control of the Commission, the Chief Land Commissioner may make such general or special orders, not inconsistent with the provisions of the Regulation and these Rules, as he may considered necessary or expedient for giving affect to the purposes of the Regulation and/or for the proper discharge of his functions by all the authorities and officers appointed under the Regulation, including himself.

(2) Subject to the provisions of the Regulation and these Rules, the general superintendence, control and direction of all officers and staff appointed for, or entrusted with the duty of implementing the provisions of the Regulation, shall vest in the Chief Land Commissioner.

(3) The Chief Land Commissioner may, by special or general order, provide for the distribution and allocation of work to be done by all or any such officers and staff.

4. Powers to transfer cases.-- (1) The Chief Land Commissioner may, at any stage, for reasons to be recorded in writing, transfer any case pending before a Land Commissioner, a Deputy, an Assistant or Sub-Assistant Land Commissioner as the case may be, to himself or any officer subordinate to him, and the officer to whom the case is transferred may, subject to any special directions contained in the transfer order, proceed with it from the stage at which it was transferred to him.

(2) A Land Commissioner specially empowered by the Chief Land Commissioner in this behalf, may, for reasons to be recorded in writing and subject to any order under sub-rule (1), transfer any case pending before a Deputy Land Commissioner, Assistant Land Commissioner or Sub-Assistant Land Commissioner, as the case may be, to himself or any other officer subordinate to him, and the officer to whom any such case is so transferred may, subject to any special direction contained in the transfer order, proceed with it from the stage at which the case was transferred to him.

(3) Chief Land Commissioner, a Land Commissioner or a Deputy Land Commissioner, may refer any matter which he is empowered or is required to dispose of under the provisions of the Regulation to any authority subordinate to him for enquiry and report.

(4) When any matter mentioned in sub-rule (3) is referred by any superior Land Commission authority, the later shall have the power to summon person (persons) as witnesses and to receive their relevant, oral and documentary evidence as the case may be.

5. Powers of the Land Officers as a Civil Court.— (1) Every officer appointed under the Regulation shall for the purpose of making an enquiry or hearing an appeal under these Rules, have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908 when trying a suit, in respect of following matters; namely:-

- (a) summoning and enforcing the attendance of any person other than a pardanashin lady and examining him on oath or affirmation;
- (b) requiring the discovery and production of any document or documents;
- (c) requisitioning any public record from any Court or office;
- (d) issuing commissions for the examination of witnesses;
- (e) appointing guardians *ad litem* or next friends or persons who are minors or of unsound mind;
- (f) adding legal representatives of deceased applicants;
- (g) restoration of case dismissed in default;
- (h) consolidation of cases;
- (i) any other matter connected with the holding of an inquiry or hearing of an appeal.

(2) Every officer appointed under the Regulation shall be deemed to be a civil Court for the purpose of sections 480 and 482 of the Code of Criminal Procedure, 1898 and any proceeding before any such officer shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code and for the purpose of sections 196, 199 and 200 thereof.

6. Officers appointed under these Rules to be public servants.— Every officer appointed under the Regulation and in accordance with these Rules shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code.

CHAPTER III-Pleading and Appearances

7. Verification of application.--- Every application or written statement filed by an applicant in any proceeding under the Regulation shall be drawn up and verified in the manner provided for the verification of application or written statements in the Code of Civil Procedure, 1908, in respect of civil suits.

8. Persons who may appear before the Land Officers.-- Appearance before an officer of the Commission and all application in that behalf may be made or done by--

- (a) the applicant himself; or

- (b) his representative or agent, duly authorised by him in writing in that behalf; or
- (c) his counsel:

Provided that the employment of duly authorised representative, recognised agent or counsel shall not excuse the personal attendance of an applicant other than a pardanashin lady in any proceeding in which his personal appearance is specially required by an order of the officer before whom any such application is pending.

CHAPTER IV--- Appeals, Review and Revision

9. Form of appeal. (1) Every appeal shall be preferred in the form of a memorandum and shall be authenticated by the signature of the appellant or his duly authorised representative, agent or counsel.

(2) The memorandum shall be accompanied by a certified copy of the order appealed against and of all the documents on which reliance has been placed in the memorandum.

(3) The memorandum shall set forth concisely and under distinct head the grounds of objection to the order in respect of which an appeal is filed and shall not contain any arguments or narrative. All such grounds shall be numbered consecutively.

10. Forum of appeal.— (1) Any person aggrieved by an order passed under provisions of the Regulation may file an appeal to:--

- (a) the Deputy Land Commissioner, when the order has been passed by an Assistant Land Commissioner, or a Sub-Assistant Land Commissioner;
- (b) the Land Commissioner, when the order has been passed by the Deputy Land Commissioner;
- (c) the Chief Land Commissioner, when the order has been passed by the Land Commission:

Provided that—

- (i) when any such order is modified or reversed on appeal by the Deputy Land Commissioner; the order made by the Land Commissioner on further appeal to him shall be final; and
 - (ii) when an original order is confirmed on first appeal, a further appeal shall not lie.
- (2) All appeals shall be presented within twenty days (inclusive of holidays) from the date of the order appealed against.

11. Review.— (1) The Chief Land Commissioner, a Land Commissioner, Deputy Land Commissioner, an Assistant Land Commissioner or a Sub-Assistant Land Commissioner, may at any time, of his motion or within twenty days from the date of the impugned order, on an application made to him by any party interested in that behalf, review, and on so reviewing modify, reverse, or confirm, any order passed by himself or by any of his predecessors-in-office,⁸[on any of the following grounds:--

- (a) discovery of new and important matter or evidence which after the exercise of the due diligence, was not within the knowledge of the petitioner or could not be produced by him at the time when order was made; or
- (b) on account of some mistake or error apparent on the face of the record; or
- (c) for any other sufficient reason];

Provided that--

- (a) (i) a Land Commissioner shall not review an order passed by his predecessor-in-office without first obtaining the sanction of the Chief Land Commissioner;
- (ii) a Deputy Land Commissioner shall not review any order whether passed by himself or by any of his predecessor-in-office without first obtaining the sanction of the Land Commissioner of the area concerned;
- (iii) an Assistant Land Commissioner shall not review any order whether passed by himself or by any of his predecessor-in-office without first obtaining the sanction of the Deputy Land Commissioner of the District;
- (b) an order shall not be modified or reversed unless a reasonable notice has been given to the parties affected thereby to appear and be heard; and
- (c) an order against which an appeal or a petition for revision has been preferred shall not be reviewed:

⁹[Provided that power of Review will come to end on 31st December, 1974:

Provided further that this will not affect the cases pending with the Land Commission Authorities which somehow remain undisposed of oh 31st December, 1974.]

- (d) A Sub-Assistant Land Commissioner shall not revise any order whether passed by himself or any of his predecieessor-in-office, without first obtaining the sanction of the Deputy Land Commissioner.

⁸ Inserted vide Notification 2781/LC.C-7-1-1 (Rules), Gazette, Khyber Pakhtunkhwa Ext. 21-9-1974.

⁹ Added by Notification No. 3389/3408/7 (1)- LC, vide Khyber Pakhtunkhwa Gazette Ext. 24-9-1971.

(2) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

(3) Clerical or arithmetical mistakes in any order passed by an officer in pursuance of the provisions of the Regulation and these Rules may, at any time, be corrected by such officer or his successor in-office as soon as any such error has come to or been brought to his notice.

12. Revision.— (1) The Chief Land Commissioner may, at any time, of his own motion or on an application made to him in that behalf, within thirty days of the passing of any order, call for the record of any case or proceeding under the Regulation which is pending or in which a Land Commissioner or a Deputy Land Commissioner has passed any order, for the purpose of satisfying himself about the correctness, legality or propriety of any such order, and may pass such fresh order in relation thereto as he thinks fit.

(2) A Land Commissioner specially empowered in this behalf by the Chief Land Commissioner may, either of his own motion or on an application made to him in that behalf, within ten days of the passing of an order, call for the record of any case or proceeding under the Regulation, in which a Deputy Land Commissioner, Assistant Land Commissioner, or a Sub-Assistant Land Commissioner, under his jurisdiction, has passed an order for the purpose of satisfying himself about the correctness, legality or propriety of such an order and may pass such order in relation thereto as he thinks fit.

(3) The Chief Land Commissioner or a Land Commissioner, as the case may be, shall not pass any order under this Rule revising or modifying an order affecting any person without affording such person an opportunity of being heard.

13. Exclusion of period spent in obtaining copies.-- In computing the period prescribed under sub-rule (2) of Rule 10, sub-rule (1) of Rule 11 and sub-rules (1) and (2) of Rule 12, for the presentation of appeals and applications for review or revisions respectively, the period duly spent in obtaining certified copies of the orders against which appeal, review or revision, as the case may be, is preferred, shall be excluded.

14. Finality of orders.— Subject to the foregoing provisions of this Chapter, any order made under the Regulation shall be final and shall not be questioned in any Court.