

Chapter 12

LAND REVENUE ASSIGNMENTS

Meaning of 'Mauafi' and 'jagir'

12.1 'Mauafi' means remission of land revenue to the land-owner who is excused to pay land revenue to the Government.

'Jagir' means an assignment of land revenue, which is collected and paid to the jagirdar. The jagirdar may subsequently acquire property and if he does, the grant technically becomes a muafi', though it always continues to be shown as jagir'.

Groups of assignments

12.2 Four types of assignments are entered in the following four groups in Himachal Pradesh:

- a) Land of which the revenue is assigned in whole or in part to the owners thereof.
- b) Land of which the revenue is assigned to others than the owners thereof.
- c) Grants of fixed amounts out of the village jama, no land being specified.
- d) Pensions paid from the treasury or through the post office to persons resident in the estate.

Under group 'D' pensions of all kinds and whether civil or military or political should be shown.

If the grants held by an assignee fall under more than one of the above groups, each portion should be entered under the group to which it belongs.

Resumption of 'Muafi' and 'Jagir'

12.3 Generally 'Muafi' continues from one settlement to another and is resumed at the time of next settlement. 'Muafi' may be resumed after the death of an assignee or after the expiry of term or breach of conditions on which it was granted or which is not in the public interest.

The guiding principles for the resumption of 'muafi' and 'jagir' are contained in the H.P. Cancellation of Remission or Assignment of Land Revenue Rules, 1966, which may be consulted in paragraph 12.5 infra-

Inquiry regard- ing land revenue assign- ments during settlement

12.4 Paras 568 to 570 and 572 of Punjab Settlement Manual which are relevant for the inquiry regarding land revenue assignments during settlement, are reproduced below:-

"Inquiry regarding land revenue assignments—It is the duty of the Settlement Officer to examine and attest all existing assignments of land revenue. This work should be taken in hand at an early period of settlement operations, though not before the Settlement Officer has acquired a good general knowledge of the circumstances of the different parts of his district. It is well to begin by finding out what was actually done in the matter at the previous settlements and by tracing the former correspondence and registers, to which the Settlement Officer will have to refer in passing orders. The inquiry must be made, in the first instance, by the settlement tahsildars, who should be furnished with full instructions as to the procedure to be adopted, and especially as to the kinds of cases which may be collected in village lists and those in which the preparation of separate files is necessary. They should also be made acquainted with the policy

that will be adopted in dealing with assignments. Delay in these cases is likely to breed confusion and trouble. It must be remembered that the tracing of the authority for the release of a particular grant is sometimes a difficult matter, and that, till he has disposed of all the cases in a Tehsil, the Settlement Officer is not in a position to prepare the registers of those as to which the orders of his official superiors are required. He must not forget that a considerable time may elapse between the submission of the registers and the receipt of orders, and that it will be embarrassing if the period for distributing the revenue over holdings in any Tehsil arrives before they have obtained. It is, therefore, essential to take up promptly the cases of the Tehsil which will be first assessed. (Para 568)

Treatment of different descriptions of grants—Occasionally of a few holdings may be found of which the revenue is enjoyed by private individuals without proper authority. In such cases resumption must be ordered with the concurrence of the Collector (see paragraph 186 of the Land Administration manual) or sanction solicited. Where an assignment has been released in perpetuity, or during the maintenance of the institution or during the pleasure of Government, a general inquiry is requisite as to whether the conditions of the grant are fulfilled. Where they have been willfully and persistently broken, resumption should be recommended. This inquiry should be particularly stringent in the case of grants for the maintenance of institutions. Cases are not infrequent in which what are now private houses have muafis attached to them originally intended for the maintenance of institutions. Where grants for the maintenance of institutions are in the name of a individual, there is a prima facie ground for a searching inquiry as to whether the objects of the muafi are being served and the conditions attached to it are being observed. Grants for life call for no action unless it is considered proper that they should be continued after the deaths of existing holders. Assignments for the term of settlement should usually be proposed for continuance, except when they are of a purely personal character. The conditions on which such grants are renewed should be so framed as to make it easy for Government to withdraw its favour at any time from the existing incumbent in case of proved abuse or neglect of duty, without at the same time cancelling the grant to the institution, if proper arrangements for its future management can be made by the village community or other body which is interested in its maintenance. Thus the assignment should be to the institution in the name of the manager for the time being, and it should be made conditional on loyalty, good conduct, and the proper maintenance of the institution. (Para 569)

Small grants for village service.—Grants for the term of settlement made for village service or in favour of village institutions, which do not exceed Rs 20 in annual value; may either be resumed and assessed in the ordinary way, or they may be struck off the Government list, but the land left unassessed for one period of settlement to see whether the zamindars will agree to continue the muafi as a grant from themselves by excluding it from the bachh. As an estate is assessed as a whole without discriminating between khalsa and revenue-free lands, the only feasible way of doing this is first to make the assessment in the ordinary way and then to make a suitable reduction with reference to the area of the grants so treated. When the revenue is distributed over holdings, the people should be informed that for the coming settlement Government has foregone the demand which might have been assessed on these resumed assignments, and asked whether they will exclude the land from the Bach (Paragraph 536). The area of such grants is often extremely insignificant. When they are treated in this way trouble is saved to revenue officials, and what is more important, the assignments are restored to their original position as grants made by the village communities and under their control. If the people refuse to exclude these plots from the bachh, it becomes clear that the assessment is their work, and not ours. It is sometimes expedient to propose that life muafi of the description should, on the deaths of existing holders before the next settlement, be converted into grants for the term of settlement, so that, when the time for reassessment arrives, they too may be put on a proper footing. (Para 570)

Report on cases requiring orders.—The cases which require the orders of some higher authority should be brought together in registers, where they should be classified under proper heads. All the cases for one tahsil should be sent up together. Separate registers should be prepared for—

- (a) grants whose resumption is proposed for breach of conditions;

(b) grants whose continuance is proposed, as to which the orders of the Financial Commissioner are sufficient;

(c) grants whose continuance is proposed; as to which the orders of the local Government are required." (Para 572)

Note:- The provisions of the above paras, which are against the provisions of 'the H.P. Cancellation of Remission or Assignment of Land Revenue Rules, 1966, and the Punjab Resumption of Jagirs Act 1957 in the merged areas shall not be adhered to.

**Inquiry into
muafi cases**

12.5 The Settlement Officer and the Collector of the District as the case may be, shall make inquiry into each muafi case strictly in accordance with 'The Himachal Pradesh Cancellation of Remission or Assignment of Land Revenue Rules, 1966, which are reproduced below:-

**The Himachal Pradesh Cancellation of Remission or Assignment of
Land Revenue Rules, 1966**

1. Title and commencement. These rules may be called the Himachal Pradesh Cancellation of Remission or Assignment of Land Revenue Rules, 1966.

2. They shall come into force at once.

3. Definitions. In the rules, unless there is anything repugnant in the subject or context:-

(a) "Act" means the Himachal Pradesh Land Revenue Act, 1954 (Act No. 6 of 1954).

(b) "Financial Commissioner" means the person appointed as such by the State Government under Section 8 of the Act.

(c) "Deputy Commissioner" means the person appointed as such by the State Government under Section 9 of the Act.

(d) "Section" means a section of the Act.

(e) "Muafi" means a remission of land revenue to the landowner, that is to say, the term "muafi" implies that the holder of the land is excused from paying the government land revenue and usually he is a person who owns the land but is exempted from payment of land revenue or the grant of land has been made revenue free.

(f) "Jagir" means an assignment of land revenue which is collected and paid to the jagirdar. The Jagirdar may subsequently acquire the property and if he does, the grant technically becomes a muafi, though it always continues to be shown as jagir.

4. Categories of muafis and jagirs.—The following categories of muafis and jagirs exist in Himachal Pradesh:

- (i) (1) Perpetual, (2) Life time, (3) For a number of generations, (4) Till the currency of settlement, (5) Regions grants in favour of Dieties, (6) Jagirs granted by the ex-rulers to their family members from a common ancestor or to their relatives (7) Muafis/Jagirs granted to the military personnel for their services in the army, (8) Charitable grants for the maintenance of garden or "sarai", (9) Muafis and jagirs sanctioned in lieu of meritorious service, (10) Service imams.

(ii) Petty assignment of land revenue conferred on village officials like "Batwals".

5. Basic principles for the resumption of muafis and jagirs:- Notwithstanding anything contained in any Patta or Sanad of grant or the terms and conditions of a grant made before the Act came into force, the State Government shall have the power to cancel such grant/grants in the light of the following guiding principles:-

- (a) In the case of grants for service, the primary test is whether, the grantee is and will be in fact any longer rendering any service to the public or the State (as distinct from service to the ruler).
- (b) In respect of charitable grants; the criteria is whether the grant is, and will be, still in public interest.
- (c) Grants purporting to be in perpetuity are to be considered in the light, firstly, of the fact that, as is well known perpetuity had little of its true meaning in practice during the previous regime notwithstanding what sanads or other papers said the tenure of every so-called perpetual grant being tacitly subject to renewal at the will of every new ruler and secondly, on the consideration that modern trends are not much in favour of perpetual grants of public revenue.
- (d) In deserving cases some leniency may be shown as a matter of grace.
- (e) All such muafis and jagirs which are not in public interest and conditions whereof have become redundant in the changed circumstances of to-day may be resumed forth with.
- (f) In most deserving cases, the jagirs/muafis may be allowed till life times of the present assignees, but it should be in very rare cases and the Deputy Commissioners should send their recommendations in this behalf.
- (g) Muafis and jagirs assigned in favour of Dieties and temples should be allowed to continue on the following terms:-
 - (i) the existence of the temple in good condition and its proper management;
 - (ii) the existence of adequate number of the followers of the God and Goddess;
 - (iii) the servants of the God and Goddess should bear good moral character and should be loyal to the Government;
 - (iv) the muafi lands should not be alienated without prior approval of the government.
 - (v) the servants of God or Goddess would be trustees of the property of the temples.
- (h) Jagirs granted by the ex-Rulers to their family member may be allowed to continue till life time of the present assignees. Muafis granted to those persons who volunteered their services for the Indian Army at the time of national crisis e.g. during external aggression or internal commotion, should be allowed to continue till life time of the present assignees. Muafis will be resumed if-
 - (1) the muafidar is declared deserter from the Army, or
 - (2) the muafidar is punished by court martial, civil courts for anti-national activities.
- (i) Muafis granted for the maintenance of garden or 'Sarai' and for good conduct, loyally and

obedience of the muafidar may be allowed to continue as the same are for common good of the people.

- (j) Muafis granted as inam lands may be allowed to continue on the conditions that inamdar should bear good moral character and be loyal to the Government. The inamdar cannot alienate the inam without prior approval of the government. Resumption of further continuance of the assignments will be reviewed by the Government after the death of the present inamdar.
- (k) Where right, title and interest in the land under sections 11, 14 and 27 (4) have been acquired by a tenant or vested in the State government under Section 15 or 27(1) (3) of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953, the muafi of the land revenue attached to such land shall automatically stand resumed with effect from the date of right, title and interest of the landowner is extinguished.

6. Duties of Collector in connection with assignments. The main duties of Collector of the district in connection with revenue free grants are as under:-

- (1) as regards term-expired grants to see that lapses are enforced without delay, or a recommendation made for a reconsideration of the original order should resumption appear undesirable;
- (2) as regards other assignments:-
 - (a) on the death of the existing holder to enquire promptly about the succession;
 - (b) to satisfy himself that the conditions of the grants are substantially fulfilled by the assignee;
- (3) the proceeding preliminary to orders creating or resuming assignments of land revenue, or continuing them to successors or transferees should in all cases be submitted after the usual recital of the substance with the recommendation of the Collector alongwith the recommendation of the Commissioner if any to the Financial Commissioner for orders of the state Government.

7. Procedure—On the death of muafidar or on the lapse of terms of a muafi, it is the duty of the Patwari of the area in which the muafidar has died or term of muafi expired to report the facts to his immediate superior, i.e., Tehsildar who will make necessary enquiries in the matter and submit his report to the Collector of the district. The Collector of the district after examination of the case shall refer the matter to the State Government with his recommendations for cancellation or for continuance of the muafi/jagir in question. The State Government will pass necessary orders with regard to resumption or continuance of the muafi. The entries as to cancellation of remissions or assignment of land revenue will be affected in accordance with the procedure laid down in para 8.49 of the Himachal Pradesh Land Records manual

(R.H.P., dated the 21st January, 1967, p. 20-21)

**Mutation
Resulting from
Assignment**

12.6 The procedure when a final order is passed in any case of revenue assignment, has been laid down in para 8.49 of H.P.L.R.M., which may be consulted.

**Form of list of
Revenue Assign-
ment with
Instructions etc.**

12.7 For the compilation of a list of revenue assignments and pensions and forms alongwith instructions for preparation, consult para 8.90 of H.P.L.R.M.

**Resumption of
'jagir' in
merged areas**

12.8 In the merged areas added to H. P., under section 5 of the Punjab Reorganisation Act, 1966, the Punjab Resumption of Jagirs Act, 1957 is applicable. Under section 2 (1) of this Act 'jagir' has been defined as follows :-

(1) "Jagir" means—

(a) any assignment of land revenue [or remission thereof by way of maufi] made by or on behalf of the State Government; or

(b) * * * *

(c) any grant of money made or continued by or on behalf of the State Government which purports to be or is expressed to be payable out of the land revenue; or

(d) any grant of [money (not being payable out of the revenues of the Central Government)] including anything payable on the part of the State Government in respect of any right, privilege, perquisite or office; and

includes, notwithstanding anything contained in sub-clause (ii), any such grant or assignment existing in favour of Cis-Sutlej Jagirdars or a Bedi or Sodhi pension or a Jagir pension (pension to destitute dependents of deceased Jagirdars) referred to in paragraph 1 of the Financial Commissioner's Standing Order No. 7, [or a hereditary parvarish or pension in the second or any subsequent generation], but does not include—

(i) any grant of money (whether or not payable out of the land revenue) made on behalf of the State Government for the relief of political-sufferers or their dependents after the 15th August, 1947; or

(ii) any pension as defined in clause (17) of Article 366 of the Constitution of India; or

(iii) any military Jagir [granted on or after the fourth day of August, 1914]; or

(iv) any grant made in favour of a religious or charitable institution, but does not include a grant made for such a purpose to an individual;

**Main features
of the Act**

12.9 The main features of the Act are as under:-

(i) Under section 3 of the Act *idid*, all jagirs shall on and from the commencement of the Act *ibid* be extinguished and stand resumed in the name of the State Government.

(ii) Section 5 provides for payment of compensation for resumption of Jagirs. Section 5 reads as follow:-

"[(1) In consideration of the extinguishment and resumption of the jagir, the jagirdar or his successor, as the case may be, shall be paid a sum equal to seven times the amount payable annually to the jagirdar immediately before the extinguishment and resumption in respect of the assignment or grant or seven times the amount which would have been payable by him annually immediately before the extinguishment and resumption as land revenue but for the remission by way of *muafi*:

Provided that:-

(a) in the case of a military jagir referred to in the proviso to section 3, the Jagirdar shall, before the 15th May, 1961, be entitled to claim compensation in lieu of the continuance of the jagir for his life; and

where the jagirdar makes such a claim the jagir shall be deemed to be extinguished and resumed on the date on which claim is made;

(b) in the case of the resumption and extinguishment of any hereditary *parwarish* or pension, any amount thereof received by the jagirdar after the 14th November, 1957, shall be deducted in computing the amount of compensation payable to him or his successor]

(2) The amount of compensation payable under sub-section (1) shall be paid in cash either in one lump sum or in such number of annual instalments not exceeding twenty, as the State Government may prescribe.

(3) Where the amount of compensation is to be paid in instalments, interest at the rate of 2 per cent per annum to be calculated in the prescribed manner shall be payable thereon to the person entitled to receive the amount.

(iii) Section 6 provides the procedure for the payment of compensation. Section 7 prescribes the method of apportionment of compensation among the Jagirdar, widow/widows and other members of the family.

(iv) No provision of the Pension Act, 1871 or of the Government Grant Act, 1895 or of the Patiala Government Grant Act, 2005 or any rules made thereunder shall have any effect so far as it is inconsistent with any of the provisions of the Act.