

Government of West Bengal
Land & Land Reforms Department
(M & M Branch)
Nabanna, 6th Floor
325, Sarat Chatterjee Road, Howrah – 711 102

MEMORANDUM

No. 2648-M&M/LR/A-II-26/2010

Dated : 27/10/ 2016

Whereas, vide Memo No.1250-M&M dated 29/5/2015 detailed guidelines were issued relating to regularisation of unauthorised brick fields/kilns;

Whereas, there remains a large number of such brick fields/kilns which could not be disposed in terms of the guidelines during the validity of this G.O. till 30/09/2016;

Whereas, there were some operational difficulties and lack of clarity which required simplification and clarification for expeditious disposal of cases;

Whereas, the West Bengal Minor Minerals Concession Rules, 2016, regulating extraction of minor mineral including brick earth has also come into force;

Therefore, after careful consideration of all the aspects in the matter, it is felt necessary to issue revised guidelines for disposal of cases for regularization of such brick fields/kilns as enumerated herein below:

A. Regulatory Guidelines:

1. District Land & Land Reforms Officers are the Ex-Officio Environment Officers within their respective jurisdictions for the purpose of grant or refusal of Consent-to-Establish (CtE) and Consent-to-Operate (CtO) of the brick fields/brick kilns on behalf of the West Bengal Pollution Control Board (hereinafter referred to as the 'State Board').

Applications should be made to the District Land & Land Reforms Officer concerned in the prescribed format, which may be downloaded from the Website of the State Board (www.wbpcb.gov.in), along with requisite fee and other relevant documents for obtaining permission to establish and/or to operate brick fields/kilns.

2. Apart from the District Land & Land Reforms Officer, the Regional Offices of the West Bengal Pollution Control Board will also receive 'Consent to Operate' applications for the existing brick fields/brick kilns with arrear CtO application fees.

Such applications should be accompanied with the following documents:-

- (a) Trade Licence issued by the appropriate authority.
- (b) Land documents including copy (s) of RoR.
- (c) Royalty and cess challans and up-to-date rent receipt of the Land & Land Reforms Department for using top soil and alluvial soil for manufacture of bricks.
- (d) For identity Proof: PAN Card/Driving Licence/ECI Card/Aadhar Card.
- (e) Photographs showing the brick fields and the chimney with other integrated pollution control systems in the presence of representatives of the bricks fields/kilns and a sketch map showing the four boundaries with coverage in adjoining plots.

(f) Environment clearance from an appropriate authority is to be submitted for excavation or borrowing of brick earth or ordinary earth.

(g) Any other relevant papers and documents as may be deemed fit by the applicant to substantiate his/her claim, and / or asked for being produced during process and disposal of such applications by the authorities concerned as mentioned in paragraph 1 and 2.

Without such accompanying documents, applications shall be liable to be rejected.

3. An Applicant shall submit self declaration in the form of affidavit to the effect that his or her operation of brick field(s) will not cause any damage to any public road, bridge, culvert, embankment or any other public utility and *will also cause* no obstruction to the flow of the canal/river/drainage in any manner whatsoever.
4. In case of mining of 'brick earth' and 'ordinary earth' in an individual project with an area less or equal to 5 hectare and also in respect of cluster of projects comprising areas of 5 hectare to 25 hectare, prior Environmental Clearance (EC) under 'B2' category project from the District Environment Impact Assessment Authority (DEIAA) shall be required before processing the application for regularization.

B. Locational Guidelines:

Brick fields/kilns shall not be considered for regularization in the following places or areas:

- i) If the land is recorded and used as orchard and forest whether it is situated within the jurisdiction of the Municipality or Panchayats.
- ii) Within a distance of 1.0 kilometre from registered hospitals, schools and places where inflammable substances are stored.
- iii) Within a radius of 1.0 kilometre in notified sensitive areas such as zoo & wild life sanctuaries, historical monuments, museums and the like.
- iv) Within a distance of 50 metres from both sides of the railway tracks.
- v) Within a distance of 50 metres from both sides of National and State Highways main district roads and major bridges.
- vi) Within 100 metres from the river bank. However, the District Level Screening and Scrutiny Committee shall exercise due diligence to relax the limit to a maximum of 50 metres on case to case basis depending on the conditions in the field.
- vii) Within a radial distance of 1.6 kilometres from mango orchards as per the order dated 4th April, 2003 passed by the Hon'ble Supreme Court of India in Civil Appeal No.2735 of 2003 in the matter of Bijay Krishna Bera & Ors vs Badal Chandra Mondal & Ors.
- viii) Beyond a distance of 1.6 kilometres from mango orchards, if not provided with adequate air pollution control devices and equipment (underground gravitational settling chamber and fixed type stack of height at least 30 metres from G.L. provided with port hold and ladder as per the Emission Regulations Part-III of CPCB.

C. Operational Guidelines:

- i) All brick fields / brick kilns located within a radius of 100 kilometres from any Coal-based Thermal Power Plant should utilise at least 25% fly ash of its total raw materials required, as per the Fly Ash Utilisation Rules, 1999 and its amendments made thereafter by the Ministry of Environment , Forests & Climate Change, Government of India.
- ii) Multi-layer green belt of 10 metres width shall be constructed along the periphery of brick fields / kilns leaving two 10 metres wide gaps in the boundary for entry and exit of materials and vehicles. A 3-metre high wall shall be constructed on the sides where land is not available for green belt development in order to prevent fugitive dust emission. For installation of a brick field / kiln with green belt development, the minimum area required is 2.0 acres.
- iii) A lightning arrestor as per PWD norms or of any other standard design shall be installed for brick fields / kilns to avoid any damage to stack / chimney by lightning.
- iv) Height of Chimney shall be as prescribed by the West Bengal Pollution Control Board.
- v) While digging the earth for making bricks in the area as marked for the same, the straight cutting of earth should be avoided; instead cutting should be done with a slope of 1:3, so that solid erosion of the agricultural land can be minimized.
- vi) Good house-keeping practices such as proper disposal of coal ash, provision for double wall around the kiln, proper layout, brick lined passage, use of a properly graded coal, proper firing practices, protection from noise pollution and other environmental measures should be adopted by all brick field / kiln owners.

D. Sunderban area: Special attention will be given on prevention of unauthorized brick fields/kilns in Sunderban areas.

E. Committee for regularization of unauthorized brick fields/kilns:

- 1) (a) Applications received for regularization shall be examined and scrutinized by a District Level Screening and Scrutiny Committee consisting of the :

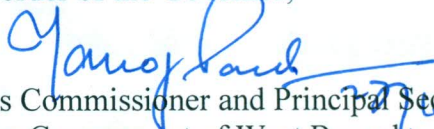
- i) District Magistrate & Collector of the district
- ii) District Land & Land Reforms Officer of the district,
- iii) Regional Officer of the West Bengal Pollution Control Board of the district;
- iv) Deputy Director, Agriculture (Administration)/Agriculture Officer connected with soil conservation and
- v) Executive Engineer, Irrigation & Waterways of the district,

(b) For this purpose, District Magistrate & District Collector on behalf of the Screening & Scrutiny Committee will get the actual status of brick fields/kilns physically enquired, to ascertain the compliance of the above regulatory, locational and operational guidelines and to ascertain whether the land used by the brick fields/kilns are any longer fit for agriculture or it is so degraded and exploited that it cannot be reclaimed for agriculture in future. On receipt of the enquiry reports based on field enquiry and with due diligence having regard to the relevant provisions of the West Bengal Minor Minerals Concession Rules, 2016, West Bengal Land & Land Reforms Act 1955 and the existing environment laws, the Screening and Scrutiny Committee will take necessary decision regarding regularisation of unauthorised brick fields/kilns and dispose of the applications. The District Magistrate & District Collector will direct the DL&LRO to communicate the decision regarding regularisation of unauthorised brick fields/kilns to the applicants concerned.

2. The Government will also constitute a State Level Committee to oversee the regularization of unauthorised brick fields/kilns.
3. These guidelines for regularization of unauthorized brick fields/kilns shall remain valid for a further period of one(1) year from the date of issue of the order.

This order issues in supersession of all earlier orders/memorandums of this Department vide Nos. 9503(16)-M&M, dated 30.10.1986, 4840(16)-M&M, dated 20.06.1986, 6100(18)-M&M, dated 25.07.1986 & 2739(18)-L. Ref., dated 29.09.2000 & No.1250-M&M dated 29/05/2015 regarding regularisation of brick fields / kilns with immediate effect.

By order of the Governor,


Land Reforms Commissioner and Principal Secretary
to the Government of West Bengal

No. 2648/1(50)-M&M

Dated : 27/10/ 2016

Copy forwarded for information and necessary action to :-

- 1) The Addl. Chief Secy./Principal Secretary/Secretary to the Govt. of West Bengal, Environment/Irrigation & Waterways/Agriculture/PWD/Commerce & Industries Department.
- 2) The Commissioner, _____ Division.
- 3) Member Secretary, West Bengal Pollution Control Board.
- 4) The D.L.R.&S., West Bengal, 35, Gopalnagar Road, Alipore, Kolkata -700 027.
- 5) The District Magistrate & Collector _____ (All)
- 6) The A.D.M. and D.L.&L.R.O., _____ (All)
- 7) _____


Secretary to the
Government of West Bengal

Government of West Bengal
Land and Land Reforms Department
M & M - Branch
Nabanna (6th Floor)
325, Sarat Chatterjee Road, Howrah-711 102

No. 527-M&M 26 2010(Pt)

Date : 02.03.2016

CORRIGENDUM

WHEREAS many district offices and others have made references regarding confusion arising out of the use of the term "operation of new/existing brickfields" in line 8 of page-1 or wherever it occurs, in the guidelines issued for operation of new brickfields vide Memorandum No. 1251-M&M/LR/A-II/26/2010 dated 29.05.2015 of this department

WHEREAS, Memorandum No. 1251-M&M/LR/A-II/26/2010 dated 29.05.2015 is essentially meant for operation of new brickfields only.

NOW, therefore, the Governor is pleased to clarify that the term "operation of new/existing brickfields" shall be read as "operation of new brickfields only" in the Memorandum No. 1251-M&M/LR/A-II/26/2010 dated 29.05.2015 of this Department.

By order of the Governor

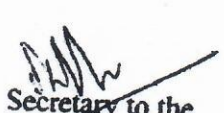
Sd/- Manoj Pant
LRC & Principal Secretary to the
Government of West Bengal

No. 527/1(47)-M&M

Dated : 02. 03. 2016

Copy forwarded for information and necessary action to :-

- 1) The Pr. Secretary to the Government of West Bengal, Commerce & Industries Department.
- 2) The Pr. Secretary to the Government of West Bengal, Environment Department.
- 3) The Commissioner, _____ Division.
- 4) The D.L.R.&S., West Bengal, 35, Gopalnagar Road, Alipore, Kolkata -700 027.
- 5) The Member Secretary, West Bengal Pollution Control Board.
- 6) The Special Officer (Law) and Ex. Officio Joint Secretary of this Department.
- 7) The D.M. & Collector, _____ (All)
- 8) The A.D.M. and D.L.&L.R.O., _____ (All)
- 9) _____


Secretary to the
Government of West Bengal

Government of West Bengal
Land and Land Reforms Department
M&M - Branch
Nabanna (6th Floor)
325, Sarat Chatterjee Road, Howrah-711 102

No. 529(39)-M&M/26-2010(Pt)

Date : 02.03.2016

From : The Deputy Secretary to the Government of West Bengal.

To : 1) The Director of Land Records & Surveys, West Bengal

2) The District Magistrate & Collector,
_____ (All)

3) The ADM and DL&LRO,
_____ (All)

Sub : Proceedings of the meeting taken by the LRC & Principal Secretary
on issues relating to regularisation of unauthorised brick fields.

Sir/Madam,

I am directed to forward herewith a copy of proceedings of the meeting taken by the LRC & Principal Secretary on issues relating to regularisation of unauthorised brick fields on 1st March, 2016 at 3.00 p.m. at his office chamber for information and taking necessary action.

Yours faithfully,

Satya

Deputy Secretary to the
Government of West Bengal

Proceedings of the meeting taken by the LRC & Principal Secretary with the DLR&S, DL&LROs, to discuss issues relating to regularisation of unauthorised brick fields at his office chamber on 1st March, 2016 at 3.00 p.m.

Officers present: Vide annexure-I

In the meeting the following points made in the representation submitted by the Bengal Bricks Owners' Association in its letter No. BBFOA/ 2/155/2015-16 dated 05.02.2016 followed by an e.mail dated 29.02.2016 and also the issues flagged by District land & Land Reforms Officers were discussed :-

- i. It has pointed out that the Memorandum No. 1251-M&M dated 29.05.2015 is meant for operation of new brick fields and No. 1250-M&M dated 29.05.2015 is meant for regularisation of unauthorised brick fields set up after 1st September, 2000. But in Memo. No. 1251-M&M there is mention that the guidelines are for operation of new/existing brick fields. The use of term existing has created confusion.
- ii. It has suggested for dispensing with the locational guidelines as contained in Memo. No. 1250-M&M in respect of regularisation of existing unauthorised brick fields which were established long back i.e. well before 01.09.2000.
- iii. Whether the brick fields which have started operation well before 01.09.2000, with "consent to operate" and are using river silt without causing any change to the agriculture land or the present use of land or have already got their land converted to IT-KHOLA, are also required to take permission for conversion of land.
- iv. It is alleged by Brick Field Owners' Association that some districts are not receiving applications from the brick fields for regularisation. Besides, these brick fields are facing difficulty in getting statutory/non-statutory clearances from the PWD, I&W Department and Environment Department and others without which the district committee is not taking any action.
- v. It is suggested by it that the brick fields which were set up before 01.09.2000 and have also made payment of penalty amount imposed by NGT should be kept out of the purview of the Memo. No. 1250-M&M.
- vi. Whether the guidelines contained the Memo. No. 1250 will also be applicable to the brick fields which were set up before 01.09.2000 but are operating without "consent to operate".
- vii. It was pointed out by the DL&LROs that most of the unauthorised brick fields have sought time for creation of multi-layered green belt of 10 mtr. construction of 3 mtr. high wall as laid down in the guidelines issued vide Memo. No. 1250-M&M dated 29.05.2015, on the ground that it needs sufficient time to build up green belt by way of planting trees or construction of 3 mtr. high wall. Besides that, the plantation can only be undertaken during the monsoons.

2. After detailed discussions on the issues the following decisions were taken

- i. A corrigendum is to be issued to clarify that the term "operation of new/existing brick fields" in line 8 of page no. 1 or wherever it occurs, in the representation submitted by Bengal Bricks Owners' Association vide Memo No. 155/2015-16

Proceedings of the meeting taken by the LRC & Principal Secretary with the DLR&S, DL&LROs, to discuss issues relating to regularisation of unauthorised brick fields at his office chamber on 1st March, 2016 at 3.00 p.m.

Officers present: Vide annexure-I

In the meeting the following points made in the representation submitted by the Bengal Bricks Owners' Association in its letter No. BBFOA/ 2/155/2015-16 dated 05.02.2016 followed by an e.mail dated 29.02.2016 and also the issues flagged by District land & Land Reforms Officers were discussed :-

- i. It has pointed out that the Memorandum No. 1251-M&M dated 29.05.2015 is meant for operation of new brick fields and No. 1250-M&M dated 29.05.2015 is meant for regularisation of unauthorised brick fields set up after 1st September, 2000. But in Memo. No. 1251-M&M there is mention that the guidelines are for operation of new/existing brick fields. The use of term existing has created confusion.
- ii. It has suggested for dispensing with the locational guidelines as contained in Memo. No. 1250-M&M in respect of regularisation of existing unauthorised brick fields which were established long back i.e. well before 01.09.2000.
- iii. Whether the brick fields which have started operation well before 01.09.2000, with "consent to operate" and are using river silt without causing any change to the agriculture land or the present use of land or have already got their land converted to IT-KHOLA, are also required to take permission for conversion of land.
- iv. It is alleged by Brick Field Owners' Association that some districts are not receiving applications from the brick fields for regularisation. Besides, these brick fields are facing difficulty in getting statutory/non-statutory clearances from the PWD, I&W Department and Environment Department and others without which the district committee is not taking any action.
- v. It is suggested by it that the brick fields which were set up before 01.09.2000 and have also made payment of penalty amount imposed by NGT should be kept out of the purview of the Memo. No. 1250-M&M.
- vi. Whether the guidelines contained the Memo. No. 1250 will also be applicable to the brick fields which were set up before 01.09.2000 but are operating without "consent to operate".
- vii. It was pointed out by the DL&LROs that most of the unauthorised brick fields have sought time for creation of multi-layered green belt of 10 mtr. or construction of 3 mtr. high wall as laid down in the guidelines issued vide Memo. No. 1250-M&M dated 29.05.2015, on the ground that it needs sufficient time to build up green belt by way of planting trees or for construction of 3 mtr. high wall. Besides that, the plantation can only be undertaken during the monsoons.

2. After detailed discussions on the issues the following decisions were taken :-

- i. A corrigendum is to be issued to clarify that the term "operation of new/existing brick fields" in line 8 of page no. 1 or wherever it occurs, in the

- ii. Locational guidelines cannot be dispensed with under normal circumstances. If there is a specific reference made by the district level empowered Screening & Scrutiny Committee ~~and~~ the same under special/unavoidable circumstances, such recommendation will have to be placed for consideration and approval of the State Cabinet.
- iii. There is no further need of conversion in such a case where land has already been lawfully converted to IT KHOLA by the brick fields concerned. However, permission for use of river silt has to be taken and payment of royalty for the same has to be made to the appropriate authority.
- iv. District Magistrates and Collectors are requested to set up a Single Window Clearance System in order to facilitate and help expeditious disposal of the applications received from the Brick Field Owners in terms of the guidelines as issued vide Memo No 1250-M&M or No. 1251-M&M, both dated 29.05.2016, as the case may be. While Single Window Clearance System is put in place to help and facilitate, responsibility to obtain "consent to operate" rests on the concerned owners/business entity and therefore, Brick Field Owners are advised to directly take up with the concerned departments/organisations for necessary clearances/No Objection Certificates and on receipt of the same, submit the completed application to District Magistrate & Collectors, for consideration by the Screening & Scrutiny Committee, which shall dispose of the applications within 30 days from the date of receipt.
- v. Guidelines contained in Memo. No. 1250-M&M dated 29.05.2015 should equally be applicable to such brick fields which were set up before the cut-off date of 01.09.2000, but operating without "consent to operate". Brick fields which were set up before 01.09.2000 and have also made payment of penalty amount imposed by the Hon'ble NGT shall have to obtain "consent to operate" in terms of the guidelines. In case there are any other specific orders of the Hon'ble NGT or any other Court of Law, the said order shall be binding on all and any action in terms of the guidelines if required to be taken, the same shall be done with express leave of the Hon'ble Court of Law.
- vi. As regards, allowing time for construction of a multi-layered green belt of 10mtr. or 3 mtr. high wall around the brick fields, the brickfield owners may be issued provisional "consent to operate" for 45 days subject to the condition that they will create either a multi-layered green belt of 10 mtr. or 3 mtr. high wall within the said time line, provided other conditions given in the guidelines are entirely fulfilled and complied with. In default the provisional consent to operate shall be withdrawn after the expiry of the grace time of 45 days.

There being no other points for discussion the meeting ended with thanks to and from the chair.


LRC & Principal Secretary