

Government of West Bengal
Land and Land Reforms Department
Land Policy Branch
Writers' Buildings, Kolkata-700001

ORDER

No. 6686-LP/1A-18/2012

Date: 26/12/2012

Whereas the State Government, its parastatals (Corporations, Development Authorities), and urban local bodies etc. have been allotting and pricing land/ other assets in line with various Departmental and other norms which often vary in their content and their applicability;

2. And whereas there is need to introduce uniformity, reduce discretion and avoid case by case decision-making to ensure transparency while dealing with public assets;

3. Now, the Governor, after careful consideration of the matter, is pleased hereby to make the following *Land Allotment Policy* which will be applicable to land owned or held by any Department of the State Government or agency funded by the State Government in any manner:-

- (i) The land allotted to any individual/ company/ institution etc. under the policy would be transferred to them by the Government and its parastatals by way of long term lease for a period not exceeding 99 years, with the option of renewal of such lease for the like period on the same terms and conditions and to such other terms and conditions as may be imposed and included in such renewal lease deed.
- (ii) (a) The lessee under any lease granted by the State Government or its parastatals can mortgage the leasehold interest only (and not the demised land itself) on the demised land, whether in full or in part, only with the prior written permission of the lessor.
(b) The lessee is not entitled to assign his leasehold interest, whether in full or in part, without prior written approval of the lessor and assignee shall hold the same on the same terms and conditions as in the original lease and to such other terms and conditions as may be considered to be imposed by the lessor while granting such approval. In case of such assignment of leasehold interest the assignee concerned shall have to obtain fresh lease after expiry of the unexpired period of the lease on payment of such consideration money and annual rent based on the prevailing market value as may then be fixed by the lessor in granting such lease.
- (iii) The Land and Land Reforms Department is the nodal Department for inter-departmental transfer of land and Long Term Lease (LTS) of vested/ khas (Government) land. An inter-departmental Committee under the Chief Secretary

would handle all cases of inter departmental land transfers. The valuation for LTS would be based on the sale deeds of the area or the market price as determined by the Inspector General of Registration, West Bengal, whichever is higher.

- (iv) Land meant for commercial use shall invariably be auctioned to the highest bidder for which adequate publicity should be given including through the internet. Commercial use will mean use for office, shops, shopping malls, housing not meant for the EWS, LIG or the poor, cineplexes, theme parks, hospitals, educational institutions etc, and would include all other activities except those activities for which a different mode of disposal is prescribed.

Reserve Price should not be fixed by the Government before the bidders submit their financial bids, so that there is no chance of the bidders knowing the Reserve Price fixed by the Government. The Government, while fixing the Reserve Price, should not have knowledge of the price bids submitted so that the fixing of the Reserve Price is not influenced by such knowledge. The Advisors do not finalize Reserve Price, as a conflict of interest may arise with them trying to keep them a low Reserve Price. The bidders are provided full comfort that their bids, once submitted, can in no way be tampered with by any agency.

- (v) For construction of housing for the poor, EWS and LIG through developers, it would be permissible not to go in for the auction route, keeping in view of the paramount public interest. Instead, development offers on pre-announced criteria can be invited through a two-stage bidding process. The policy for the allotment of the dwelling units after construction also should be rational, objective and transparent and stated clearly in the brochures/ advertisements.

- (vi) For projects leading to industrial development, the highest price need not be the main criteria nor should auction be the only mode of allotment. The department or the entity shall prepare and publish a list of its land assets. It may also indicate the kind of industrial development it is seeking (big, medium, small, micro, non-polluting, knowledge based, etc.) along with the tentative price which may be determined on the basis of acquisition price, cost of capital, development charges and premium as applicable. This information should be freely available in the public domain for at least a month before offers are received/ invited.

The offers should be evaluated on pre-specified and pre-announced criteria e.g. specified purpose, employment potential, likely tax- revenue, development of backward regions, economic development of disadvantaged communities, lower pollution levels, standard norms for land requirements for specific type of industries, and the past record of the investors. Evaluation should be done by a Transaction Advisor, to be selected from the empanelled list of Transaction Advisors drawn up

by the Finance Department through a transparent and competitive process and notified vide No. FS-116(PPP Cell)/2012 dated 10.09.2012.

- (vii) Project proposals for private educational institutions and medical facilities will be deemed to be commercial ventures, except where such projects are to be set up by public charitable trusts with no profit motives, and in existence for at least five years in the respective field, after inviting offers in a transparent manner. Trusts promoting such institutions have to be well-known for their services at the national or international level. The cases of allotment to charitable and reputed institutions fulfilling the above conditions should be referred to the Standing Committee of the Cabinet on Industry, Infrastructure and Employment for a final decision.
- (viii) For the projects in the power generation sector, the auction route is not recommended given the possible impact on tariffs and questions of larger public interest. The department holding the land, in consultation with the Power & NES Department, would notify sites suitable for power generation projects, which will remain open and in the public domain for at least one month before offers are invited. Thereafter, the offers will be evaluated in consultation with Power & NES Department, based on clear-cut pre-announced criteria beneficial to the economy and well-being of the state such as lower tariffs, redressal of the thermal-hydro imbalance, green power and renewable obligations and offered in terms of the existing policy and legal framework for such power generation projects.
- (ix) All land allotment decisions should be taken by the Board(s) of the entities. In case land is owned departmentally, MIC's order will be inevitably required followed by a Cabinet decision. Under no circumstances should land allotment decision be taken without placing the matter to the full Board with adequate notice as may be required under the relevant statutes/ rules and without recording detailed minutes.
- (x) Upon the completion of the formalities and selection of the allottee, a provisional Letter of Intent (LOI) should be issued. Each Department should frame its own LOI in consultation with the Law Department and strictly based on this policy with a specific time frame which shall in no case exceed three (3) years from the date of handing over the possession of the land.
- (xi) The provisional LOI should also specify the statutory clearances / licences / permissions that the allottee would be required to obtain within a definite time frame. This will include clearances from the West Bengal Pollution Control Board & / or the Ministry of Environment & Forests, fuel linkages, water availability, clearance and licences from the West Bengal Electricity Regulatory Commission, the Medical / Dental / Nursing Council, the AICTE, the UGC, Municipality, Urban Planning etc., as may be required only for that specific purpose.

- (xii) The provisional LoI should be so drafted, as to enable the allottee to seek financial closure as well as obtain the relevant statutory clearances, in a definite time frame. In case the statutory clearances and or the financial closure are not forthcoming within the specified period, the provisional LoI shall be cancelled after following procedure laid down in the terms and conditions of the allotment.
- (xiii) The allottee will have to commit that post-allotment, any changes in the ownership structure of the allottee, would be indicated upfront to the lessor. In case the lessor is of the opinion that such changes would be detrimental to public interest, such as higher power tariffs, reductions in the housing entitlements for the original target group (e.g. EWS / Poor / LIG), lower tax revenues, lower employment, etc., the lessor may cancel the allotment after following the usual formalities.
- (xiv) In the event of special circumstances, the Government may, with the intention to protect and promote specific types of activities, or, to promote any emerging area of development activities, or, to reduce imbalances in any backward region, or, any strategic reason especially beneficial to the State, may with the approval of the State Cabinet, relax any or some of the above mentioned criteria. The sponsoring departments will be required to prepare Cabinet proposals indicating the full extent of relief with justification.
- (xv) Notwithstanding (xiv) above, all decisions related to land allotment etc. should be proactively disclosed u/s 4, of the RTI Act.

4. The Departmental Secretaries may ensure strict compliance with the aforesaid policy-guidelines in the most transparent manner.

By order of the Governor,

R.D.Meena

Principal Secretary to the Government of West Bengal

No.6686/1(87)-LP

Date: 26/12/2012

Copy forwarded for information and necessary action to the:

1. Additional Chief Secretary/ Pr. Secretary/ Secretary to the Government of West Bengal Department.
With the request to circulate this policy-guidelines to its parastatals (Corporations, Development Authorities), and urban local bodies etc. if any.
2. Commissioner,Division.
3. Director of Land Records & Surveys, West Bengal.
4. District Magistrate & Collector ,.....
5. O.S.D. to Chief Secretary to the Government of West Bengal

Additional Secretary to the Government of West Bengal