

UPDATE

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Resumption of land under S 6(3) of the WBEA Act: Judicial-Legislative Matrix

A. Introduction

Significant quantum of land in the State of West Bengal, had been permitted to be retained in terms of S 6(1)(g) read with S 6(3) of the West Bengal Estates Acquisition Act, 1953 ("**WBEA Act**"), primarily for the purposes of mills and factories, however, over time, most of such 6(3) lands were lying substantially unutilised, despite attempts of revival and rejuvenation.

After nearly six decades, the Government of West Bengal ("**GoWB**"), acknowledging the need to unlock the true potential of such unutilised 6(3) lands, introduced S 4B(2) of the West Bengal Land Reforms Act, 1955 which crystallised the grant of 'lessee' status to such retainers (or their transferees) upon payment of requisite salami and lease rent, and also widened the horizon of usage of such 6(3) lands to include, *inter alia*, residential projects and logistic parks.

Whilst this move greatly boosted the land bank and growth of the State, there remained still, a considerable portion of valuable land, which was untapped. In such circumstances, the GoWB has exercised its discretionary power and resumed such lands, and on such power of the State, there has been long judicial scrutiny.

B. Genesis

S 6(1), being one of the watershed provisions of the WBEA Act, enabled an intermediary (whose rights in the estates were vested in terms of S 4 of the WBEA Act) to retain different categories of land, to the extent of the prescribed ceiling limits.

One such category of land i.e. land comprised in mills, factories and workshops (S 6(1)(g) of the WBEA Act) was permitted to be retained only to the extent as may be determined by GoWB in its order passed under S 6(3) of the WBEA Act.

The proviso to the said S 6(3) further goes on to say that, the GoWB is empowered, at its sole discretion, to revise any such order specifying the land permitted to be retained, after reviewing circumstances of the case and granting an opportunity of being heard to the retainer.

C. Key Judicial Pronouncement and Consequent Legislative Amendment

In *State of West Bengal and Ors. vs. Ratnagiri Engg. Pvt. Ltd and Ors.* (2009), the Hon'ble Supreme Court of India ("**SC**"), interpreted the proviso to S 6(3) of the WBEA Act to mean that, the power to revise any order of retention made under the said section, may be exercised only if: (i) some fraud or misrepresentation was made to the GoWB for obtaining such order; or (ii) there was a

genuine and important mistake made by the GoWB in passing such order. Such power cannot be exercised merely on the ground that after the passing of such order by the GoWB, some subsequent developments have taken place. In the words of the SC:

“...The use of the word "revise" in the proviso also supports the view we are taking. In other words, only the facts as existing at the time when the order under the main part of Section 6(3) of the 1953 Act was passed by the State Government can be taken into consideration while exercising the power under the proviso to Section 6(3) of the 1953 Act. Events subsequent to passing of the order under the main part of Section 6(3) cannot be seen for exercising the power under the proviso”

A year thereafter, the GoWB introduced ‘Explanation II’ to S 6(3) of the WBEA Act (by way of an amendment deemed to be effective from date of commencement of the WBEA Act) which clarified the expression ‘revise any order’ in the proviso to the said S 6(3). The clarification was to the effect that, regardless of the extant law or any judicial pronouncement, an order of retention may be revised on the ground that, the retainer has failed/ceased to utilize the retained land or any part thereof for the specified purpose, so as to resume the land surplus to the retainer’s requirements.

Whether the said Explanation was introduced to clarify or remove any defect in the pre-existing law, or to override and bypass the judgment of the SC in the aforesaid *Ratnagiri* case without amending the substantive portion of the section, has been much debated albeit without a clear judicial stance on the same.

D. Recent Developments

In a judgment dated 22 May 2025, subsequently affirmed by the SC, the Hon’ble High Court of Calcutta, in *Hindustan Motors Limited and Anr. v. State of West Bengal and Ors.* held that, the amendment introducing Explanation II to S 6(3) of the WBEA Act was within the legislative competence of the State since the said Explanation II was intended to address the lacunae highlighted in the said *Ratnagiri* judgment i.e. enabling revision of retained land quantum on the basis of subsequent events and was otherwise aligned with the objectives of the WBEA Act.

E. Conclusion

Legislative evolution coupled with the judicial interpretations of S 6(3) of the WBEA Act are redefining the regulatory landscape for industrial land in West Bengal, with profound implications for industrial landholders and the State’s long-term economic and land-use policy. These developments serve to:

- Establish a precedent for GoWB’s authority to resume unutilised industrial landholdings;
- Signal increased scrutiny on large tracts of idle industrial land;
- Reinforce pro-active compliance with land utilisation and resumption conditions;
- Catalyse economic growth by reclaiming and unlocking economic value from dormant assets;
- Attract fresh investments to accelerate industrial activity in the State; and
- Strengthen the State’s revenue base, making land a key engine of sustainable development.

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