

**ANNEXURE -21**

**Most Immediate**  
**By Fax/Speed Post**

No. MHA/RD/SW/CC/99  
Ministry of Home Affairs  
Government of India  
(FFR Division)

...  
Jaisalmer House, Mansingh Road,  
New Delhi, dated 22<sup>nd</sup> September, 2008.

To

All Chief Secretaries of States/Administrators of UTs

Subject : The Displaced Persons Claims and Other Laws Repeal Act, 2005 – clarification regarding.

Sir/Madam,

I am directed to say that the Government of India, in consultation with the State Governments/UTs, had enacted and notified "The Displaced Persons Claims and Other Laws Repeal Act, 2005" on 6.9.2005 thereby repealing the following Acts :

1. The Displaced Persons (Claims) Act, 1950
2. The Administration of Evacuee Property Act, 1950
3. The Evacuee Interest (Separation) Act, 1951
4. The Displaced Persons (Claims) Supplementary Act, 1954
5. The Displaced Persons (Compensation and Rehabilitation) Act, 1954

2. Subsequent to the repeal of the above mentioned Acts, the Ministry of Home Affairs issued two advisories, containing advice of the Ministry of Law and Justice vide letter No.MHA/RD/SW/CC/99 dated 19.10.2005 and letter No.MHA/RD/SW/CC/99 dated 18.11.2005. The purpose of these advisories was to bring to the notice of the States/UTs the interpretation and applicability of Section 6 of the General' Clauses Act, 1897 as per the judgements of the Supreme Court in M.S. Sivananda case (1980) 1 SCC 149 and Bansidhar case (1989) 2 SCC 557 and also to advise them about continuance or other wise of the authorities prescribed under the repealed Acts. However, these two advisories appear to have been interpreted by some of the State Governments to imply that' all the proceedings under the repealed Acts, including settlement of unsatisfied verified claims, consideration of appeals and revision/review petitions, implementation of directions of the Courts for settlement of pending claims etc., will come to an end. This has resulted in filing of a number of representations/legal petitions for settlement of pending claims under Section 6 of the 'General Clauses Act.



3. The matter has, therefore, been considered in detail by the Ministry of Home Affairs, in consultation with the Ministry of Law & Justice and after ascertaining the ground situation from some of the State Governments/UTs concerned. Pursuant thereto, and in order to remove ambiguity and doubts which appear to have been created, it is clarified that the enactment of the displaced persons claims and other Laws repeal Act, 2005 would not affect disposal of the following categories of cases and the State Governments/UTs may, therefore, take action as appropriate, to settle them under the relevant State Laws or the General Clauses Acts:

3.1 Unsatisfied verified claims filed under the Displaced Persons (Claims) Act, 1950, in which right has accrued or has been acquired and which were pending as on 6.9.2005, the date on which the Displaced Persons (Compensation & Rehabilitation) Act, 1954 and other related Acts were repealed.

3.2 Cases in which directions have been issued by various Courts for settlement of claims filed, confirming that an acquired or accrued right exists in favour of the claimant, under Displaced Persons (Claims) Act, 1950.

3.3 Verified claims in which full compensation has not been given so far.

3.4 Appeals revision/review petitions filed against orders passed by the authorities prescribed under the repealed Acts which are yet to be disposed off.

4. It is further clarified that cases in which right has not accrued or has not been acquired and are merely inchoate in nature or based on mere hope or expectation cannot be considered under the General Clauses Act as per the judgements of the Apex Court mentioned above.

5. As regards revival of the authorities prescribed under the repealed Acts, it is clarified that since the subject stands transferred to the State Governments, action for settlement of pending matters, can be taken by the authorities prescribed under any state laws that may have been enacted or in any other manner as considered appropriate and it may not be necessary to revive the authorities prescribed under the repealed Acts.

6. All State Governments/UTs are requested to take necessary time-bound action for settlement of pending claims in the light of the above clarifications.

7. This issues in consultation with the Ministry of Law and Justice.

Yours faithfully,

Sd/-

(Ashok Kumar)  
Deputy Secretary to the Government of India



No.MHA/RD/SW/CC/99  
Ministry of Home Affairs  
Government of India(FFR Division)

N.D.C.C. Building-II, Jai Singh Road,  
New Delhi, Dated the 17<sup>th</sup> November, 2016.

To  
All Chief Secretaries of States/Administrators of UTs.

Subject: The Displaced Persons Claims and Other Laws Repeal Act, 2005 – clarification regarding.

Sir/Madam,

I am directed to refer to this Ministry's advisory/letter of even number dated 22.09.2008(copy enclosed) whereby State Governments/UTs were requested to deal with the residuary work of acquired evacuee properties (forming part of Compensation Pool) in respect of categories mentioned under para 3 of the said advisory under the relevant State Laws or section 6 of the General clauses Act.

1. While disposing of Civil Appeal bearing No.6079 of 2010 filed by UOI (this Ministry) in the matter of "UOI Vs. International Sindhi Panchayats & Ors" the Hon'ble Supreme Court vide its order dated 28.04.2014, which was also upheld vide order dated 07.01.2016 in Review Petition No.3377 of 2015, inter-alia ruled that:

***"....It is declared that the provisions of Section 6 of the General Clauses Act are applicable to the Displaced Persons Claims and Other Laws Repeal Act, 2005 (for short 'Repeal Act, 2005) and that the respondent Nos. 6 and 8 herein shall continue to decide the cases and proceedings pending on the date of the said Repeal Act, 2005 and implement the decision in the said cases under the un-repealed Displaced Persons Compensation & Rehabilitation Act, 1954 and other related Acts....."***

2. Considering the above judgment passed by the Hon'ble Supreme Court on the issue, this Ministry, in consultation with Ministry of Law & Justice has decided to request all the State Governments/UTs to continue to decide the pending cases and proceedings which were pending on the date of the repeal of the said Acts, and deal with the residuary works of administration, management and disposal of acquired evacuee properties (forming part of Compensation Pool) transferred to the State Governments/UTs, under the un-repealed Displaced Persons (Compensation & Rehabilitation) Act, 1954 and other related Acts as per the provisions of Section 6 of the General Clauses Act, 1897.

3. With regard to revival of the authorities, no fresh delegation of powers or revival of authority is required as the same revives automatically in the light of Apex Court's order except in cases where appointment/delegation of powers or approval of Central Government is required due to change of name, designation etc. in respect of authorities notified earlier. This is in supersession of the advice contained in para 5 of this Ministry's earlier advisory dated 22.9.2008.

Yours faithfully,

  
(Margaret Gangte)  
Director (Rehabilitation)