

# **The West Bengal Forest Manual**

## **Part-I**

**150<sup>th</sup> Year**

**Department of Forests  
Government of West Bengal**

## **Disclaimer**

*This is a compilation various Acts, Rules, Orders, Circulars, Notifications etc. Published time to time by the Government of India and Government of West Bengal. Efforts have been made to compile all such documents chronologically. If there is any confusion regarding any of such document, kindly refer to the original documents maintained by the above mentioned authorities.*

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## **PREFACE**

The Bengal Presidency Forest Manual Part-I was first published in the year 1916 and thereafter reprinted in 1939.

The West Bengal Forest Manual, Part-I and Part-II were subsequently compiled in the Directorate of Forest under the guidance of Late K.L. Lahiri, IFS (Retd.), the then CCF, West Bengal, after incorporation of changes relating to later enactments and certain irrelevant sections had been omitted.

Now this revised Forest manual, which is the result of team work of Sri S.K.Sen, Sri Rohit Tiwari, Sri N. K. Pandey, Sri Anup Saha and logistic support from Sri Gautam Chatterjee is again being published after updating and incorporating the changes in the intervening period. Amendments and additions to this Manual are welcome and this manual will be revised every year in the month of August, based upon the instructions issued by the Forest Department and any future changes resulting from amendments to various acts and rules contained in this Manual.

Kolkata :

The 8<sup>th</sup> of January, 2014.

Sd/-

S. K. Das

Additional Chief Secretary to the Govt. of West Bengal  
Department of Forests.



## **PCCF's NOTE**

A hundred and fifty years ago, India was one of the first countries in the world to introduce scientific forestry. Bengal had the privilege of getting this initiative. Brandis, Sheabeare and many other foresters, including those who are still alive and some still in service, have shed their sweat and blood for the conservation of forests. We the foresters of Bengal should be proud of our predecessors. It is for their contribution that our management has received accolades over the years. Soil conservation works in the nineteen sixties and social forestry in the eighties have brought glory to the state. First global appreciation came in the form of Paul Getty Award for Forest Protection Committees in the nineteen nineties.

With the success in the field of wildlife, the State has shown that we foresters have excelled in every field of forestry. Sundarbans was assessed to be the best managed Tiger Reserve in the country. The conservation of rhino in north Bengal, from the brink of extinction to a stage where we are in a position to extend its habitat, is being quoted an example to be emulated in rhino range countries. It may be prejudicial to all other foresters who have contributed to this success, yet it would be injustice to one unsung hero who devoted his entire life for the conservation of forest and wildlife. Therefore, with an apology to all other foresters who have made considerable contributions towards conservation of rhino, a name that needs special mention is that of A K Sahoo, because he is no more with us. Without his efforts, we cannot say whether we would have achieved the same success.

It is not the contribution of foresters alone. We were well supported by the policy makers who approved our suggestions. In the state of West Bengal, if we are in a position to claim success, it

is due to the people who came forward to protect our forests. The forest fringe dwellers of southwest Bengal showed that with the public support, the degraded forests could be resuscitated back to give home to wild animals once again. In spite of elephants exploring new habitats and consequent depredation, people's support has not dwindled down in this zone. The success of Joint Forest Management has also been observed in Sundarbans where there has been no revenge killing of any tiger nor the tiger has killed any human being outside the forests in the last ten years.

Policy changes and enactment of various laws from time to time have complicated the working of foresters. It is not always possible for us to help people, who want immediate solutions for their problems. We foresters often avoid decisions, lest we should commit mistakes due to unawareness of rules and procedures. It is because of lack of instant accessibility to Acts, Rules and Guidelines. This manual is an attempt to make a handy compilation that will help foresters in their day-to-day working.

N. C. Bahuguna  
Principal Chief Conservator of Forests,  
Head of Forest Force  
West Bengal.

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**Part-I**  
**Chapter-I**  
**Introduction**

**1. Scope of this Manual**

- 1.1 These instructions are supplemental to, and should be read in conjunction with the various Forest Acts, Financial and other acts and rules of Central & State Government, supplementing the acts. Also various important Court orders relating to Forestry and Wildlife, from time to time, shall necessarily guide the functionaries of the Forest Directorate while implementing the instructions contained in this Manual.
- 1.2 The Divisional Forest Officers/Conservator of Forests/Chief Conservator of Forests under various acts and rules have been empowered with certain powers within the aforesaid acts and rules, providing for any supplementary matters arising out of the said acts and rules. Sometimes the matter may become quite complicated in day to day implementation of these powers and certain deviations from the standing instructions may occur. However such deviations should at once be communicated to superior authorities and unless of purely local matters, they will normally, if approved, be subsequently incorporated in this Manual. The Divisional Forest Officers/ Conservator of Forests / Chief Conservator of Forests will be primary responsible in their jurisdiction for the proper observation of procedures and checks prescribed in this Manual, and other instructions of superior authorities. They should refer any doubtful point for clarification to their immediate superior.

**2. Brief History and developments**

- 2.1 **History pre-1947:-** In 1840, the British colonial administration

promulgated an ordinance called Crown Land (Encroachment) Ordinance. This ordinance targeted forests in Britain's Asian colonies, and vested all forests, wastes, unoccupied and uncultivated lands to the crown. The Imperial Forest Department was established in India in 1864. British state's monopoly over Indian forests was first asserted through the Indian Forest Act of 1865. This law simply established the government's claims over forests. The British colonial administration then enacted a further far-reaching Forest Act of 1878, thereby acquiring the sovereignty of all wastelands which in its definition included all forests. This Act also enabled the administration to demarcate reserved and protected forests. In the former, all local rights were abolished while in the latter some existing rights were accepted as a privilege offered by the British government to the local people which can be taken away if necessary. These colonial laws brought the forests under the centralised sovereignty of the state. An FAO report claims it was believed in colonial times that the forest is a national resource which should be utilized for the interests of the government. Like coal and gold mines, it was believed that forests belonged to the state for exploitation. Forest areas became a source of revenue. For example, teak was extensively exploited by the British colonial government for ship construction, sal and pine in India for railway sleepers and so on. Forest contracts, such as that of biri pata (leaves of *Diospyros melanoxylon*), earned so much revenue that it was often used by the people involved in this business as a leverage for political power. These contracts also created forest *zamindars* (government recognised forest landowners). Additionally, as in Africa, some forests in India were earmarked by the government officials and the rulers with the sole purpose of using them for hunting and sport for the royalty and the colonial officials.

2.2 **History 1947-1990:-** In 1953, the government nationalized the forests which were earlier with the zamindars. India also nationalized most of the forest wood industry and non-wood forest products industry. Over the years, many rules and regulations were introduced in the country. In 1972 the Wildlife (protection) Act, was enacted, giving a great focus towards conservation. In 1980, the Forest Conservation Act was passed, which stipulated that the central Government's permission will be required for any diversion of forest area for non Forestry use. Violations or lack of permits was made a criminal offense. These nationalization wave and laws intended to limit deforestation, conserve biodiversity, and save wildlife.

India launched its National Forest Policy in 1988. This led to a programme named Joint Forest Management, which proposed that specific villages in association with the forest department will manage specific forest blocks. In particular, the protection of the forests would be the responsibility of the people. By 1992, seventeen states of India participated in Joint Forest Management, bringing about 2 million hectares of forests under protection. The effect of this initiative has been positive and successful.

### **3. Publishing of Manual and amendments**

3.1 The Manual will be published by way of placing it on Website <http://www.westbengalforest.gov.in> and also by printing hard copies/making CDs by the Publicity division of the Forest Directorate. This Manual will be made available to anyone at such price as may be fixed from time to time by the Forest Directorate. Future amendments and additions to this Manual will be based upon the instructions issued by the Forest Department and any change in various acts and rules contained in this Manual.

**Powers of officers under the Indian Forest Act, 1927 and the Wildlife (Protection) Act, 1972**

**1. Powers of officers under the Indian Forest Act**

No. 1922 T. R.—The 3<sup>rd</sup> October, 1912.— In exercise of the power conferred by the definition of “Forest Officer” in section 2 of the Indian Forest Act, 1878 (VII of 1878), the Governor in Council is pleased to appoint the officers of the Forest Department, Bengal, who are mentioned in column 1 of the following table, to discharge the functions of a “Forest Officer” under the sections of the said Act which are mentioned opposite their names in column 2 of the said table :—

<b>Officers</b>	<b>Section of the Act</b>	<b>Brief description of function</b>
<b>1</b>	<b>2</b>	<b>3</b>
I. The Conservator of Forest, Bengal	25	Powers to stop ways and water courses in reserved forests  (N.B. — This power is exercisable only with the previous sanction of the Commissioner of the Division in which the reserved forest is situated.)
	25(c) <sup>1</sup>	Power to notify the seasons at which fire may be kindled, kept or carried in a reserved forest.
	All sections mentioned hereafter in this column	
II. All— (i) Deputy Conservators	20 <sup>2</sup>	Publication of translation of notifications declaring forests to be reserved.



(ii) Assistant Conservators	25, penultimate paragraph <sup>3</sup>	Power to permit prohibited acts in a reserved forest.
(iii) Extra Deputy Conservators, and	33 <sup>4</sup>	Power to permit prohibited acts in Protected Forest.
(iv) Extra Assistant Conservators, in charge of Forest Divisions, when within the local limits of their respective divisions.	45, paragraph 2	Power to notify depots for the receptions of drift and other timber.
	46	Giving notice of timber collected under section 45.
	47, paragraphs 1 & 2	Powers for dealing with statements of claim to drift and other timber.
	50	Power to receive payments on account of drift and other timber.
	82, paragraph 2 <sup>5</sup>	Power to sell forest produce for Government dues.
III. All— (i) Deputy Conservators,		
(ii) Assistant Conservators,		

<sup>1</sup> Section 26(c) of the Indian Forest Act, 1927 (16 of 1927).

<sup>2</sup> Section 21 of the Indian Forest Act, 1927 (16 of 1927).

<sup>3</sup> Section 26 of the Indian Forest Act, 1927 (16 of 1927).

<sup>4</sup> Section 34 of the Indian Forest Act, 1927 (16 of 1927).

<sup>5</sup> Section 83(2) of the Indian Forest Act, 1927 (16 of 1927).

(iii) Extra Deputy Conservators, and		
(iv) Extra Assistant Conservators, and	25, penultimate paragraph <sup>6</sup> .	Power to permit prohibited acts in a Reserved Forest.
(v) Rangers in receipt of a salary of at least Rs. 100 per mensem, who are subordinate to any officer mentioned in clause II above, when specially authorized in this behalf by the Conservator of Forests.	33	Power to permit prohibited acts in a Protected Forest.
IV <sup>7</sup> . All— (i) Rangers in receipt of a salary of less than Rs. 100 per mensem.		
(ii) Deputy Rangers, and	25, penultimate paragraph. <sup>8</sup>	Power to permit prohibited acts in a Protected Forest.
(iii) Foresters, who are subordinate to any officer mentioned in clause II above, when specially authorised in this behalf by the Conservator of Forests.	33 <sup>9</sup>	Power to permit prohibited acts in Protected Forest.
V <sup>10</sup> . (a) All— (i) Deputy Conservators,	45, paragraph 2	Power to collect drift and other timber.
(ii) Assistant Conservators,	52, paragraph 1	Power to seize property when a forest offence has been committed.
(iii) Extra Deputy Conservators,		

(iv) Extra Assistant Conservators,	55	Power to take charge of forest produce on the conclusion of a trial of forest offence.
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<sup>6</sup> Section 26(2) of the Indian Forest Act, 1927 (16 of 1927)

<sup>7</sup> Amended by notification No. 193-M.R., dated the 13th January 1913.

<sup>8</sup> Section 26(2) of the Indian Forest Act, 1927 (16 of 1927)

<sup>9</sup> Section 34 of the Indian Forest Act, 1927 (16 of 1927)

<sup>10</sup> Amended by notification No. 193-M.R., dated the 9th January 1913.

(v) Rangers		
(vi) Deputy Rangers	56	Power to accept charge of confiscated property when the offender is not known.
(vii) Foresters, and		
(viii) Forest Guards whether on permanent or temporary establishments.	69	Power to seize and impound cattle trespassing in a reserved or protected forest
(b) All Revenue Station Officers attached to the Sundarbans Forest Division.	82, paragraph 1	Power to take possession of forest produce until Government dues are paid.
VI. (a) All—	63, paragraph 1	Power to arrest without warrant in cases mentioned in the section.
(i) Deputy Conservators,		
(ii) Assistant Conservators,		
(iii) Extra Deputy Conservators,		
(iv) Extra Assistant Conservators,		
(v) Rangers,		
(vi) Deputy Rangers, and		

(vii) Foresters, in charge of a Range, whether on permanent or temporary establishments.		
(b) All Revenue Station Officers attached to the Sundarbans Forest Division.		
VII. All— a) Foresters not in charge of a Range, and b) Forest Guards, whether on permanent or temporary establishment.		

2. In exercise of the power conferred by section 24<sup>11</sup> of the said Act, the Governor in Council is further pleased to authorise all Commissioners of Divisions to sanction the stoppage of ways and water-courses, in reserved forests, under that section.
3. In exercise of the power conferred by section 60<sup>12</sup> of the said Act, the Governor in Council is further pleased to empower the Forest Officers mentioned in clauses I, II, III and IV in column 1 of the foregoing table to direct at any time the immediate release of any property seized under section 52 of the said Act.

<sup>11</sup> Section 25 of the Indian Forest Act, 1927.

<sup>12</sup> Section 61 of the Indian Forest Act, 1927.

- <sup>13</sup> 4. In exercise of the power conferred by sub-section (1) of section 67 of the said Act, the Governor in Council is further pleased to empower—
- (a) the Forest Officers mentioned in clause I and II in column 1 of the foregoing table, and
  - (b) such of the Forest Officers mentioned in clause III in column 1 of that table as may be specially authorised in this behalf by the Conservator of Forests, to accept money by way of compensation for offences, and to release property seized as liable to confiscation.

5. In exercise of the power conferred by section 71<sup>14</sup> of the said Act, the Governor in Council is further pleased to invest the Divisional Forest Officer, Sundarbans, with the powers mentioned in clauses (c) and (d) of that section.
6. In exercise of the power conferred by clause (a) of section 75<sup>15</sup> of the said Act, the Governor in Council is further pleased to direct that the Forest Officers mentioned in clause VII of the foregoing table shall exercise the power to arrest without warrant under section 63 of the said Act in the following cases only—
  - (a) when an offence is committed near the frontier or border of a Native State.
  - (b) incendiary forest fire, and
  - (c) when there is reason to believe that the accused has given a false name or address and is likely to abscon

**93T. For.— The 3<sup>rd</sup> May 1941.**— In exercise of the powers conferred by sub-section (1) of section 72 of the Indian Forest Act, 1927 (Act XVI of 1927), the Governor is pleased to invest, ex-officio, all gazetted officers of the Forest Department, ....., with the powers mentioned in clauses (a), (b), (c) and (d) of that sub-section.

**No. 7456 For.— The 17<sup>th</sup> April 1944.**— exercise of the power conferred by sub-section (1) of section 72 of the Indian Forest Act (Act XVI of 1927), the Governor is pleased to invest, ex-officio, all Rangers of the Forest Department, ....., with the powers mentioned in clause (a) of that sub-section.

**No. 3450 For.— 29<sup>th</sup> May 1948.**—In exercise of the power conferred by sub-section (2) of section 2 of the Indian Forest Act, 1927 (XVI of 1927), the Governor is pleased to appoint the officers of the Directorate of Forests, West Bengal, mentioned in column 1 of the following table, to discharge the functions of a “Forest

Officer” briefly described in column 3 of the said table under the provisions of the said Act specified in column 2 thereof opposite such officers, in the areas to which the relevant provisions of the said Act have been, or may from time to time be applied—

<sup>13</sup> Section 68 of the Indian Forest Act, 1927.

<sup>14</sup> Section 72 of the Indian Forest Act, 1927.

<sup>15</sup> Section 76 of the Indian Forest Act, 1924.

<sup>16</sup> The post has since been designated as Chief Conservator of Forests.

**Table**

Officers			Provisions of the Act	Brief description of functions
1			2	3
I.	(i)	Director of Forests <sup>16</sup>	(1) Section 65	(1) Power to release on bond a person arrested.
	(ii)	All Conservators of Forests		
	(iii)	All Deputy Conservators of Forests	(2) Section 66	(2) Power to prevent commission of offence.
	(iv)	All Assistant Conservators of Forests		
	(v)	All Senior Forest Rangers		
II.	Forest Rangers who are subordinate to any Forest Officer mentioned above when specially authorised in this behalf by Conservators of Forests		As in item (1) above	As in item (1) above.
III.	(i)	All Forest Rangers,		
	(ii)	All Deputy Rangers,		
	(iii)	All Foresters,	As in item (1) above	As in item (1) above.
	(iv)	All Head Forest Guards,	As in item (2) above	As in item (2) above
	(v)	All Forest Guards, whether on permanent or temporary establishment.		

**2. Authorisation of officers for the purposes of various sections of the Wildlife (Protection) Act, 1972**

**GOVERNMENT OF WEST BENGAL  
FOREST DEPARTMENT  
FOREST BRANCH**

**NOTIFICATION**

No.2945 – For

Calcutta, the 25<sup>th</sup> May, 1973.

In exercise of the power conferred by the provisions of the Wild Life (Protection) Act, 1972 (53 of 1972) (hereinafter referred to as the said Act), the Governor is pleased hereby to authorise the officers of the Forests Department, Government of West Bengal specified in column 1 of the table below for the purposes of the sections of the said Act mentioned against each of them respectively in column 2 of the said table.

**The Table**

	<b>OFFICERS (1)</b>	<b>SECTIONS OF THE ACT (2)</b>
1	Deputy Chief Wildlife Warden	Sub-section (3) and sub-section (5) of section 9
2	Wildlife Warden	Sub-section (2) and sub-section (3) of section 10
3	Deputy Chief Wildlife Warden	Clause (b) of sub-section (1) of section 11
4	Deputy Chief Wildlife Warden	Section 13.
5	Deputy Chief Wildlife Warden	Clause (b) of sub-section (1) of section 27
6	Wildlife Warden	Clause (c) of sub-section (2) of section 27

7	Deputy Chief Wildlife Warden	Section 31
8	Wildlife Warden	Sub-section (1) and sub-section (2) of section 34
9	Deputy Chief Wildlife Warden	Sub-section (2) of section 36
10	Wildlife Warden	Sub-section (2) of section 39
11	Deputy Chief Wildlife Warden	Sub-section (3) of section 39
12	Deputy Chief Wildlife Warden	Sub-section (1), sub-section (2), sub-section (4) of section 40
13	Deputy Chief Wildlife Warden and Wildlife Warden	Clause (b) of sub-section (1) of section 27
14	Deputy Chief Wildlife Warden	Sub-section (1), sub-section (2), sub-section (3), sub-section (4), and sub-section (5) of section 44
15	Deputy Chief Wildlife Warden and Wildlife Warden	Sub-section (2) of section 44
16	Deputy Chief Wildlife Warden	Sub-section (3), clauses (a), (b) of sub-section (4) and sub-section (7) of section 44
17	Deputy Chief Wildlife Warden	Section 45
18	Deputy Chief Wildlife Warden	Sub-section (ii) of clause (a) of section 47
19	Deputy Chief Wildlife warden, Wildlife Warden, Asstt. Wildlife Warden,	Clause (b) of section 47
20	Deputy Chief Wildlife Warden, Deputy Conservator of Forests, Asstt. Conservator of Forests, Extra Asstt. Conservator of Forests, Wildlife Warden, Asstt. Wildlife warden, Forest Ranger, Deputy Ranger/ Forester, Forest Guard, Wildlife Guard	Clauses (a), (b) of sub-section (1) of Section 50
21	Deputy Chief Wildlife Warden, Deputy Conservator of Forests, Extra Asstt. Conservator of Forests, Wildlife Warden,	Clause (e) of sub-section (1) of section 50



	Asstt. Wildlife Warden, Forest Ranger, Deputy Ranger/ Forester	
22	Wildlife Warden	Clause (a) of sub-section (6) of section 40
23	Deputy Chief Wildlife Warden and Wildlife Warden	Section 55

By order of the Governor  
T.B.Singh  
Secretary to the Govt. of West Bengal

**3. Authorisation of officers for the purposes of section 55 of the Wildlife (Protection) Act, 1972**

GOVERNMENT OF WEST BENGAL  
FORESTS DEPARTMENT  
FOREST BRANCH

N O T I F I C A T I O N

No. 1269 – For/4A – 1/72      Calcutta, the 15<sup>th</sup> February, 1977

In exercise of the power conferred by the provisions of section 55 of the Wildlife (Protection) Act, 1972 (53 of 1972), the Governor is pleased hereby to authorise the following officers of the Forests Department, Government of West Bengal, for the purposes of the aforesaid section.

1. Assistant Wildlife Wardens,
2. Additional Divisional Forest Officers,
3. Assistant Divisional Officers,
4. Assistant Forest Officers, and
5. Forest Rangers.

By order of the Governor,  
P.Bhattacharyya,  
Commissioner & Ex-officio Secretary to the Government of West Bengal

#### **4. Appointment of Divisional Forest Officers as Ex-officio Wildlife Wardens**

Government of West Bengal  
Department of Forests  
Forest Branch

##### NOTIFICATION

No. 3916-For. 11M-40/99      Calcutta, the 2nd December, 1999

In exercise of the power conferred by Sub-section(1) of Section 4 of the Wildlife (Protection) Act, 1972, as amended up to date and in supersession of this Department Notifications issued previously in this respect, the Governor is pleased hereby to appoint, with effect from the date of issue of this notification and until further orders, the officers holding the rank of Deputy Conservator of Forests, mentioned in Column (2) of the “The Schedule” hereunder as Ex-officio Wildlife Wardens, West Bengal for their respective jurisdiction, comprising both forests and non-Forests areas for the purposes of the aforesaid Act

##### THE SCHEDULE

Serial No.	Name of Officers
(1)	(2)
(1)	Divisional Forest Officer, Darjeeling Division
(2)	Divisional Forest Officer, Kuesong Division
(3)	Divisional Forest Officer, Wildlife Division-I
(4)	Divisional Manager, Kalimpong (General & Special) Division
(5)	Divisional Forest Officer, Baikunthapur Division
(6)	Divisional Forest Officer, Jalpaiguri Division
(7)	Divisional Forest Officer, Wildlife Division-II
(8)	Divisional Forest Officer, Coochbehar Division
(9)	Divisional Forest Officer, Coochbehar Special Forestry Division
(10)	Divisional Forest Officer, Raiganj Social Forestry Division

- (11) Divisional Forest Officer, Maldah Division
- (12) Divisional Forest Officer, Nadia-Murshidabad Division
- (13) Divisional Forest Officer, 24-Parganas (North) Division
- (14) Divisional Forest Officer, 24-Parganas (South) Division
- (15) Divisional Forest Officer, Howrah Social Forestry Division
- (16) Divisional Forest Officer, Westland Research Division
- (17) Divisional Forest Officer, Purulia Division
- (18) Divisional Forest Officer, Kangsabati Soil Conservation Division(
- (19) Divisional Forest Officer, Kangsabati Soil Conservation Division-II
- (20) Divisional Forest Officer, Bankura (South)Division
- (21) Divisional Forest Officer, Bankura (North) Division
- (22) Divisional Forest Officer, Panchayet Soil Conservation Division
- (23) Divisional Forest Officer, Burdwan Division
- (24) Divisional Forest Officer, Durgapur Social Forestry Division
- (25) Divisional Forest Officer, Birbhum Division
- (26) Divisional Forest Officer, West Midnapur Division
- (27) Divisional Forest Officer, East Midnapur Division
- (28) Divisional Forest Officer, Rupnarayan Plannng Division
- (29) Divisional Forest Officer, Kharagpur Social Forestry Division
- (30) Deputy Field Director, Sundarban Tiger Reserve
- (31) Deputy Field Director, Buxa Tiger Reserve (East)(
- (32) Deputy Field Director, Buxa Tiger Reserve (West)
- (33) Deputy Conservator of Forests, Urban Recreational Forestry Division

All the officers so appointed as Ex-officio Wildlife Wardens, West Bengal shall subordinate to the Chief Wildlife Warden, West Bengal in terms of Sub-section(3) of Section 4 of the said Act.

By order of the Governor  
S.M. Chaki  
Dy. Secy. to the Govt. of West Bengal

**5. Appointment of Conservators of Forests as Ex-officio Wildlife Wardens**

Government of West Bengal  
Department of Forests  
Forest Branch

NOTIFICATION

No. 3915-For. 11M-40/99      Calcutta, the 2nd December, 1999

In exercise of the power conferred by Sub-section(1) of Section 4 of the Wildlife (Protection) Act, 1972, as amended up to date and in supersession of this Department Notifications issued previously in this respect, the Governor is pleased hereby to appoint, with effect from the date of issue of this notification and until further orders, the officers holding the rank of Conservator of Forests, mentioned in Column (2) of the “The Schedule” hereunder as Ex-officio Deputy Chief Wildlife Wardens, West Bengal, under their respective jurisdiction comprising both forests and non-forest areas for the purposes of the aforesaid Act.

THE SCHEDULE

Serial No.	Name of Officers
(1)	(2)
(1)	Conservator of Forests, Western Circle
(2)	Conservator of Forests, Central Circle
(3)	Conservator of Forests, Soil Conservation (South) Circle
(4)	Conservator of Forests, Social Forestry (South) Circle
(5)	Conservator of Forests, Northern Circle
(6)	Conservator of Forests, Wildlife Circle

- ((7) Conservator of Forests, Hill Circle
- (8) Conservator of Forests, (South) & Joint Director, Sundarban Biosphere Reserve
- (9) Conservator of Forests, Social Forestry (North) Circle
- (10) Conservator of Forests & Field Director, Sundarban Tiger Reserve
- (11) Conservator Forests & Field Director, Buxa Tiger Reserve

2. All the officers so appointed as Ex-officio Deputy Chief Wildlife Wardens, West Bengal shall be subordinate to the Chief Wildlife Warden, West Bengal in terms of Sub-section (3) of Section 4 of the said Act.

By order of the Governor

S.M. Chaki

Dy.Secy. to the Govt. of West Bengal

**6. Appointment of Chief Conservators of Forests as Ex-officio Addl. Chief Wildlife Wardens**

Government of West Bengal  
Department of Forests  
Forest Branch

NOTIFICATION

No. 2001-For./11M-40/99      Dated, Kolkata, the 25.06.2003

In exercise of the power conferred by Sub-section (1) of Section 4 of the Wildlife (Protection) Act, 1972, as amended up to date, the Governor is pleased hereby to appoint, with effect from the date of issue of this notification and until further orders, the officers holding the rank of Chief Conservator of Forests,

mentioned below, as Ex-officio Addl. Chief Wildlife Wardens, West Bengal for their respective jurisdiction, comprising both forests and non-forest areas for the purposes of the aforesaid Act.

1. The Chief Conservator of Forests, Wildlife
2. The Chief Conservator of Forests, (South) & Director, Sunderban Biosphere Reserve
3. The Chief Conservator of Forests, North Bengal
4. The Chief Conservator of Forests, West
5. The Chief Conservator of Forests, Soil Conservation & Eco-Development
6. The Chief Conservator of Forests, Social Forestry.

By order of the Governor  
Jt. Secy. to the Govt. of West Bengal

**7. Delegation of powers to Chief Conservator of Forests & Ex-officio Additional Chief Wildlife Wardens under the Wildlife (Protection) Act, 1972**

Government of West Bengal  
Directorate of Forests  
Office of the Principal Chief Conservator of Forests  
Wildlife & Biodiversity  
Chief Wildlife Warden, West Bengal  
Bikash Bhawan, 3rd Floor, North Block  
Salt Lake City, Kolkata – 700 091

Office Order No. 12-M/8-2003 Dated, Kolkata 1st July, 2003

**Subject: Delegation of powers to the Chief Conservator of Forests & Ex-officio Additional Chief Wildlife Wardens under Wildlife (Protection) Act, 1972**

In exercise of the power conferred by sub-section (1) of Section 4 of the Wildlife (Protection) Act, 1972, as amended up to date, Forest Department, Govt. of West Bengal has appointed the following Chief Conservator of Forests as Ex-Officio Addl. Chief Wildlife Wardens vide their notification No. 2011-For/11M-40/99 dated 25.06.2003.

1. The Chief Conservator of Forests, Wildlife.
2. The Chief Conservator of Forests (South) & Director, Sundarban Biosphere Reserve.
3. The Chief Conservator of Forests, North Bengal.
4. The Chief Conservator of Forests, West.
5. The Chief Conservator of Forests, Soil Conservation & Eco-Development.
6. The Chief Conservator of Forests, Social Forestry.

In accordance with the provisions u/s 5(2) of Wildlife (Protection) Act, 1972, as amended up to date, the undersigned hereby delegates the following powers and duties, under the said act, to the Addl. Chief Wildlife Wardens.

Powers delegated under following sub-section:

11(1)(b)	27(1)(b)	28(1)(b)	28(1)(c)	28(1)(d)
34(1)	50(1)	50(6)	54(1)	55(b)

Delegation of power will be effective from the date of issue of this order

Sd/-

Principal Chief Conservator of Forests  
Wildlife & Biodiversity &  
Chief Wildlife Warden, West Bengal

**8. Authorisation of officers for the purposes of section 50 of the Wildlife (Protection) Act, 1972**

Government of West Bengal  
Department of Forests  
Forest Branch

No. 3831-For

Date : 26.07.2007

In exercise of the power conferred by Sub-section (8) of Section 50 of the Wildlife Protection Act, 1972 as amended in 2002, for the purpose of making investigation into any offence against any provision of this Act, the Governor is pleased hereby to authorize the officer not below the rank of Assistant Conservator of Forests,

1. to issue a Search Warrant;
2. to enforce the attendance of witnesses;
3. to compel the discovery and production of the documents and material objects;
4. to receive and record evidence.

By order of the Governor

Sd/-

Joint Secretary to the Govt. of West Bengal



**9. Authorisation of Divisional Forest Officers for the purpose of sub-section (1) of section 59A of the Indian Forest Act, 1927**

Government of West Bengal  
Forests Department  
For Branch

**The Schedule**

**No. 1213-for**

**Dated 8.4.2003**

**NOTIFICATION**

In exercise of the power conferred by sub-section (1), read with sub-section (2) of section 59A of the Indian forest Act 1927 (XVI of 1927), the Governor is pleased hereby to authorise for the purpose of sub-section (1) of the said section, the officers holding the rank of Deputy Conservator of Forests mentioned in column (1) of the schedule below for the area mentioned against each in column (2) of the said schedule.

<b>Sl.No.</b>	<b>Name of the officers</b>	<b>Area</b>
(1)	(2)	(3)
1	DFO, Darjeeling	Sadar Sub-division of Darjeeling District
2	DFO, Kurseong	Sub-division of Kurseong and Siliguri Sub-divn., Darjeeling District
3	Divisional Manager, Kalimpong	Kalimpong Sub-division of Darjeeling District
4	DFO , Jalpaiguri Division	District of Jalpaiguri
5	DFO , Baikunthapur Division	District of Jalpaiguri & Siliguri Sub-division of Darjeeling District

6	DFO, 24-Pgs (South) Division	24-Pgs (South) District
7	DFO, 24-Pgs (North) Division	24-Pgs (North) District
8	DFO , Nadia and Murshidabad Division	District of Nadia and Murshidabad
9	DFO, West Medinipur Division	District of Paschim Medinipur
10	DFO, East Medinipur Division	District of Paschim Medinipur
11	DFO, Kharagpur Social Forestry Division	District of Purba Medinipur and District of Paschim Medinipur
12	DFO, Rupnarayan Planning and Survey Division	District of PaschimMedinipur
13	DFO, Bankura North Division	District of Bankura
14	DFO, Bankura South Division	District of Bankura
15	DFO, Extension Forestry Division	District of Purulia
16	DFO, Panchet Soil Conservation Division	District of Bankura
17	DFO, Purulia Division	District of Purulia
18	DFO, Kangsabati Soil Conservation-I Division	District of Purulia
19	DFO, Kangsabati Soil Conservation-II Division	District of Purulia
20	DFO, Birbhum Division	District of Birbhum
21	DFO, Durgapur Social Forestry Division	District of Burdwan
22	DFO, Howrah Division	District of Howrah & Hooghly
23	DFO, Burdwan Division	District of Burdwan

24	DFO, Raiganj Social Forestry Division	District of Uttar-Dinajpur & Dakshin Dinajpur
25	DFO, Malda Division	District of Malda
26	DFO, Coochbehar Social Forestry Division	District of Coochbehar
27	Deputy Field Director, Sundarbans Tiger Reserve	District of South 24 Pgs
28	Deputy Field Director, Buxa Tiger Reserve (West)	District of Jalpaiguri
28	Deputy Field Director, Buxa Tiger Reserve (East)	District of Jalpaiguri
30	DFO, Wild Life Division - I	District of Darjeeling
31	DFO, Wild Life Division – II	District of Jalpaiguri & Kalimpong Sub-div. Of Darjeeling District
32	DFO, Coochbehar Division	District of Jalpaiguri
33	DFO, Utilisation Division	District of Kolkata within the meaning of Kolkata Municipal Corpn. Act 1980 ( W B Act LIX of 1980)

This issues in suppression of this Deptt's Notification No 133-For dt.10.1.1997 and all other previous orders issued in this respect.

By order of the Governor  
Sd/-  
P K Chanda  
Joint Secy. To the Govt of West Bengal

**10. Authorisation of Conservators of Forests under section 59C of the Indian Forest Act, 1927**

**Government of West Bengal  
Forest department  
Forest Branch**

**No. 498-For**

**Dated: 16.02.2004**

**NOTIFICATION**

In cancellation of this Deptt.'s Notification No. 3935-For dated 11.12.2003 and in exercise of the power conferred by section 59C of the Indian Forest Act, 1927 (XVI of 1927), the Governor is pleased hereby to specially empower, for the purpose of the said section, the Forest Officers holding the rank of Conservator of Forests mentioned in column (2) of the schedule below for the area mentioned against each in column (3) of the said

**The Schedule**

Sl. No.	Officers(s)	Areas
1	General Manager, West Bengal Forest Development Corp. Ltd	Sub-divisions of Kalimpong and Kurseong of Darjeeling District
2	Conservator of Forests, Northern circle, West Bengal	Districts of Jalpaiguri, Cooch Behar and Subdivision of Siliguri of Darjeeling District
3	Conservator of Forests, Western Circle, West Bengal	Sub-divisions of Sadar Darjeeling, Siliguri and Kurseong of Darjeeling District
4	Conservator of Forests, Western circle, West Bengal	Districts of Paschim Medinipur & Purba Medinipur.
5	Conservator of Forests, Central circle, West Bengal	Districts of Bankura and Burdwan.
6	Conservator of Forests, Wildlife (North) circle, West Bengal	Districts of Darjeeling and Jalpaiguri

7	FieldDirector,BuxaTigerReserve	DistrictofJalpaiguri
8	FieldDirector,Sunderbans TigerReserve	DistrictofSouth24 Parganas
9	ConservatorofForests,MarketingCell.	District of Calcutta within the meaning of Calcutta Municipal Corporation Act, 1980(WestBengalAct.LIXof 1980)
10	ConservatorofForests(South), West BengalandJointDirector, SundarbansBisphereReserve	Districtsof24ParganasSouth, 24ParganasNorth,Nadiaand Murshidabad
11	ConservatorofForests,Soil Conservation(South)circle	DistrictofPurulia
12	ConservatorofForests,Social Forestry (South)circle	DistrictofBirbhum, Burdwan,Howrah and Hooghly
13	ConservatorofForests,Social Forestry(North)circle	DistrictsofMalda,Uttar DinajpurandDakshin DinajpurandSiliguriSub- divisionofDarjeeling District

This issues in suppression of this Dept.'s Notification No. 132-For,4A-1/95 dated 10<sup>th</sup> January,1997 and all other previous orders issued in this respect.

By order of the Governor,

Sd/-  
(P. K. CHANDA)  
Joint Secy. to the Govt. of West Bengal

**10 a. Corrigendum to Notification No. 498-For dated 16.02.2004**

Government of West Bengal  
Forest department  
Forest Branch

**No. 881-For**

**Dated:11.03.2004**

**CORRIGENDUM**

The undersigned is directed by order of the Governor to say that in this Deptt.'s Notification No. 498- For dated 16<sup>th</sup> Feb., 2004 under the schedule in serial No. 1 “General Manager”, West Bengal, Forest Development Corpn. Ltd.” should be read as “General Manager (North), West Bengal Forest Development Corpn. Ltd.” and in serial No. 3 under the same schedule “Conservator of forests, Western Circle, West Bengal,” should be read as “Conservator of Forests, Hill Circle, West Bengal”.

By order of the Governor,  
Sd/- P. K. CHANDA  
Joint. Secy. to the govt. of West Bengal

**11. Appointment of Bana Shramiks / Bana Majoors to discharge the functions of Forest Officers**

**GOVERNMENT OF WEST BENGAL  
FORESTS DEPTT. FOR BRANCH  
G-Block, top floor,  
Writers' Buildings, Kol-1**

**No. 199-For/6M-1/05 Dated, Kolkata, the 19<sup>th</sup> January, 2005**

**NOTIFICATION**

In exercise of the power conferred by Sub-section (2) of Section 2 of the Indian Forest Act, 1927 (XVI of 1927), the

Governor is pleased to appoint the officers of Directorate of Forests, West Bengal mentioned in column 1 of the following table, to discharge the functions of a “Forest Officer” briefly described in column 3 of the said table under the provisions of the said Act specified in column 2 thereof opposite such officers, in areas to which relevant provisions of the said Act have been, or may from time to time be applied :-

**TABLE**

<b>Officers</b>	<b>Provision of the Act</b>	<b>Brief description of function</b>
Bana Shramik/Bana Majoor	Section - 57	Power to accept charge of confiscated property when the offender is not known
	Section - 69	Power to seize and impound cattle trespassing in a reserved or protected forest.
	Section - 66	Power to prevent commission of an offence.

By order of the Governor,  
Sd/- S. Nag  
Dy. Secy. to the govt. of West Bengal

**12. Authorisation of police officers for the purposes of section 55 of the Wildlife (Protection) Act, 1972**

GOVERNMENT OF WEST BENGAL  
FOREST DEPARTMENT  
FOREST BRANCH

**NOTIFICATION**

**No. 2617 – For/11B – 12/84      Calcutta, the 25<sup>th</sup> June, 1986.**

In exercise of the power conferred by section 55 of the Wild Life (protection) Act, 1972 (53 of 1972), the Governor is pleased hereby to authorise all police officers of the Government of West Bengal of and above the rank of Sub-Inspector for the purpose of the aforesaid section with respect to the areas under their respective jurisdiction.

By order of the Governor,  
Sd/- A.K.Mitra  
Dy. Secretary to the Govt. of West Bengal.



## CHAPTER 2

Acts and Rules

### 1. THE INDIAN FOREST ACT, 1927

#### THE INDIAN FOREST ACT, 1927

(Act No. 16 of 1927)

[21st September, 1927]

*An Act to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce*

Whereas, it is expedient to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce; it is hereby enacted as follows:-

## CHAPTER I

### PRELIMINARY

#### 1. Short title and extent

- (1) This act may be called the Indian Forest Act, 1927.
- (2) It extends to the whole of India except the territories which, immediately before the 1st November, 1956, were comprised in Part B States.
- (3) It applies to the territories which - immediately before the 1st November, 1956, were comprised in the States of Bihar, Bombay, Coorg, Delhi, Madhya Pradesh, Orissa, Punjab, Uttar Pradesh and West Bengal; but the Government of any State may by notification in the Official Gazette bring this Act into force in the whole or any specified part of that State to which this Act extends and where it is not in force.

#### 2. Interpretation Clause.- In this Act, unless there is anything repugnant in the subject or context, -

- (1) "cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids;
- (2) "Forest-officer" means any person whom \*\*\*the State Government or any officer empowered by \*\*\*the State

Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest-officer;

- (3) "forest-offence" means an offence punishable under this Act or under any rule made thereunder;
- (4) "forest-produce" include –
  - (a) the following whether found in or brought from, a forest or not, that is to say: - timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark lac, mahua flowers, mahua seeds, kuth and myrobolans, and
  - (b) the following when found in, or brought from a forest, that is to say:-
    - (i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees,
    - (ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,
    - (iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and
    - (iv) peat, surface soil, rock, and minerals (including lime-stone, laterite, mineral oils, and all products of mines or quarries);
- (4A) "owner" includes a Court of Wards in respect of property under the superintendence or charge of such Court;
- (5) "river" includes any stream, canal, creek or other channels, natural or artificial.
- (6) "timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not; and
- (7) "tree" includes palms, bamboos, skumps, brush-wood and canes.

**CHAPTER II**  
**OF RESERVED FORESTS**

- 3. Power to reserve forests.-** The State Government may constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.
- 4. Notification by States Government --** (1) Whenever it has been decided to constitute any land a reserved forest, the State Government shall issue a notification in the Official Gazette--
- (a) declaring that it has been decided to constitute such land a reserved forest;
  - (b) specifying, as nearly as possible, the situation and limits of such land; and
  - (c) appointing an officer (hereinafter called "the Forest Settlement officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits or in or over any forest-produce, and to deal with the same as provided in this Chapter.

Explanation- For the purpose of clause (b), it shall be sufficient to describe the limits of the forest by roads, rivers, ridges or other well known or readily intelligible boundaries.

- (2) The officer appointed under clause (c) of sub-section (i) shall ordinarily be a person not holding any forest-office except that of Forest Settlement officer.
- (3) Nothing in this section shall prevent the State Government from, appointing any number of officers not exceeding

three, not more than one of whom shall be a person holding any forest-office except as aforesaid, to perform the duties of a Forest Settlement-officer under this Act.

- 5. Bar of accrual of forest rights-** After the issue of a notification under section 4 no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of the Government or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for other purpose shall be made in such land except in accordance with such rules as may be made by the State Government in this behalf—
- 6. Proclamation by Forest Settlement officer.-** When a notification has been issued under section 4, the Forest Settlement-officer shall publish in the local vernacular in every town and village in the neighbourhood of the land comprised therein, a proclamation-
- (a) specifying, as nearly as possible, the situation and limits of the proposed forest;
  - (b) explaining the consequences which, as hereinafter provided will ensure on the reservation of such forest; and
  - (c) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section 5 within such period either to present to the Forest Settlement-officer a written notice specifying or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

**7. Inquiry by Forest Settlement officer.-** The Forest Settlement-officer shall take down in writing all statements made under section 6, and shall at some convenient place inquire into all claims duly preferred under that section, and the existence of any rights mentioned in section 4 or section 5 and not claimed under section 6 so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

Notes.- Where a notification under Section 4 declaring the land as reserved forest is issued and a claim under Section 6 is preferred then the Forest Settlement Officer is bound to enquire into all the claims and these claims cannot be rejected simply on the ground that the same were not stamped : In re U.P. Legal Aid and Advice Board, AIR 1991 All 281.

**8. Powers of Forest Settlement officers.-** For the purpose of such inquiry, the Forest Settlement officer may exercise the following powers, that is to say,

(a) power to enter, by himself or any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same; and

(b) the powers of a Civil Court in the trial of suits.

**9. Extinction of rights.-** Rights in respect of which no claim has been preferred under section 6, and of the existence of which no knowledge has been acquired by inquiry under section 7, shall be extinguished, unless before the notification under section 20 is published, the person claiming them satisfies the Forest Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 6.

**10. Treatment of claims relating to practice of shifting cultivations.-** (1) In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement-officer shall record a statement setting forth the particulars of the claim and

of any local rule or order under which the practice is allowed or regulated, and submit the statement to the State Government, together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

- (2) On receipt of the statement and opinion, the State Government may make an order permitting or prohibiting the practice wholly or in part.
- (3) If such practice is permitted wholly or in part, the Forest Settlement-officer may arrange for its exercise
  - (a) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants or
  - (b) by causing certain portions of the land under settlement to be separately demarcated and giving permission to the claimants to practice shifting cultivation therein under such conditions as he may prescribe.
- (4) All arrangements made under sub-section (3) shall be subject to the previous sanction of the State Government.
- (5) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the State Government.

**11. Power to acquire land over which right is claimed.-** (1) In the case of a claim to a right in or over any land, other than a right of way or right of pasture, or a right to forest-produce or a watercourse, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part.

- (2) If such claim is admitted in whole or in part, the Forest Settlement-officer shall either-
  - (I) exclude such land from the limits of the proposed forest; or

- (ii) come to an agreement with the owner thereof for the surrender of his rights; or
  - (iii) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894 (I of 1894).
- (3) For the purpose of so acquiring such land-
- (a) the Forest Settlement-officer shall be deemed to have complied with a notice given under section 9 of that Act;
  - (c) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and
  - (d) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

**12. Order on claims to rights of pasture or to forest-produce.-**

In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part.

**13. Record to be made by Forest Settlement-officer.-** The Forest Settlement-officer, when passing any order under section 12, shall record, so far as may be practicable, -

- (a) the name, father's name, caste, residence and occupation of the person claiming the right; and
- (b) the designation, position and area of all fields or groups of fields (if any), and the designation and position of all buildings (if any) in respect of which the exercise of such rights is claimed.

**14. Record where he admits claim.-** If the Forest Settlement-officer admits in whole or in part any claim under section 12, he shall also record the extent to which the claim is not admitted, specifying the number and description of the cattle which the

claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest produce which he is from time to time authorised to take or receive, and such other particulars as the case may require. He shall also record whether the timber or other forest produce obtained by the exercise of the rights claimed may be sold or bartered.

**15. Exercise of rights admitted.-** (1) After making such record the Forest Settlement-officer shall, to the best of his ability, having the regard to the maintenance of the reserved forest in respect of which the claim is made, pass such orders as will ensure the continued exercise of the rights so admitted.

(2) For this purpose the Forest Settlement-officer may-

- (a) set out some other forest tract of sufficient extent, and in a locality reasonably convenient, for the purposes of such claimants,
- (b) so alter the limits of the proposed forest produce as to exclude forest land of sufficient extent, and in a locality reasonably convenient, for the purposes of the claimants; or
- (c) record an order, continuing to such claimants a right of pasture or to forest produce, as the case may be, to the extent so admitted, at such seasons, within such portions of the proposed forest, and under such rules, as may be made in this behalf by the state government

**16. Commutation of Rights .-** In case the Forest settlement-officer finds it impossible having due regard to the maintenance of the reserved forest, to make such settlement under section 15 as shall ensure the continued exercise of the said rights to the extent so admitted he shall, subject to such rules as the State Government may make in this behalf, commute such rights, by the payment to such persons of a sum of money in lieu thereof,



or by the grant of land, or in such other manner as he thinks fit.

**17. Appeal from order passed under section 11, section 12, section 15 or section 16.-** Any person who has made a claim under this Act, or any Forest-officer or other person generally or specially empowered by the State Government in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement-officer under section 11, section 12, section 15 or section 16, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Collector, as the State Government may, by notification in the Official Gazette, appoint to hear appeals from such order:

Provided that the State Government may establish a Court (hereinafter called the Forest Court) composed of three persons to be appointed by the State Government, and when the Forest Court has been so established, all such appeals shall be presented to it

**18. Appeal under section 17.-**

- (1) Every appeal under section 17 shall be made by petition in writing, and may be delivered to the Forest Settlement-officer, who shall forward it without delay to the authority competent to hear the same.
- (2) If the appeal be to an officer appointed under section 17, it shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue.
- (3) If the appeal be to the Forest Court the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties, and shall hear such appeal accordingly.
- (4) The order passed on the appeal by such officer or Court or by the majority of the members of such Court as the case

may be, shall, subject only to revision by the State Government, be final.

**19. Pleadings.-** The State Government, or any person who has made a claim under this Act may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement-officer, or the appellate officer or Court, in the course of any inquiry or appeal under this Act.

**20. Notification declaring forest reserved.-** When the following events have occurred, namely:-

- (a) the period fixed under section 6 for preferring claims has elapsed and all claims if any made under that section or section 9 have been disposed of by the Forest Settlement-officer;
- (b) if any such claims have been made, the period limited by section 17 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer or Court; and
- (c) all lands (if any) to be included in the proposed forest, which the Forest Settlement-officer has, under section 11, elected to acquire under the Land Acquisition Act, 1894 (I of 1894), have become vested in the Government under section 16 of that Act,

the State Government shall publish a notification in the Official Gazette, specifying definitely, according to boundary-marks erected or otherwise, the limits of the forest which is to be reserved, and declaring the same to be reserved from a date fixed by, the notification.

(2) From the date so fixed such forest shall be deemed to be a reserved forest.

- 21. Publication of translation of such notification in neighbourhood of forest.-** The Forest-officer shall, before the date fixed by such notification, cause a translation thereof into the local vernacular to be published in every town and village in the neighbourhood of the forest.
- 22. Power to revise arrangement made under section 15 or section 18.-** The State Government may, within five years from the publication of any notification under section 20, revise any arrangement made under section 15 or section 18, and may for this purpose rescind or modify any order made under section 15 or section 18, and direct that any one of the proceedings specified in section 15 be taken in lieu of any other of such proceedings, or that the rights admitted under section 12 be commuted under section 16.
- 23. No right acquired over reserved forest, except as here provided.-** No right of any description shall be acquired in or over a reserved forest except by succession or under a grant or contract in writing made by or on behalf of the Government or some person in whom such right was vested when the notification under section 20 was issued.
- 24 Rights not to be alienated without sanction.-** (1) Notwithstanding anything contained in section 23, no right continued under clause (c) of sub-section (2) of section 15 shall be alienated by way of grant, sale, lease mortgage or otherwise, without the sanction of the State Government:  
Provided that when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.
- (2) No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under section 14.
- 25. Power to stop ways and water courses in reserved forests.-** The Forest officer may, with the previous sanction of the State

Government or of any officer duly authorised by it in this behalf, stop any public or private way or water course in a reserved forest, provided that a substitute for the way or water-course so stopped, which the State Government deems to be reasonably convenient, already exists, or has been provided or constructed by the Forest-officer in lieu thereof

**26. Acts prohibited in such forests.-** (1) Any person who-

- (a) makes any fresh clearing prohibited by section 5, or
- (b) sets fire to a reserved forest, or in contravention, of any rules made by the State Government in this behalf, kindles any fire, or leave any fire burning, in such manner as to endanger such a forest; or who, in a reserved forest-
- (c) kindles, keeps or carries any fire except at such seasons as the Forest-officer may notify in this behalf:
- (d) trespasses or pastures cattle, or permits cattle to trespass
- (e) causes any damage by negligence in felling any tree or cutting or dragging any timber; fells, girdles, lops, or burns any tree or strips off the bark or leaves from, or otherwise damages, the same:
- (g) quarries stone, bums lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce;
- (h) clears or breaks up any land for cultivation or any other purpose;
- (I) in contravention of any rules made in this behalf by the State Government hunts, shoots fishes, poisons water or sets traps or snares; or
- (j) in any area in which the Elephants' Preservation Act, 1879, (6 of 1879) is not in force, kills or catches elephants in contravention of any rules so made shall be punishable

with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

(2) Nothing in this section shall be deemed to prohibit-

- (a) any act done by permission in writing of the Forest-officer, or under any rule made by the State Government; or
- (b) the exercise of any right continued under clause (c) of sub-section (2) of section 15, or created by grant or contract in writing made by or on behalf of the Government, and

*WEST BENGAL AMMENDMENT In section 26 of the principal act (a) in the sub section (1), for the words " six months, or with the fine which may extend to five hundred rupees" the words " one year or fine which may extend to two thousand rupees, " shall be substituted; (b) after sub section (1), following sub-section shall be inserted;“(1-A) (a) The forest officer may evict from a reserve forest or from any land in a reserve forest any person who, in such forest trespass or pastures cattle, or permit cattle to trespass, or clears or breaks up such land for cultivation or for any other purpose, and may demolish any building erected or construction made by such person on such land.”(b) Any agricultural or other crop grown, or any building erected or any construction made, by any person on any land in a reserved forest shall be liable to confiscation by an order of the Divisional Forest officer.*

- (c) The provisions of this section shall have effect notwithstanding any penalty inflicted under sub-section (1)

(Vide West Bengal Act No. XXII of 1988, Sec. 3).

(3) Whenever fire is caused willfully or by gross negligence in reserved forest, the State Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

- 27. Power to declare forest no longer reserved .-** (1) The State Government may \*\*\*by notification in the official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under the Act shall cease to be a reserved forest.
- (2) From the date so fixed such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

### **CHAPTER III**

#### **Village Forests**

**28. Formation of village-forests.-**

- (1) The State Government may assign to any village-community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment. All forests so assigned shall be called village-forests.
- (2) The State Government may make rules for regulating the management of village forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest-produce or pasture, and their duties for the protection and improvement of such forest.
- (3) All the provisions of this Act relating to reserved forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests.

### **CHAPTER IV**

#### **Of Protected Forests**

- 29. Protected forests.-** (1) The State Government may, by notification in the Official Gazette, declare the provisions of

this Chapter applicable to any forest land or waste-land or waste-land which is not included in a reserved forest but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled.

- (2) The forest-land and waste-lands comprised in any such notification shall be called a "protected forest".
- (3) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest land or waste- land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the State Government thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved;

Provided that, if, in the case of any forest-land or waste-land, the State Government thinks that such inquiry and record are necessary, but that they will occupy such length of time as in the meantime to endanger the rights of Government, the State Government may, pending such inquiry and record, declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

**30. Power to issue notification reserving trees, etc.-** The State Government may, by notification in the Official Gazette--

- (a) declare any trees or class of trees in a protected forest to be reserved from a date fixed by the notification;
- (b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as the State Government thinks fit, and that the rights of private persons, if any, over such portion, shall be suspended during such terms, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the right suspended in

the portion so closed; or

- (c) prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal of, any forest produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such forest.

**31. Publication of translation of such notification in neighbourhood.-** The Collector shall cause a translation into the local vernacular of every notification issued under section 30 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.

**32. Power to make rules for protected forests.-** The State Government may make rules to regulate the following matters, namely: -

- (a) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce, from protected forests;
- (b) the granting of licences to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other forest- produce for their own use, and the production and return of such licences by such persons;
- (c) the granting of licences to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade, and the production and return of such licences by such persons;
- (d) the payments, if any, to be made by the persons mentioned in clauses (b) and (c) for permission to cut such trees, or to collect and remove such timber or other forest- produce;
- (e) the other payments, if any, to be made by them in respect of



such trees, timber and produce, and the places where such payment shall be made;

- (f) the examination of forest-produce passing out of such forests;
- (g) the clearing and breaking up of land for cultivation or other purposes in such forests;
- (h) the protection from fire of timber lying in such forests and of trees reserved under section 30;
- (i) the cutting of grass and pasturing of cattle in such forests;
- (j) hunting, shooting, fishing, poisoning water and setting traps or snares in such forests and the killing or catching of elephants in such forests in areas in which the Elephants' Preservation Act, 1879 (6 of 1879), is not in force,
- (k) the protection and management of *my* portion of a forest closed under section 30; and
- (l) the exercise of rights referred to in section 29.

**33. Penalties for acts in contravention of notification under section 30 or of rules under section 32.-** (1) Any person who commits any of the following offences, namely: -

- (a) fells, girdles, lops, taps or burns any tree reserved under section 30, or strips off the bark or leaves from or otherwise damages, *my* such tree;
- (b) contrary to any prohibition under section 30, quarries *my* stone, or burns any lime or charcoal or collects, subjects to any manufacturing process, or removes any forest-produce;
- (c) contrary to any prohibition under section 30, breaks up or clears for cultivation or any other purpose any land in *my* protected forest,

- (d) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any tree reserved under section 30, whether standing, fallen or felled, or to any closed portion of such forest;
  - (e) leaves burning any fire kindled by him to the vicinity of any such tree or closed portion;  
fells any tree or drags any timber so as to damage any tree reserved as aforesaid;
  - (g) permits cattle to damage any such tree;
  - (h) infringes any rule made under section 32.  
shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.
- (2) Whenever fire is caused wilfully or by gross negligence in a protected forest, the State Government may, notwithstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit.

#### **WEST BENGAL AMENDMENT**

##### *In section 33 of the principal act*

- (a) *in the sub section (1), for the words " six months, or with the fine which may extend to five hundred*
  - (b) *rupees " the words " one year or fine which may extend to two thousand rupees, " shall be substituted;*
  - (b) *after sub section (1), following sub-section shall be inserted;*
- “(1-A) (a) The forest officer may notwithstanding any penalty inflicted under this section evict from any or from any protected forest any person who, contrary to any prohibition under section 30, clears or breaks up such for cultivation or for any other purposes.*

*(Vide West Bengal Act No. XXII of 1988 Sec. 4)*

**34. Nothing in this Chapter to prohibit acts done in certain cases.-** Nothing in this Chapter shall be deemed to prohibit any act done with the permission in writing of the Forest-officer, or in accordance with rules made under section 32, or, except as regards any portion of a forest closed under section 33, in the exercise of any right recorded under section 29.

## CHAPTER V

### **Of the Control over Forests and Lands and being the Property of Government**

**35. Protection of forests for special purposes.-** (1) The State Government may, by notification in the Official Gazette, regulate or prohibit in any forest or waste land-

- (a) the breaking up or clearing of land for cultivation;
- (b) the pasturing of cattle; or
- (c) the firing or clearing of the vegetation, when such regulation
  - (i) for protection against storms, winds, rolling stones, floods and avalanches;
  - (ii) for the preservation of the solid one the ridges and slopes and in the valleys of hilly tracts, the prevention of landslips or of the formation of ravines and torrents or the protection of land against erosion, or the deposit thereon of sand, stones or gravel;
  - (iii) for the maintenance of a water-supply in springs, rivers and tanks;
  - (iv) for the protection of roads, bridges, railways and other lines of communication;
  - (v) for the preservation of the public health.

- (2) The State Government may, for any such purpose, construct at its own expense, in or upon any forest or waste-land, such work as it thinks fit.
- (3) No notification shall be made under sub-section (1) nor shall any work be begun under sub-section (2), until after the issue of a notice to the owner of such forest or land calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed as the case may be, and until his objections, if any, and any evidence he may produce in support of the same, have been heard by an officer duly appointed in that behalf and have been considered by the State Government.

#### WEST BENGAL AMENDMENT

*Section 63 of the Bengal Private Forest Act 1948( Act 14 of 1948 ) runs as follows*

- (1) *Sections 35, 36, 37 and 38 of the Indian Forest Act 1927 in their application to West Bengal are hereby repealed.*
- (2) *Such repeal shall not affect anything done or suffered of any obligation or liability accrued of any penalty incurred or any proceedings commenced before the commencement of this act.*
- (3) *Any private forest or wasteland held under the control of a Forest Officer under section 36 of Indian Forest Act,1927, immediately before commencement of this act shall, on such commencement notwithstanding the repeal of such section, continue to be held under the control of a Regional Forest Officer under the provisions of this act applicable to a vested forest shall deemed to be a vested forest for the purpose of this Act*
- (4) *All such lands which immediately before the commencement of this Act were being managed as a reserved or protected forest under the provisions of Section 38 of the Indian Forest Act 1927, shall, on such commencement, notwithstanding the repeal of the said section, continue to be managed under the provisions of section 59 of this Act as a vested forest subject to such terms as may have been mutually agreed upon between the owner or the owners of the such lands and the collector, and the application made under sub-section (1) of the said section 38 by the owner or the owners of any such land shall be deemed to be an application made under the said section 59.”*

*West Bengal : Section 36 of Indian Forest Act, 1927 is now repealed.*

*Vide West Bengal Act No 14 of 1948*

provt relating to reserved forests shall apply to such forest or land.

- (2) The net profits, it any, arising from the management of such forest or land shall be paid to the said owner.

**37. Expropriation of forests in certain cases.- (1)** In any case under this Chapter in which the State Government considers that, in lieu of placing the forest or land under the control of a Forest Officer, the same should be acquired for public purposes, the State Government may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894 (1 of 1894).

- (2) The owner of any forest or land comprised in any notification under section 35 may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the State Government shall acquire such forest or land accordingly.

West Bengal : Section 37 of Indian Forest Act, 1927 is now repealed.

**38. Protection of forests at request of owners.- (1)** The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector their desire

- (a) that such land be managed on their behalf by the Forest-officer as a reserved or a protected forest on such terms as may be mutually agreed upon; or
- (b) that all or any of the provisions of this Act be applied to such land.

- (2) In either case, the State Government may, by notification in the Official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants

West Bengal : Section 38 of Indian Forest Act, 1927 is now repealed.

## CHAPTER VI

### Of the duty on timber and other forest-produce

#### **39. Power to impose duty on timber and other forest produce. -**

- (1) The Central Government may levy a duty in such manner, at such places and at such rates as it may declare by notification in the Official Gazette on all timber or other forest product--

- (a) which is produced in the territories to which this Act extends and in respect of which the Government has any right;
- (b) which is brought from any place outside the territories to which this Act extends.

- (2) In every case in which such duty is directed to be levied ad valorem the Central Government may fix by like notification the value on which such duty shall be assessed.
- (3) All duties on timber or other forest produce which, at the time when this Act comes into force in any territory, are levied therein under the authority of the State Government, shall be deemed to be and to have been duly levied under the provisions of this Act.
- (4) Notwithstanding anything in this section, the State Government may, until provision to the contrary is made by Parliament continue to levy any duty which it was lawfully levying before the commencement of the Constitution; under this section as then in force;

Provided that nothing in this sub-section authorises the levy of any duty which as between timber or other forest-produce of the State and similar produce of the locality outside the State, discriminates in favour of the former, or which, in the case of timber or other forest-produce of one locality and similar timber or other forest produce of another locality.

**40. Limit not to apply to purchase-money or royalty-** Nothing in this Chapter shall be deemed to limit the amount, if any, chargeable as purchase- money or royalty on any timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

## **CHAPTER VII**

### **Of the control of timber and other forest-produce in transit**

#### **41. Power to make rules to regulate transit of forest produce.--**

- (1) The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and other forest-produce in transit by land or water, as vested in the State Government, and it may make rules to regulate the transit of all timber and other forest-produce.
- (2) In particular and without prejudice to the generality of the foregoing power such rules may-
  - (a) prescribe the routes by which alone timber or other forest-produce may be imported, exported or moved into, from or within the State;
  - (b) prohibit the import or export or moving of such timber or other produce without a pass from an officer duly

authorised to issue the same, or otherwise than in accordance with the conditions of such pass;

- (c) provide for the issue, production and return of such passes and for the payment of fees therefor;
- (d) provide for the stoppage, reporting, examination and marking of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to the Government on account of the price thereof, or on account of any duty, fee, royalty or charge due thereon, or, to which it is desirable for the purposes of this Act to affix a mark;
- (e) provide for the establishment and regulation of depots to which such timber or other produce shall be taken by those in charge of it for examination, or for the payment of such money, or in, order that such marks may be affixed to it, and the conditions under which such timber or other produce shall be brought to, stored at and removed from such depots;
- (f) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed;
- (g) provide for the prevention or removal of any obstruction of the channel or banks of any such river, of timber or other forest-produce, and the throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed;
- (h) prohibit absolutely or subject to conditions, within specified local limits, the establishment of sawpits, the converting, cutting, burning, concealing or making of



timber the altering or effacing of any marks on the same, or the possession or carrying of marking hammers or other implements used for marking timber;

(I) regulate the use of property marks for timber, and the registration of such marks; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

(3) The State Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.

**41A. Powers of Central Government as to movements of timber across customs frontiers.-** Notwithstanding anything in section 41, the Central Government may make rules to prescribe the route by which alone timber or other forest-produce may be imported, exported or moved into or from the territories to which this Act extends across any customs frontier as defined by the Central Government, and any rules made under section 41 shall have effect subject to the rules made under this section.

#### WEST BENGAL AMENDMENT

(i) *In chapter VII of the principal act, for the heading, the following heading shall be substituted*

**" OF THE CONTROL OF TRADE, POSSESSION AND TRANSIT OF  
TIMBER AND OTHER FOREST-PRODUCE "**

*( vide West Bengal Act XXII of 1988, section 5 )*

(ii) *In section 41 of the principal act—*

(A) *for sub-section (1), the following sub-section shall be substituted ;*

**" (1) The control of all rivers and their banks as regards the floating of timber and other forest-produce, as well as the control of transit of all timber and other**

*forest-produce by land or water and the control of trade and possession of timber and other forest-produce, is vested in the State Government, and it may make rules to regulate the transit of all timber and other forest-produce as well as the trade and possession of timber and other forest-produce.”*

*” (j) provided the regulation by licence or permit of trade and possession of timber and other forest-produce and levi of fees for such licence or permit.”*

*( vide West Bengal Act of 1988, Section 6)*

**42. Penalty for breach of rules made under section 41.-** (1) The State Government may by such rules prescribe as penalties for the contravention thereof imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

(2) Such rules may provide that penalties which are double of those mentioned in sub-section (1) may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence.

#### **WEST BENGAL AMENDMENT**

*In sub-section (1) of the section 42 of the principal act, for the words " six months, or the fine which may extend to five hundred rupees" the words " one year, or fine which may extend to one thousand rupees " shall be substituted.*

*( vide section 7 of West Bengal Act XXII of 1988)*

**43. Government and Forest-officers not liable for damage to forest- produce at depot.-** The government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depot established under a rule made under section 41, or while detained elsewhere, for the purposes of this Act; and no Forest-

officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

- 44. All persons bound to aid in case of accidents at depot.-** In case of any accident or emergency involving danger to any property at any such depot, every person employed at such depot, whether by the Government or by any private person, shall render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger or securing such property from damage or loss.

## CHAPTER VIII

### Of the Collection of Drift and Stranded Timber

- 45. Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.** (1) All timber found adrift, beached, stranded or sunk-

All wood or timber bearing marks which have not been registered in accordance with the rule made under section 41, or on which the marks have been obliterated, altered or defaced by fire or otherwise; and in such areas as the State Government directs, all unmarked wood and timber, shall be deemed to be the property of Government, unless and until any person establishes his right and title thereto, as provided in this Chapter.

- (2) Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rule made under section, 51 and may be brought to any depot which the Forest-officer may notify as a depot for the reception of drift timber.
- (3) The State Government may, by notification in the Official

Gazette, exempt any class of timber from the provisions of this section.

**46. Notice to claimants of drift timber.-** Public notice shall from time to time be given by the Forest officer, of timber collected under section 4,5. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than two months from the date of such notice, a written statement of such claim.

**47. Procedure on claim preferred to such timber.-** (1) When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after according his reasons for so doing, or deliver the timber to the claimant.

(2) If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons who he deems entitled thereto, or may refer the claimants to the Civil Courts, and return the timber pending the receipt of an order from any such Court for its disposal .

(3) Any person whose claim has been rejected under this section may, within three months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover -any compensation or costs against the Government, or against any Forest-officer on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

(4) No such timber shall be subject to process of any Civil Criminal or Revenue Court until it has been delivered, or a suit has been brought, as provided in this section.

**48. Disposal of unclaimed timber.-** If no such statement is presented as aforesaid, or if the claimant omits to prefer his

claim in the manner and within the period fixed by the notice issued under section 46, or on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period fixed by section 47, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another person under section 47, in such other person free all encumbrances not created by him.

**49. Government and its officers not liable for damage to such timber.-** The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 45, and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

**50. Payments to be made by claimant before timber is delivered to him.-** No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer or other person entitled to receive it such sum on account thereof as may be due under any rule made under section 51.

**51. Power to make rules and prescribe penalties.-** (1) The State Government may make rules to regulate the following matters, namely--

- (a) the salving collection and disposal of all timber mentioned in section 45;
- (b) the use and registration of boats used in salving and collecting timber;
- (c) the amounts to be paid on salving, collecting, moving, storing or disposing of such timber; and
- (d) the use and registration of hammers and other instruments to be used for marking such timber.

(2) The State Government may prescribe, as penalties for contravention of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

**WEST BENGAL AMENDMENT**

*After Chapter VIII of the principal Act, the following chapter shall be inserted :-*

**“CHAPTER VIIIA**

**REGULATION OF MANUFACTURE AND PREPARATION OF ARTICLES  
BASED ON FOREST PRODUCE**

**51A. (1) The State Government may make rules-**

*(a) to provide for the establishment, and regulation by licence, permits or otherwise (and the payment of fees therefor), of sawmills and other units including factories engaged in the manufacture or preparation of the following articles:-*

- (i) Katha (catechin) or cutch out of khair wood*
- (ii) plywood, veneer, and wood panel products*
- (iii) preparation of match-boxes and match splints*
- (iv) boxes including packing cases made out of wood*

*(v) such other articles based on forest-produces as the State Government may, by notification in the Official Gazette, from time to time specify; (b) to provide for the regulation by licence, permit or otherwise of procurement of raw materials for preparation of the articles mentioned in clause (a), the payment and deposit of fees therefor and for the compliance of the conditions thereof, and the forfeiture of the fees as deposited or any part thereof for contravention of any such condition, and the adjudication of such forfeiture by such authority as the State Government may, by notification in the Official Gazette, specify,*

**(2) The State Government may prescribe, as penalties for the contravention of any rules made under this section, imprisonment for a term which may extend to six months or fine which may extend to five hundred rupees or both.**

**WEST BENGAL AMENDMENT**

*In sub-section (2) of the section 51 of the principal act, for the words "six months, or the fine which may extend to five hundred rupees" the words "one year, or fine which may extend to one thousand rupees" shall be substituted.*

*( vide section 8 of West Bengal Act XXII of 1988)*

**CHAPTER IX**

**Penalties and Procedure**

**52. Seizure of property liable to confiscation.-** (1) When there is reason to believe that a forest-offence has been committed in respect of any forest- produce, such produce, together with all tools, boats, carts or cattle used in committing any such offence, may be seized by any Forest-officer or Police- officer.

(2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made;

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

**Notes.-** When a forest offence has been committed and the Forest officer confiscates the property or directs criminal prosecution and proper guidelines have been given in exercising the discretion, then such discretion is not ultra vires Article 14: *Sarat Kumar Mala v State of Orissa, AIR 1992 Orissa 128.*

**WEST BENGAL AMENDMENT**

*(1) In Sec. 52 of the principal act, for the words "pins, boats, vehicles" shall be substituted;*

*(b) in sub-section(2):*

*(i) after the words “on such property” the words “or the receptacle, if any, containing such property” shall be inserted, and*

*(ii) for the proviso the following proviso shall be substituted,-*

*provided that it will not necessary to make a report of such seizure to the Magistrate in the following cases, namely-*

*(i) when the forest-produce with respect to which such offence is believed to have been committed is the property to the State Government and the offender is unknown, it shall be sufficient to make a report of the State Government and the offender is unknown, it shall be sufficient to make a report of the circumstance to the official superior*

*(ii) when the offence falls under the purview of sec. 59-A*

*(iii) when the offender agrees in writing to get the offence compounded*

*(c) after sub-section (2) the following sub-section shall be inserted-*

*“(3) Any Forest Officer or Police may, if he has reason to believe that a vehicle has been or is being used for the transport of any forest-produce in respect of which a forest offence has been committed, require the driver or other person in charge of such vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records to goods carried, which are in possession of such driver or other person in charge of the vehicle*

*(2) After Sec. 52 of the principal Act, the following section shall be inserted,-*

*52-A*

*Vide West Bengal Act No. 22 of 1988, Sec.10*

*Vide West Bengal Act No. 22 of 1988, Sec 11*



**53. Power to release property seized under section 52.-** Any Forest-officer of a rank not inferior to that of a Ranger who, or whose subordinate, has seized any tools, boats, carts or cattle under section 52, may release the same on the execution by the owner thereof a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

**WEST BENGAL AMENDMENT**

*In Sec. 53 of the principal Act,-*

*(a) for the word "boats, carts", the words, "ropes, chains, boats, vehicles" shall be substituted; and*

*(b) after the words, the seizure has been made, the words figure and letter "except in respect of offences falling under Sec. 59-A for which the procedure laid down in that section shall be followed" shall be inserted.*

*Vide West Bengal Act No. 22 of 1988, Sec. 12.*

**54. Procedure thereupon.-** Upon the receipt of any such report, the Magistrate shall, with all convenient, despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

*In Sec. 54 of the principal Act, in Sec. 55 in sub-section (1) for the words "shall be liable" the words, figure, and letter "shall subject to Sec. 61-G be liable" shall be substituted. Vide West Bengal Act No. 22 of 1988, Sec. 13.*

**55. Forest produce, tools, etc., when liable to confiscation.-- (1)** All timber or forest-produce which is not the property of Government and in respect of which a forest-offence has been committed, and all tools, boats, carts and cattle used in committing any forest-offence shall be liable to confiscation.

(2) Such confiscation may be in addition to any other punishment prescribed for such offence.

*In sub-section (1) of sec. 55 of the principal Act, for the words "boats, carts and cattle" the words "ropes, chains, boats, vehicles or cattle" shall*

*be substituted Vide West Bengal Act No. 22 of 1988, Sec. 14.*

**56. Disposal on conclusion of trial for forest offence, of produce in respect of which it was committed.-** When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest-officer, and, in any other case, may be disposed of in such manner as the Court may direct.

**57. Procedure when offender not known or cannot be found.-** When the Offender is not known or cannot be found the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-officer, or to be made over to the person whom the Magistrate deems to be entitled to the same:

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

**58. Procedure as to perishable property seized under section 52.-** The Magistrate may, notwithstanding anything, hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

*(1) in sub-section (1) are so re-numbered-*

*(a) the words “ and may deal with the proceeds as he would have dealt with such property of it had not been sold” shall be omitted;*

*(b) the following proviso shall be added at the end:-*

*“Provided that if in the opinion of the officer seizing property it is not possible to obtain the orders of the Magistrate in time, such officer may sell the property himself, remit the proceeds of sale into the Government treasury*

*and may make a report of such seizure, sale and remittance to the magistrate.”;*

*(2) after sub-section (1), the following sub-section shall be inserted:-*

*“(2) The Magistrate may deal with the proceeds of the sale of any property sold under sub-section (1) as he would have dealt with such property if it have been sold*

*Vide West Bengal Act No. 22 of 1988, Sec.16.*

**59. Appeal from orders under section 55, section 56 or section 57.-** The officer who made the seizure under section 52, or any of his official superiors, or any person claiming to be interested in the property so seized may, within one month from the date of any order passed under section 55, section 56, or section 57, appeal there from to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

West Bengal. - After sec.59 of the principal Act, the following sections shall be inserted:-

**“59-A. Confiscation by Forest Officer of forest-produce in the case of forest offence believed to have been committed.**

*(1) Notwithstanding anything contained in the foregoing provisions of this chapter or in any other law for the time being in force, where a forest offence is believed to have been committed in respect of the timber or other forest-produce which is the property of the State Government the Forest Officer or the Police Officer seized the timber or other forest-produce under sub-section (1) of Sec. 52 shall, without any unreasonable delay, produce the same, together with all tools, ropes, chains, boats, vehicle and cattle used in committing the offence before an officer of a rank not inferior to that of an assistant Conservator of Forests authorised by State Government in this behalf by notification in the Official Gazette (hereinafter referred as the authorised officer).*

*(2) The State government may, for any local area, authorise one or more officers under sub-section (1).*

- (3) *where any timber or other forest-produce which is the property of the State Government is produced before an authorised officer under sub-section (1) and the authorised officer is satisfied that a forest offence has been admitted committed in respect of such property, he may, whether or not a prosecution is instituted for a commission of such offence, order confiscation of the property together with all tools, ropes, chains, boats, vehicles and cattle used in committing the offence.*
- (4) (a) *Where the authorised officer, after passing the order of confiscation of the property together with all tools, ropes, chains, boats, vehicles and cattle as aforesaid under sub-section (3), is of opinion that it is expedient in the public interest so to do, he may order such property or any part thereof and such tools, ropes, chains, boats, vehicles and cattle to be sold by public auction.*
- (b) *Where the order of confiscation of any property or tools, rope, chains, boats, vehicles or cattle under sub-section (3) is set aside or annulled under Sec. 59-C or Sec. 59-D, the proceeds of sale by auction shall, after deduction of the expenses of auction and all other incidental expenses relating thereto, if any, be paid to the owner of such property or tools, ropes, chains, boats, vehicles or cattle or to the person from whom the same was seized as may be specified in the order under Sec. 59-C or Sec. 59-D.*

**“59-B. Issue of notice before confiscation.-**(1) *No order confiscation any property or tools, ropes, chains, boats, vehicles or cattle shall be made under Sec. 59-A after giving a notice in writing to the owner of, or the person from whom, such property or tools, ropes, chains, boats, vehicles or cattle have been seized, for showing cause as to why the same should*

*not be confiscated and considering his objections, if any:*

*Provided that no order confiscation any motor vehicle shall be made except after giving a notice in writing to the registered owner thereof if, in the opinion of the authorised officer, it is practicable to do so and considering his objection, if any.*

*Explanation.-“Motor vehicle” shall have the same meaning as in the Motor Vehicles Act, 1939 (4 of 1939).*

*(2) Without prejudice to the provisions of sub-section (1), no order consociating any tool, rope, chain, boat, vehicle or cattle shall be made under Sec. 59-A if the owner thereof proves to the satisfaction of the authorised officer that such tool, rope, chain, boat, vehicle or cattle was used in carrying the timber or other forest-produce without the knowledge or connivance of the owner himself or his agent, if any, or the person in charge thereof and that each of them had taken all reasonable and necessary precautions against such use.*

**“59-C. Revision.-***Any Forest Officer of a rank not inferior to that of the Conservator of Forests specially empowered by the State Government in this behalf by notification in the Official Gazette may suo motu, or on application by the aggrieved person call for and examine any record of any order under Sec. 59-A and may make such inquiry or cause such inquiry to be made and may pass such order as he deems fit.*

*Provided that no such record shall be called for after the expiry of thirty days from the date of the order under Sec. 59-A, and no order under this section shall be passed if, in the meantime, an appeal has been preferred under Sec. 59-D against any order under Sec. 59-A.*

*Provided further that no order prejudicial to any person shall*

*be passed under this section without giving him an opportunity of being heard.*

**59-D. Appeal.**-(1) *Any person aggrieved by an order under sec. 59-A or Sec. 59-C may within thirty days from the date of communication to him of such order, prefer an appeal to the District Judge having jurisdiction over the area in which the property and the tools, ropes, chains, boats, vehicles or cattle have been seized and the District Judge shall after giving the appellant and the officer who passed the order or opportunity of being heard, pass an order confirming, modifying or annulling the order appealed against.*

(2) *The order of the district judge under sub-section (1) shall be final and shall not be called in question by any Court.*

**59-E. Award of punishment under other provisions of the act.**- *Notwithstanding any order under Sec. 59-A or Sec. 59-C or Sec. 59-D, nothing in any of the said sections shall be deemed to prevent the award to any person affected by such order of any punishment to which such person is liable under this Act. Or any other law for the time being in force.*

**59-F.confiscated property and proceeds of sale to vest in Government.**- *When an order for the confiscation or sale by auction of any property or any tools, ropes, chains, boats, vehicles or cattle is passed under Sec. 59-A and is confirmed in whole or in part on revision under Sec. 59-C or on appeal under sec. 59-D, such property or tools, ropes, chains, boats, vehicles or cattle or the proceeds of sale as case may be, shall vest in the state Government free from all encumbrances.*

**59-G. Bar of jurisdiction in certain cases.**-*Notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force the officer authirised under Sec. 59-A or the Forest officer specially empowered under Sec. 59-C or the*

*District judge to whom an appeal may be preferred under Sec. 59-D shall have and any other officer or Forest Officer or Court. Tribunal or Authority shall not have jurisdiction to make order with regard to the custody, possession, delivery, disposal or distribution of any property or tools, ropes, chains, boats, vehicles or cattle seized under Sec. 52. Vide West Bengal act No. XXII of 1988, Sec. 17.*

**60. Property when to vest in Government.-** When an order for the confiscation of any property has been passed under section 55 or section 57, as the case may be, and the period limited by section 59 for an appeal from such order has elapsed, and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property or such portion thereof, as the case may be, shall vest in the Government free from all encumbrances.

**61. Saving of power to release property seized.-** Nothing herein before contained shall be deemed to prevent any officer empowered in this behalf by the State Government from directing at any time the immediate release of any property seized under section 52.

**62. Punishment for wrongful seizure.-** Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

**63. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.-** Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code--

(a) knowingly counterfeits upon any timber or standing tree a

mark used by Forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or

- (b) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest officer; or
- (c) alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which the provisions of this Act are applied.

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

*In Sec. 63 of the principal Act, for the words "which may extend to two years, or with fine, or with both", the words " which shall not be less than three months but which may extend to three and also with fine which shall not be less than five hundred rupees but which may extend to five thousand rupees" shall be substituted  
Vied West Bengal Act No. 22 of 1988, Sec. 18.*

**64. Power to arrest without warrant.-** (1) Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards.

- (2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Act as to release on bond, take or send the person arrested before the magistrate having jurisdiction in the case, or to the officer in charge of the nearest police station.
- (3) Nothing in this section shall be deemed to authorise such arrest for any act which is an offence under Chapter IV



unless such act has been prohibited under clause (c) of section 30.

**65. Power to release on a bond a person arrested.--** Any Forest-officer of a rank not inferior to that of a Ranger, who, or whose subordinate, has arrested any person under the provisions of section 64, may release such person on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the officer in charge of the nearest police station.

**66. Power to prevent commission of offence.--** Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

*66 A Punishment of abetment - (1) Whoever abets any offence punishable under this act shall, if the offence abetted is committed in consequence of abetment, be punished with the same punishment as is provided for such offence.*

*(2) Whoever abets any offence under this act shall, if the offence abetted is not committed in consequence of abetment, be punished with the same punishment as is provided for such offence, but such punishment shall extend up to the one-fourth of maximum punishment provided for such offence*

*Vide West Bengal Act No 22 of 1988, Sec 20*

**67. Power to try offences summarily.-** The District Magistrate, or any magistrate of the first class specially empowered in this behalf by the State Government may try summarily, under the Code of Criminal Procedure, 1898, any forest-offence punishable with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both.

**68. Power to compound offence.- (1)** The State Government may, by notification in the Official Gazette, empower a Forest officer-

- (a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 62 or section 63, a sum of money by way of compensation for the offence which such person is suspected to have committed, and
  - (b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.
- (3) A Forest-officer shall not be empowered under this section unless he is a Forest officer of a rank not inferior to that of a Ranger and is in receipt of a monthly salary amounting to atleast one hundred rupees, and the sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed the sum of fifty rupees.

*(1) In Sec. 68 of the said Act,-*

- (a) in sub-section (1), in Cl. (b) for the words "the value thereof" the words "an amount equivalent to double the market value thereof" shall be substituted;*
- (b) in sub-section (2), for the words "or such value", the words "or such amount" shall be substituted;*
- (c) for the sub-section (3), the following sub-section shall be substituted, namely*

*"(3) A Forest Officer shall not be empowered under this section unless he is Forest Officer of rank not inferior to that of a Forest, and the sum of money accepted as compensation under Cl. (a) of sub-section (1) shall in no case exceed the sum of one thousand and one hundred and fifty rupees."*

*(2) In sec. 68 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely-*

*"(4) Notwithstanding anything contained in the forgoing provision of this section, no forest offence, other than a forest offence under Sec. 62 or 63, shall be compounded by a Forest Officer if the value of the forest-produce seized five thousand rupees if a cart or other vehicle has been used in committing the offence*

*Vide West Bengal Act No. 14 of 1975, Sec. 3.*

*Vide West Bengal Act No. 22 of 1988, Sec. 21.*





**75. Forest-officers not to trade.-** Except with the permission in writing of the State Government, no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in or outside the territories to which this Act extends

## CHAPTER XII

### Subsidiary Rules

**76. Additional powers to make rules.-** The State Government may make rules---

- (a) to prescribe and limit the powers and duties of any Forest-officer under this Act;
  - (b) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscation under this Act;
  - (c) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and
- (a) generally, to carry out the provisions of this Act.

**77. Penalties for breach of rules.-** Any person contravening any rule under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both.

**78. Rules when to have force of law.-** All rules made by the State Government under this Act shall be published in the Official Gazette, and shall thereupon, so far as they are consistent with this Act, have effect as if enacted therein.

## CHAPTER XIII

### Miscellaneous

- 79. Persons bound to assist Forest-officers and Police-officers.-** (1) Every person who exercises any right in a reserved or protected forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and every person who is employed by any such person in such forest, and every person in any village contiguous to such forest who is employed by the Government or who receives employments from the Government for services to be performed to the community, shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall forthwith taken steps, whether so required by any Forest-officer or Police-officer or not,--
- (a) to extinguish any forest fire in such forest of which he has knowledge or information;
  - (b) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge or information from spreading to such forest, and shall assist any Forest officer or Police-officer demanding his aid-and
  - (c) in preventing the commission in such forest of any forest-offence; and
  - (b) when there is reason to believe that any such offence has been committed in such forest in discovering and arresting the offender.
- (2) Any person who, being bound so to do, without lawful excuse (the burden of proving which shall lie upon such person) fails---
- (a) to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information required by sub-section (1);

- (b) to prevent, as required by sub-section (1), to extinguish any forest fire in a reserved or protected forest;
- (c) to prevent, as required by subsection (1), any fire in the vicinity of such forest from spreading to such forest; or
- (d) to assist any Forest-officer or Police-officer demanding his aid in preventing the commission in such forest of any forest-offence, or, when there is reason to believe that such offence has been committed in such forest, in discovering and arresting the offender, Shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

**80. Management of forests, the joint property of Government and other persons.-** (1) If the Government and any person be jointly interested in any forest or wasteland, or in the whole or any part of the produce thereof, the State Government may either-

- (a) undertake the management of such forest, waste-land or produce, accounting to such person for his interest in the same; or
  - (b) issue such regulation for the management of the forest, waste-land or produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.
- (2) When the State Government undertakes under clause (a) of sub-section (1) the management of any forest, waste-land or produce, it may, by notification in the Official Gazette, declare that any of the provisions contained in Chapters 11 and IV shall apply to such forest, waste-land or produce, and there upon such provisions shall apply accordingly.

**81. Failure to perform service for which a share in produce of Government forest is enjoyed.-** If any person be entitled to a share in the produce of any forest which is the property of

Government or over which the Government has proprietary rights or to any part of the forest-produce of which the Government is entitled upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the State Government that such service is no longer so performed:

Provided that no such share be confiscated until the person entitled thereto, and the evidence, if any which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the State Government.

- 82. Recovery of money due to Government.** All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.
- 83. Lien on forest produce for such money. (1)** When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer until such amount has been paid.
- (2) If such amount is not paid when due, the Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.
- (3) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Government.
- 84. Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894.-** Whenever it appears to the State Government that any



land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894 (I of 1894).

**84-A Application of the Act to Land** - *The state Govt. may, by notification in the Official Gazette, Declare that any of the provisions of this act shall apply to any land which is the property of the state Govt. or the Central Govt., and there upon such provisions shall apply to such land accordingly vide West Bengal Act No. 22 of 1988, Sec 23*

**85. Recovery of penalties due under bond.**- When any person, in accordance with any provision of this Act, or in compliance with any rule made thereunder, binds himself by any bond or instrument to perform any duty or act or covenants by any bond or instrument that he, or that he and his servants and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872 (9 of 1872) be recovered from him in case of such breach as if it were an arrear of land revenue.

**'[85A. Saving for rights of Central Government.**- Nothing in this Act shall authorise a Government of any State to make any order or do anything in relation to any property not vested in that State or otherwise prejudice any rights of the Central Government or the Government of any other State without the consent of the Government concerned]

**86. Repeals-** [Repealed by sec 2 and schedule of the Repealing and Amending Act, 1947 (2 of 1948)]

THE SCHEDULE – [Repealed by sec 2 and schedule of the Repealing and Amending Act, 1947 (2 of 1948)]

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<sup>17</sup> Subs. By the A.O. 1950, for the former S. 85A which had been inserted by the A.O. 1937.

**2. THE WILDLIFE (PROTECTION) ACT, 1972 With THE  
WILDLIFE (PROTECTION) AMENDMENT ACT, 2002**

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**MINISTRY OF LAW AND JUSTICE  
(Legislative Department)**

**New Delhi, the 20<sup>th</sup> January, 2003 / Pausa 30, 1924 (saka)**

The following Act of Parliament received the assent of the president on the 17<sup>th</sup> January, 2003, and is hereby published for general information: -

**THE WILD LIFE (PROTECTION) AMENDMENT ACT,  
2002**

**(No. 16 of 2003)**

**[17<sup>th</sup> January, 2003]**

An Act further to amend the Wild Life (Protection) Act, 1972.

Be it enacted by the Parliament in the Fifty-third Year of the Republic of India as follows: -

**CHAPTER I**

**Preliminary**

**[1. Short title, extent, and commencement, -**

- (1) This Act may be called the Wild Life (Protection) Amendment Act, 2002.

- (2) It shall come into force on such date as the Central government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.]
  - (3) It shall come into force in a State or Union Territory to which it extends, [\*\*\*] on such date as the central Government may, by notification, appoint, and different dates may be appointed for different provision of this act or for different States and Union Territories.
2. **[Definitions – An Act to provide for the protection of wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto with a view to ensuring the ecological and environmental security of the country.]**
- (1) **“animal” includes mammals, birds, reptiles, amphibians, fish, other chordates and invertebrates and also includes their young and eggs;**
  - (2) **“animal article” means an article made from any captive animal or wild animal, other than vermin, and includes an article or object in which the whole or any part of such animal [has been used and ivory imported into India and an article made therefrom].**
  - (3) **[Omitted 1991.]**
  - (4) **“Board” means a State Board for Wild Life constituted under sub-section (1) of section 6;**
  - (5) **“captive animal” means any animal, specified in Schedule I, Schedule II, Schedule III or Schedule IV, which is captured or kept or bred in captivity;**
  - (6) **[Omitted 1991.]**
  - (7) **“Chief Wildlife Warden” means the person appointed as such under C1. (a) of sub-section (1) of Sec.4;**

- [(7A)“ Circus” means an establishment, whether stationary or mobile where animals are kept or used wholly or mainly for the purpose of performing tricks or manoeuvres;]**
- [(8) [Omitted 2002.]]**
- [(9) “Collector” means the chief officer-in-charge of the revenue administration of a district or any other officer not below the rank of a Deputy Collector as may be appointed by the State Government under section 18B in this behalf;]**
- (10) “commencement of this Act”, in relation to –**
- (a) a State, means commencement of this Act in the State.**
- (b) any provision of this Act, means commencement of that provision in the concerned State;**
- [(11) “dealer” in relation to any captive animal, animal article, trophy, uncured trophy, meat or specified plant, means a person, who carries on the business of buying or selling any such animal or article, and includes a person who undertakes business in any single transaction;]**
- (12) “Director” means the person appointed as Director of Wildlife Preservation under C1 (a). of sub-section (1) of Sec. 3;**
- [(12A) “Forest Officer” means the Forest officer appointed under clause (2) of Sec. 2 of the Indian Forest Act, 1927 (16 of 1927) or under any other act for the time being in force in a State;]**
- [(12B) “forest produce” shall have the same meaning as in sub-clause (b) of clause (4) of Sec. 2 of the Indian Forest Act, 1927 (16 of 1927);]**

- (13) [Omitted 1991.]
- (14) **“Government property” means property referred to in Sec.39; [or Sec.17H]**
- (15) **“habitat” includes land, water, or vegetation which is the natural home of any wild animal;**
- (16) **“hunting”, with its grammatical variations and cognate expressions, includes,-**
- [(a) killing or poisoning of any wild animal or captive animal and every attempt to do so;]**
  - [(b) capturing, coursing, snaring, trapping, driving or baiting any wild or captive animal and every attempt to do so;]**
  - (c) injuring or destroying or taking any part of the body of any such animal, or in the case of wild birds or reptiles, damaging the eggs of such birds or reptiles, or disturbing the eggs or nests of such birds or reptiles;**
- (17) **“land” includes canals, creeks, and other water channels, reservoirs, rivers, streams and lakes, whether artificial or natural, [marshes and wetlands and also includes boulders and rocks; ]**
- (18) **“licence” means a licence granted under this Act;**
- [(18A) **“livestock” means farm animals and includes buffaloes, bulls, bullocks, camels, cows, donkeys, goats, sheep, horses, mules, yaks, pigs, ducks, geese, poultry and their young but does not include any animal specified in Schedule I to V;]**
- [(19) **“manufacturer” means a person who manufactures articles from any animal or plant specified in Schedule I to V and VI, as the case may be;]**
- [(20) **“meat” includes blood, bones, sinew, eggs, shell or**

- carapace, fat and flesh with or without skin, whether raw or cooked, of any wild animal or captive animal, other than a vermin; ]**
- [(21) “National Board” means the National Board for Wild Life Constituted under Sec. 5A;]**
- (22) “notification” means a notification published in the official Gazette;**
- (23) “permit” means a permit granted under this Act or any rule made thereunder;**
- (24) “person” includes a firm;**  
**[ (24A) “protected area” means a national Park, a sanctuary, a conservation reserve or a community reserve notified under sections 18, 35, 36A and 36C of the Act;]**
- (25) “prescribed” means prescribed by rules made under this Act;**  
**[(25A) “recognized zoo” means a zoo recognized under Sec. 38H;]**  
**[(25B) “reserve forest” means the forest declare to be reserved by the State Government under Sec. 20 of the Indian Forest Act, 1927, (16 of 1927) or declared as such under any other State Act;]**
- [(26) “sanctuary” means an area declared as a sanctuary by notification under the provisions of Chapter IV of this Act and shall also include a deemed sanctuary under sub-section (4) of Sec. 66;]**
- [(27) “specified plant” means any plant specified in Schedule VI;]**
- [(28) [Omitted 2002.]**
- (29) “State Government”, in relation to a Union Territory, means the Administrator of that union Territory**

appointed by the President under Art 239 of the Constitutions;

**[(30) “taxidermy”, with its grammatical variations and cognate expressions, means the curing, preparation or preservation or mounting of trophies;]**

**[(30A) “territorial waters” shall have the same meaning as in Sec.3. of Territorial waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);]**

**(31) “trophy” means the whole or any part of any captive animal or wild animal, other than vermin, which has been kept or preserved by any means, whether artificial or natural, and includes,**

**(a) rugs, skins, and specimens of such animals mounted in whole or in part through a process of taxidermy, and**

**[(b) antler, bone, carapace, shell, horn, rhinoceros horn, hair, feather, nail, tooth, tusk, musk, eggs, nests and honeycomb;]**

**(32) “uncured trophy” means the whole or any part of any captive animal, other than vermin, which has not undergone a process of taxidermy, and includes a [ freshly killed wild animal ambergris, musk and other animal products];**

**(33) “vehicle” means any conveyance used for movement on land, water or air, and includes buffalo, bull, bullock, camel, donkey, elephant, horse and mules;**

**(34) “vermin” means any wild animal specified in Sch.V;**

**(35) “weapon” includes ammunition, bows and arrows, explosives, firearms, hooks, knives, nets, poison,**

**snares, traps, and any instrument or apparatus capable of anaesthetizing, decoying, destroying, injuring or killing an animal;**

**[(36) “wild animal” means any animal specified in Schedules I and IV and found wild in nature;]**

**[(37) “wild life” includes any animal, aquatic or land vegetation which forms part of any habitat;]**

**(38) “Wildlife Warden” means the person appointed as such under C1. (b) of sub-section (1) of Sec.4;**

**[(39) “zoo” means an establishment, whether stationary or mobile, where captive animals are kept for exhibition to the public and includes a circus and rescue centers but does not include an establishment of a licenced dealer in captive animals;]**

**The Act has been made applicable in various States and Union Territories as under:**

1. Andaman and Nicobar, w.e.f. 1<sup>st</sup> July 1973, vide G.S.R.332 (E), dated 1<sup>st</sup> July, 1973.
2. Andhra Pradesh, w.e.f. 1<sup>st</sup> July 1973, vide G.S.R.371 (E), dated 1<sup>st</sup> August, 1973.
3. Arunachal Pradesh, w.e.f. 15<sup>th</sup> May 1973.
4. Assam, w.e.f. 25<sup>th</sup> January 1977, vide G.S.R.33 (E), dated 25<sup>th</sup> January, 1977.
5. Bihar, w.e.f. 1<sup>st</sup> February 1973, vide G.S.R.40 (E), dated 1<sup>st</sup> February, 1973.
6. Dadra and Nagar Haveli, w.e.f. 1<sup>st</sup> September 1973, vide G.S.R.441 (E), dated 1<sup>st</sup> September, 1973.



7. Delhi, w.e.f. 1<sup>st</sup> June 1973.
8. Goa, Daman and Diu, w.e.f. 16<sup>th</sup> July 1973, vide G.S.R.629 (E), dated 16<sup>th</sup> July, 1973.
9. Gujarat, w.e.f. 1<sup>st</sup> February 1973, vide G.S.R.62 (E), dated 1<sup>st</sup> February, 1973.
10. Haryana, w.e.f. 12<sup>th</sup> March 1973, vide G.S.R.63 (E), dated 12<sup>th</sup> March, 1973.
11. Himachal Pradesh, w.e.f. 2<sup>nd</sup> April 1973, vide G.S.R.190 (E), dated 2<sup>nd</sup> April, 1973.
12. Kerala, w.e.f. 1<sup>st</sup> June 1973, vide G.S.R.293 (E), dated 1<sup>st</sup> June, 1973.
13. Lakshdweep, w.e.f. 1<sup>st</sup> November 1973, vide G.S.R.481 (E), dated 1<sup>st</sup> November, 1973.
14. Madhya Pradesh, w.e.f. 25<sup>th</sup> January 1973, vide G.S.R.28 (E), dated 25<sup>th</sup> January, 1973.
15. Maharashtra, w.e.f. 1<sup>st</sup> June 1973, vide G.S.R.296 (E), dated 1<sup>st</sup> June, 1973.
16. Manipur, w.e.f. 15<sup>th</sup> May 1973, vide G.S.R.269 (E), dated 15<sup>th</sup> May, 1973.
17. Meghalaya, w.e.f. 1<sup>st</sup> April 1977.
18. Mizoram, w.e.f. 1<sup>st</sup> October 1974, vide G.S.R.407 (E), dated 1<sup>st</sup> October, 1974.

19. Mysore, w.e.f. 1<sup>st</sup> July 1973, vide G.S.R.355 (E), dated 1<sup>st</sup> July, 1973.
  20. Nagaland, w.e.f. 18<sup>th</sup> December 1981, vide G.S.R.668 (E), dated 18<sup>th</sup> December, 1981.
  21. Orissa, w.e.f. 14<sup>th</sup> August 1974, vide G.S.R.364 (E), dated 14<sup>th</sup> August, 1974.
  22. Punjab, w.e.f. 1<sup>st</sup> April 1975.
  23. Rajasthan, w.e.f. 1<sup>st</sup> September 1973, vide G.S.R.410 (E), dated 1<sup>st</sup> September, 1973.
  24. Sikkim, w.e.f. 1<sup>st</sup> May 1976, vide G.S.R.311 (E), dated 1<sup>st</sup> May, 1976.
  25. Tamil Nadu, w.e.f. 1<sup>st</sup> January 1974.
  26. Tripura, w.e.f. 2<sup>nd</sup> October 1973, vide G.S.R.465 (E), dated 2<sup>nd</sup> October, 1973.
- Union Territory of Chandigarh, w.e.f. 2<sup>nd</sup> December 1974, vide G.S.R.674 (E), dated 2<sup>nd</sup> December, 1974.
28. Union Territory of Pondicherry, w.e.f. 1<sup>st</sup> March 1975, vide G.S.R.62 (E), dated 1<sup>st</sup> March, 1975.
  29. Uttar Pradesh, w.e.f. 1<sup>st</sup> February, 1973.
  30. West Bengal, w.e.f. 1<sup>st</sup> May 1973, vide G.S.R.24 (E), dated 1<sup>st</sup> May, 1973.

## CHAPTER II

Authorities to be appointed or constituted under this Act

**3. Appointment of Director and other officers.** – (1) The Central Government may, for the purpose of this Act appoint–

(a) a Director of Wildlife Preservation;

[(b) [Omitted 2002.]]

(c) such other officers and employees as may be necessary.

(2) In the performance of his duties and exercise of his powers by or under this Act, the Director shall be subject to such general or special directions, as the Central Government may, from time to time, give.

[(3) The Officers and other employees appointed under this section shall be required to assist the Director.]

**4. Appointment of Chief Wildlife Warden and other officers.** – (1) The State Government may, for the purpose of this Act, appoint–

(a) Chief Wildlife Warden;[\*\*\*]

(b) Wildlife Wardens;

[(bb) Honorary Wild Life Wardens;]

(c) such other officers and employees as may be necessary.

(2) In the performance of his duties and exercise of his powers by or under this Act, the Chief Wildlife Warden shall be subject to such general or special directions, as the State Government may, from time to time, give.

(3) [The Wildlife Warden, the Honorary Wildlife Warden] and other officers and employees appointed under this

section shall be subordinate to the Chief Wildlife Warden.

- 5. Power of delegate–** (1) The Director may, with the previous approval of the Central Government, by order in writing, delegate all or any of his powers and duties under this Act to any officer subordinate to him subject to such conditions, if any, as may be specified in the order.
- (2) The Chief Wildlife Warden may, with the previous approval of the State Government, by order in writing, delegate all or any of his powers and duties under this Act, except those under C1. (a) of sub-section (1) of Sec.11, to any officer subordinate to him subject to such conditions, if any, be specified in the order.
- (3) Subject to any general or special direction given or condition imposed by the Director or the Chief Wildlife Warden, any person, authorised by the Director or the Chief Wildlife Warden to exercise any powers, may exercise those powers in the same manner and to the same effect as if they had been conferred on that person directly by this Act and not by way of delegation.
- [5A. Constitution of the National Board for Wild Life.- ( 1 )**  
The Central Government shall, within three months from the date of commencement of the Wild Life (Protection) Amendment Act, 2002, constitute the National Board for Wild Life consisting of the following members, namely: -
- (a) the Prime Minister as Chairperson;
  - (b) the Minister in-charge of Forests and Wild Life as Vice-Chairperson;
  - (c) three members of Parliament of whom two shall be from the House of the People and one from the Council of States;

- (d) Member, Planning Commission in-charge of Forests and Wild Life;
- (e) five persons to represent non-governmental organizations to be nominated by Central Government;
- (f) ten persons to be nominated by the Central Government from amongst eminent conservationists, ecologists and environmentalists;
- (g) the Secretary to the Government of India in-charge of the Ministry or Department of the Central government dealing with Forests and Wild Life;
- (h) the Chief of the Army Staff;
- (i) the Secretary to the Government of India in-charge of the Ministry of Defence;
- (j) the Secretary to the Government of India in-charge of the Ministry of Information and Broadcasting;
- (k) the Secretary to the Government of India in-charge of the Department of Expenditure, Ministry of Finance;
- (l) the Secretary to the Government of India, Ministry of Tribal Welfare;
- (m) the Director-General of Forests in the Ministry or Department of the Central Government dealing with Forests and Wild Life;
- (n) the Director-General of Tourism, Government of India;
- (o) the Director-General, Indian Council for Forestry Research and Education, Dehradun;

- (p) the Director, Wild Life Institute of India, Dehradun;
  - (q) the Director, Zoological Survey of India;
  - (r) the Director, Botanical Survey of India;
  - (s) the Director, Indian Veterinary Research Institute;
  - (t) the Member-Secretary, Central Zoo Authority;
  - (u) the Director, National Institute of Oceanography;
  - (v) one representative each from ten States and Union Territories by rotation, to be nominated by the Central Government;
  - (w) the Director of Wild life Preservation who shall be the Member-Secretary of the National Board.
- (2) The term of office of the members other than those who are members ex officio, the manner of filling vacancies referred to in clauses (e), (f) and (v) of sub-section (1), and the procedure to be followed in the discharge of their functions by the members of the National Board shall be such, as may be prescribed.
- (3) The members (except members ex officio) shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as may be prescribed.
- (4) Notwithstanding anything contained in any other law for the time being in force, the office of a member of the National Board shall not be deemed to be an office of profit.]

**[5B. Standing Committee of the National Board. -** (1) The National Board may, in its discretion, constitute a Standing Committee for the purpose of exercising such powers and performing such duties as may be delegated to the Committee by the National Board.

(2) The Standing Committee shall consist of the Vice-Chairperson, the Member-Secretary, and not more than ten members to be nominated by the Vice-Chairperson from amongst the members of the National Board.

(3) The National Board may constitute committees, sub-committees or study groups, as may be necessary, from time to time in proper discharge of the functions assigned to it.]

**[5C. Functions of the National Board. -** (1) It shall be the duty of the National Board to promote the conservation and development of wild life and forests by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provision, the measures referred to therein may provide for –

(a) framing policies and advising the Central Government and the State Governments on the ways and means of promoting wild life conservation and effectively controlling poaching and illegal trade of wild life and its products;

(b) making recommendations on the setting up of and management of national parks,

sanctuaries and other protected areas and on matters relating to restriction of activities in those areas;

- (c) carrying out or causing to be carried out impact assessment of various projects and activities on wild life or its habitat;
- (d) reviewing from time to time, the progress in the field of wild life conservation in the country and suggesting measures for improvement thereto; and
- (e) preparing and publishing a status report at least once in two years on wild life in the country.]

### **Comments**

Complaint filed after sanction is maintainable: - In view of Rule 31 of the Bihar Wild Life Protection Rules, 1973, even besides the Chief Wild Life Warden, the Divisional Forest Officer or the Deputy Conservator of Forests are also entitled to file complaint. In a case Jagdish Singh vs State of Bihar the complaint was filed after obtaining sanction from the Divisional Forest Officer who was authorised to file the complaint. It may be relevant to mention here that sec.5 (2) of the Wild Life (Protection) Act (herein after the Act) also gives power to the authorities concerned to delegate his powers to any of his subordinate officers. Therefore, it count not be said that no other person except the Chief Wild Life Warden or such other officer who has been authorized by the State Government can file a complaint upon which cognizance can be taken.

**[6. Constitution of State Board for Wild Life.**– (1)The State Government shall, within a period of six months from the date of commencement of the Wild Life (Protection) Amendment



Act, 2002 constitute a State board for Wild Life consisting of the following members, namely: -

- (a) the Chief Minister of the State and in case of the Union Territory, either Chief Minister or Administrator, as the case may be – Chairperson;
- (b) the Minister in-charge of Forests and Wild Life – Vice-Chairperson;
- (c) three members of the State Legislature or in the case of an Union Territory with Legislature, two members of the Legislative Assembly of that Union Territory;
- (d) three persons to represent non-government organizations dealing with wild life to be nominated by the State Government;
- (e) ten persons to be nominated by the State Government from amongst eminent conservationists, ecologists and environmentalists including at least two representative of the Scheduled Tribes;
- (f) the Secretary to the State Government or the Government of the Union Territory, as the case may be, in-charge of Forests and Wild Life;
- (g) the Officer in-charge of the State Forest Department;
- (h) the Secretary to the State Government, Department of Tribal Welfare;
- (i) the Managing Director, State Tourism Development Corporation;

- (j) an officer of the State Police Department not below the rank of Inspector General;
- (k) a representative of the Armed Force not below the rank of a Brigadier to be nominated by the Central Government;
- (l) the Director, Department of Animal Husbandry of the State;
- (m) the Director, Department of Fisheries of the state;
- (n) an officer to be nominated by the Director, Wild Life Preservation;
- (o) a representative of the Wild Life Institute of India, Dehradun;
- (p) a representative of the Botanical Survey of India;
- (q) a representative of the Zoological Survey of India;
- (r) the Chief wild Life Warden, who shall be the Member-Secretary.]

(1A) The State Government may appoint a Vice-Chairman of the Board from amongst the members referred to in clauses (b) and (h) of sub-section (1).]

[(2) The term of the office of the members other than those who are members *ex officio* and the manner of filling vacancies referred to in clauses (d) and (e) of sub-section (1) and procedure to be followed shall be such, as may be prescribed.]

[(3) The member (except members *ex officio*) shall be entitled to

receive such allowances in respect of expenses incurred in the performance of their duties as may be prescribed.]

- (4) The members shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as the State Government may prescribe.

### **Comments**

As per the guidelines issued by the Central Government, the appointments of Regional Representatives of Indian Board for Wildlife in the Wildlife Advisory Boards of States/ Union Territories should be covered by the provisions of Sec. 6(1) (g) of the act. Whereas establishment of Wildlife Advisory Boards in states and Union Territories has statutory support under this Act, such support is not available to the Indian Board for Wildlife which is the highest advisory body to the Central Government in matters of Wildlife.

- 7. Procedure to be followed by the Board.** - (1) The Board shall meet at least twice a year at such place as the State Government may direct.
  - (2) The Board shall regulate its own procedure (including the quorum).
  - (3) No act or proceeding of the Board shall be invalid merely by reason of the existence of any vacancy therein or any defect in the constitution thereof or any irregularity in the procedure of the Board affecting the merits of the case.
- 8. Duties of the Wildlife Advisory Board.** - [(1) It shall be the duty of the State Board for Wild Life to advise the State Government, -

- [(a) in the selection and management of areas to be declared as protected areas;]
- [(b) in formulation of the policy of protection and conservation of Wildlife and specified plants;]
- (c) in any matter relating to any schedule;
- [(cc) in relation to the measures to be taken for harmonizing the needs of the tribals and other dwellers of the forest with the protection and conservation of wildlife; and]
- (a) in any matter that may be referred to it by the State Government.

### **CHAPTER III**

#### **Hunting of Wild Animals**

**[9. Prohibition of Hunting.** - No person shall hunt any wild animal specified in Schedule, I, II, III and IV except as provided under Sec.11 and Sec.12.]

**Comments**

Section 9 of the Act says that no person shall hunt any wild animal specified in Schedule 1, Elephant is included in Schedule I, State of Bihar vs Murad Ali Baig Air 1989 SCI.

**10. [Omitted 1991.]**

**11. Hunting of Wild animals to be permitted in certain cases. –**

(1) Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of Chapter IV –

- (a) the Chief Wildlife Warden may, if he is satisfied that any wild animal specified in Sch.1 has become dangerous to human life or is so disabled or diseased as to be beyond

recovery, by order in writing and stating the reasons therefore, permit any person to hunt such animal or cause animal to be hunted; [Provided that no wild animal shall be ordered to be killed unless the Chief Wildlife Warden is satisfied that such animal cannot be captured, tranquillised or translocated:

Provide further that no such captured animal shall be kept in captivity unless the Chief Wildlife Warden is satisfied that such animal cannot be rehabilitated in the wild and the reasons for the same are recorded in writing.

Explanation. – For the purposes of clause (a), the process of capture or translocation, as the case may be, of such animal shall be made in such manner as to cause minimum trauma to the said animal.]

- (b) the Chief Wildlife Warden or the authorised officer may, if he is satisfied that any wild animal specified in Sch.II, Sch.III or Sch.IV has become dangerous to human life or to property (including standing crops or any land) or is so disabled or diseased as to be beyond recovery, by order in writing and stating the reasons therefore, permit any person to hunt [such animal or group of animals in a specified area or cause such animal or group of animals in that specified area to be hunted.]

- (2) The Killing or wounding in good faith of any wild animal in defence of oneself or any other person shall not be an offence;

Provided that nothing in the sub-section shall exonerate any person who, when such defence becomes necessary, was committing any act in contravention of any provision of this Act or nay rule or order made there under.

(3) Any wild animal killed or wounded in defence of any person shall be Government property.

**Comments**

**Conviction contrary to the provisions of Sec.11 is liable to be set aside.** – To decide whether in killing an animal the accused acted in self-defence or not, the nature and ferocity of the animal will be relevant. A tiger is, what the Romans called, a *ferae naturae* (by nature of dangerous ferocity), as distinguished from a *mansuatae naturae*, e.g. a dog or a house, which have in individual cases given indication of a vicious or dangerous disposition. In the case of attack by a *ferae naturae* the victim cannot be expected to weight the chances in golden scale and consequently, the inference that he was acting in defence of his own life, will be more easily drawn than in the case of an attack by a *mansuatae naturae*, while no such inference ay be drawn at all in cases of harmless Wildlife like birds.

On the basis of facts and circumstances of the case there can be no doubt that the accused acted in defence of his life and his act did commensurate with defence. It is clearly a case of killing the tiger in good faith in defence of one self and it cannot be said that the accuse was committing any offence prior to shooting the tiger that charged at him. Therefore, he will be completely protected under sub-section (2) of Sec.11.

The impugned order of conviction and sentence is contrary to the provisions of Sec.11 of the Act and as such it is liable to be set aside.

**11(1)** (a) should be enlarged so as to cover damage to property including standing crops, by animals specified in Sch. I, because under the current provisions the chief Wildlife Warden cannot of his own take action and is required to take approval from the Central Government. This causes a

lot of delay in removing the destructive animal and results in inconvenience to the local people. Such problems have become particularly frequent since the status of the elephant was raised from Sch. II Part I to Sch. I.

**12. Grant of permit for special purpose.** – Notwithstanding anything contained elsewhere in this Act, it shall be lawful for the Chief Wildlife Warden, to grant [\*\*\*] a permit, by an order in writing stating the reasons therefore, to any person, on payment of such fee as may be prescribed, which shall entitle the holder of such permit to hunt, subject to such conditions as may be specified therein, any wild animal specified in such permit, for the purpose of, -

- (a) education;
- [(b) scientific research;
- (bb) scientific management;

Explanation:- for the purpose of Cl. (bb), the expression, “scientific management” means –

- (i) translocation of any wild animal to an alternative suitable habitat; or
- (ii) population management of wildlife, without killing or poisoning or destroying any wild animals].

[(c) Collection of specimens –

- (i) for recognised zoos subject to the permission under Sec. 38-I or
- (ii) for museums and similar institutions;
- (b) derivation, collection or preparation of snake-venom for the manufacture of life saving drugs.]

[Provided that no such permit shall be granted:

- (a) in respect of any wild animal specified in Sch. I, except with the previous permission of the Central Government, and
- (b) in respect of any other wild animal, except with the previous permission of the State Government.]

- 13. [Omitted 1991.]
- 14. [Omitted 1991.]
- 15. [Omitted 1991.]
- 16. [Omitted 1991.]
- 17. [Omitted 1991.]

**[CHAPTER III A]  
PROTECTION OF SPECIFIED PLANTS**

**17A. Prohibition of picking, uprooting, etc., of specified plants. – Save as otherwise provided in this Chapter, no person shall –**

- (a) wilfully pick, uproot, damage, destroy, acquire or collect any specified plant from any forest land and area specified, by notification, by the Central Government,
- (b) possess, sell, offer for sale, or transfer by way of gift or otherwise, or transport any specified plant, whether alive or dead, or part or derivative thereof:

Provided that nothing in this section shall prevent a member of



a schedule tribe, subject to the provisions of Chapter IV, from picking, collecting or possessing in the district he resides any specified plant or part or derivative thereof for his bonafide personal use.

**17B. Grant of permit for special purposes.** – The Chief Wild Life Warden may with the previous permission of the State Government, grant to any person a permit to pick, uproot, acquire or collect from a forest land or the area specified under Sec.17A or transport, subject to such conditions as may be specified therein, any specified plant for the purpose of–

- (a) education;
- (b) scientific research;
- (c) collection, preservation and display in a herbarium of any scientific institutions; or
- (d) propagation by a person or an institution approved by the Central Government in this regard.

**17C. Cultivation of specified plants without licence prohibited.**–(1) No person shall cultivate a specified plant except under, and in accordance with a licence granted by the Chief Wild Life Warden or any other officer authorised by the State Government in this behalf:

Provided that nothing in this section shall prevent a person, who, immediately before the commencement of the Wild Life (Protection) Amendment Act 1991, was cultivating a specified plant, from carrying on such cultivation for a period of six months from such commencement, or where he has made an application within that period for the grant of a licence to him, until the licence is granted to him, or he is informed in writing that a licence cannot be granted to him.

- (2) Every licence granted under this section shall specify the area in which and the licence granted under this section shall specify the area in which and the conditions, if any, subject to which the licensee shall cultivate a specified plant.

**17D. Dealing in specified plants without licence prohibited. –**

- (1) No person shall, except under and in accordance with a licence granted by the Chief Wildlife Warden or any other officer authorised by the State Government in this behalf, commence or carry on business or occupation as a dealer in a specified plant or part or derivative thereof:

Provided that nothing in this section shall prevent a person, who, immediately before that commencement of that Wild Life (Protection) Amendment Act, 1991, was carrying on such business or occupation for a period of sixty days from such commencement, or where he has made an application within that period for the grant of a licence to him, until the licence is granted to him or he is informed in writing that a licence cannot be granted to him.

- (2) Every licence granted under this section shall specify the premises in which and the conditions, if any, subject to which the licensee shall carry on his business.

**17E. Declaration of stock. –** (1) Every person cultivating, or dealing in, a specified plant or part or derivative thereof shall, within thirty days, from the date of commencement of the Wild Life (Protection) Amendment Act, 1991, declare to the Chief Wildlife Warden or any other officer authorised by the State government in this behalf, his stocks of such plants and part or derivative thereof, as the case may be, on the date of such commencement.

(2) The provisions of sub-section (3) to (8) (both inclusive) of Sec. 44, Sec. 45, Sec. 46 and Sec. 47 shall, as far as may be, apply in relation to an application and a licence referred to in Sec. 17C and Sec. 17D as they apply in relation to the licence or business in animals or animal articles.

**17F. Possession, etc., of plants by licensee.** – No licensee under this chapter shall –

- (a) keep in his control or possession –
  - (i) any specified plant, or part or derivative thereof in respect of which a declaration under the provisions of Sec. 17E has to be made, but has not been made;
  - (ii) any specified plant, or part or derivative thereof which has not been lawfully acquired under the provisions of this Act or any rule, or order made thereunder;
- (b)
  - (i) pick, uproot, collect or acquire any specified plant, or
  - (ii) acquire, receive, keep in his control, custody or possession, or sell, offer for sale or transport, any specified plant or part or derivative thereof, except in accordance with the conditions subject to which the licence has been granted and such rules as may be made under this Act.

**17G. Purchase, etc., of specified plants.** – No person shall purchase, receive or acquire any specified plant or part or derivative thereof otherwise than from a licenced dealer:

Provided that nothing in this section shall apply to any person referred to in Sec. 17B.

- 17H. Plants to be Government property.** – (1) Every specified plant or part or derivative thereof, has been collected or acquired from a sanctuary or National Park declared by the Central Government, such plant or part or derivative thereof shall be the property of the Central Government.
- (2) **The provisions of sub-sections (2) and (3) of Sec. 39 shall, as far as may be, apply in relation to the specified plant or part or derivative thereof as they apply in relation to wild animals and articles referred to in sub-section (1) of that section.**

#### **CHAPTER IV [PROTECTED AREAS]**

**18. Declaration of Sanctuary.** – [(1) The State Government may, by notification, declares its intention to constitute any area other than area comprised with any reserve forest or the territorial waters as a sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphologic, natural or zoological significance, for the purpose of protecting, propagating or developing wildlife or its environment.]

(2) **The notification referred to in sub-section (1) shall specify, as nearly as possible, the situation and limits of such area.**

Explanation. – For the purposes of this section, it shall be sufficient to describe the area by roads, rivers, ridges, or other well-known or readily intelligible boundaries.

**[18A. Protection of sanctuaries.** – (1) **When the State government declares its intention under sub-section (1) of Sec. 18 to constitute any area, not compromised within any reserve forest or territorial waters under that sub-section, as a sanctuary, the provisions of Secs.**

**27 to 33A (both inclusive) shall come into effect forthwith.**

**(2) Till such time as the rights of affected persons are finally settled under Secs. 19 to 24 (both inclusive), the State Government shall make alternative arrangements required for making available fuel, fodder and other forest produce to the persons affected, in terms of their rights as per the Government records.]**

**[18B. Appointment of Collectors. – The State Government shall appoint, an officer to act as Collector under the Act, within ninety days of coming into force of the Wild Life (protection) Amendment Act, 2002, or within thirty days of the issue of notification under Sec. 18, to inquire into and determine the existence, nature and extent of rights of any person in or over the land comprised within the limits of the sanctuary which may be notified under sub-section (1) of Sec. 18.]**

#### **Comments**

**Order without jurisdiction can be set aside:** - The petitioners have been staying within the area described in the notices before passing of the orders with their hearths and homes and also have cultivable lands. The impugned orders where purported to have been made under the provisions of the Wild Life Sanctuary (Protection) Act, 1972, under which there may be a declaration of sanctuary by virtue of the provisions of Sec. 18 of the Act. It is found out from the records that under Sec. 18 of the Act a notification has been issued on 20<sup>th</sup> January, 1976, by the Development Commissioner, ex officio secretary to the Government of Mizoram, declaring the area given in that notification as Dampa Wildlife Sanctuary. It appears that the respondents have not followed any of the provisions of

Chapter IV of the Act. It is true that the respondents are entitled to declare any area under Sec. 18 of the Act but that can be done only after following the provisions contained in the Act. The respondents can take follow up actions for a evicting persons from the area falling within the declared sanctuary in accordance with the provisions as contained in Chapter IV of the Act. None of these things has been found to be followed by the respondents in passing the orders prejudicially affecting the petitioners. Therefore, the impugned orders are not sustainable in law and accordingly deserved to be quashed.

19. **Collector to determine rights.** – [When a notification has been issued under Sec. 18,] the Collector shall inquire into, and determine the existence, nature and extent of the rights of any person in or over the land comprised within the limits of the sanctuary.
20. **Bar of accrual of rights.** – After the issue of a notification under Sec. 18, no right shall be acquired in, or over the land comprised within the limits of the area specified in such notification, except by succession, testamentary or intestate.
21. **Proclamation by Collector.** – When a notification has been issued under Sec. 18 the Collector shall, [within a period of sixty days] publish in the regional language in every town and village in or in the neighbourhood of the area comprised therein, a progamation:
  - (a) specifying, as nearly as possible, the situation and limits of the sanctuary ; and
  - (b) requiring any person claiming any right mentioned in Sec. 19, to prefer before the Collector within two months from the date of such proclamation, a written

claim in the prescribed form specifying the nature and extent of such right with necessary details and the amount and particulars of the compensation, if any, claimed in respect thereof.

- 22. Inquiry by Collector.** – The Collector shall, after service of the prescribed notice upon the claimant, expeditiously inquire into -
- (a) the claim preferred before him under Cl. (b) of Sec. 21, and
  - (b) the existence of any right mentioned in Sec. 19 and not claimed under Cl. (b) of Sec. 21, so far as the same may be ascertainable from the records of the State Governments and the evidence of any person acquainted with the same.
- 23. Powers of Collector.** – For the purpose of such inquiry, the Collector may exercise the following powers, namely -
- (a) the power to enter in or upon any land and to survey, demarcate, and make a map of the same or to authorised any other officer to do so;
  - (c) the same powers as are vested in a civil court for the trial of suits.
- 24. Acquisition of rights.** – (1) In the case of a claim to a right in or over any land referred to in Sec. 19, the Collector shall pass an order admitting or rejecting the same in whole or in part.
- (2) If such claim is admitted in whole or in part, the Collector may either –

- (a) exclude such land from the limits of the proposed sanctuary, or
- (b) proceed to acquire such land or rights, except where by an agreement between the owner of such land or the holder of rights and the Government the owner or holder of rights has agreed to surrender his rights to the Government in or over such land, and payment of such compensation, as is provided in the Land Acquisition Act, 1894(1 of 1894).
- [(c) allow, in consultation with the Chief Wildlife Warden, the continuance of any right of any person in, or over any land within the limits of the sanctuary.]

**25. Acquisition proceedings.**—(1) For the purpose of acquiring such land, or rights in or over such land, -

- (a) the Collector shall be deemed to be a Collector, proceeding under the Land Acquisition Act, 1894 (1 of 1894);
- (b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under Sec. 9 of that Act;
- (c) the provisions of the sections proceeding Sec. 9 of that Act shall be deemed to have been complied with;
- (d) where the claimant does not accept the award made in his favour in the matter of compensation, he shall be deemed, within the meaning of Sec. 18 of that



Act, to be a person interested who has not accepted the award, and shall be entitled to proceed to claim relief, against the award under the provision of Part III of the Act;

- (e) the Collector, with the consent of the claimant, or the Court, with the consent of both the parties, may award compensation in land or money or partly in land and partly in money; and
  - (f) in the case of the stoppage of a public way or a common pasture, the Collector may, with the previous sanction of the State Government provide for an alternative public way or common pasture, as far as may be practicable or convenient.
- (2) The acquisition under this Act of any land or interest therein shall be deemed to be acquisition for a public purpose.

**[25A. Time limit for completion of acquisition proceedings. –**

- (1) The Collector shall, as far as possible, complete the proceedings under Sec. 19 to 25 (both inclusive), within a period of two years from the date of notification of declaration of sanctuary under Sec. 18.
- (2) The notification shall not lapse if, for any reason, the proceedings are not completed within a period of two years.]

- 26. Delegation of Collector's powers. –** The State Government may, by general or special order, direct that the powers exercisable or the functions to be performed by the Collector under Sec.19 to 25 (both inclusive) may be exercised and performed by such other officer as may be specified in the order.

**[(26A) Declaration of area as Sanctuary. – (1) When –**

- (a) a notification has been issued under Sec.18 and the period for preferring claim has elapsed , and all claims, if any, made in relation to any land in an area intended to be declared in a sanctuary, have been disposed of by the State Government; or
- (b) any area comprised within any reserve forest or any part of the territorial waters, which is considered by the State Government to be of adequate ecological, faunal, geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wildlife or its environment, is to be included in a sanctuary, the State Government shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the said area shall be sanctuary on and from such date as may be specified in the notification.

Provided that where any part of the territorial waters is to be so included, prior concurrence of the Central Government shall be obtained by the State Government.

**Provided further that the limits of the area of the territorial waters to be included in the sanctuary shall be determined in consultation with the Chief Naval Hydrographer of the Central Government and after taking adequate measures to protect the occupational interests of the local fishermen.**

- (2) Notwithstanding anything contained in sub-section (1), the right of innocent passage of any vessel or boat through the territorial water shall not be affected by the notification issued under sub-section (1).

[(3) No alteration of the boundaries of a sanctuary shall be

made by the State Government except on a recommendation of the National Board.]

**27. Restriction on entry in sanctuary.**—(1) No person other than, -

- (a) a public servant on duty;
- (b) a person who has been permitted by the chief Wildlife Warden or the authorised officer to reside within the limits of the sanctuary;
- (c) a person who has any right over immovable property within the limits of the sanctuary;
- (d) a person passing through the sanctuary along a public highway; and
- (e) the dependents of the person referred to in Cl. (a), (b) or (c).

shall enter or reside in the sanctuary, except under and in accordance with the conditions of a permit granted under Sec.28.

(2) Every person shall, so long as he resides in the sanctuary, be bound—

- (a) to prevent the commission, in the sanctuary, or an offence against this Act;
- (b) where there is reason to believe that any such offence against this Act has been committed in such sanctuary, to help in discovering and arresting the offender;
- (c) to report the death of any wild animal and to safeguard its remains until the Chief Wildlife Warden or the authorised officer takes charge thereof;

- (d) to extinguish any fire in such sanctuary of which he has knowledge or information and to prevent from spreading by any lawful means in his power, any fire within the vicinity of such sanctuary of which he has knowledge or information; and
- (e) to assist any forest officer, Chief Wildlife Warden, Wildlife Warden or police officer demanding his aid for preventing and commission of any offence against this Act or in the investigation of any such offence.

[(3) No person shall, with intent to cause damage to any boundary-mark of a sanctuary or to cause any wrongful gain as defined in the Indian penal code (45 of 1860), alter, destroy, move or deface such boundary-mark.]

[(4) No person shall tease or molest any wild animal or litter the grounds or sanctuary.]

**28. Grant of permit.** – (1) The Chief Wildlife Warden may, on application, grant to any person a permit to enter or reside in a sanctuary for all or any of the following purposes, namely:

- (a) investigation or study of wildlife and purposes ancillary or incidental thereof;
- (b) photography;
- (c) scientific research;
- (d) tourism;
- (e) transaction of lawful business with any person residing in the sanctuary.

(2) A permit to enter or reside in a sanctuary shall be issued subject to such conditions and on payment of such fee as may be prescribed.

- [29. **Destruction, etc., in a sanctuary prohibited without a permit.** – No person shall destroy, exploit or remove any wildlife including forest produce from a sanctuary or destroy or damage or divert the habitat of any wild animal by any act whatsoever or divert, stop or enhance the flow of water into or outside the sanctuary, except under and in accordance with a permit granted by the chief Wildlife Warden, and no such permit shall be granted unless the State government being satisfied in consultation with the Board that such removal of wildlife from the sanctuary or the change in the flow of water into or outside the sanctuary is necessary for the improvement and better management of wildlife therein, authorises the issue of such permit:

Provided that where the forest produce is removed from a sanctuary the same may be used for meeting the personal bona fide needs of the people living in and around the sanctuary and shall not be used for any commercial purpose.

**Explanation.** – for the purpose of this section, grazing or movement of livestock permitted under Cl. (d) of Sec. 33 shall not be deemed to be an act prohibited under this section.]

30. **Causing fire prohibited.** – No person shall set fire to a sanctuary, or kindle any fire, or leave any fire burning, in a sanctuary, in such manner as to endanger such sanctuary.
31. **Prohibition of entry into sanctuary with weapon.** – no person shall enter a sanctuary with any weapon except for the previous permission in writing of the Chief Wildlife Warden or the authorised officer.
32. **Ban on use of injurious substances.** – no person shall use in a sanctuary, chemicals, explosives or any other substances which may cause injury to, or endanger, any wildlife in such sanctuary.

**33. Control of sanctuaries.** – The Chief Wildlife Warden shall be the authority who shall control, manage and maintain all sanctuaries and for that purpose, within the limits of any sanctuary,

(a) may construct such roads, bridges, buildings, fences or barrier gates, and carry out such other works as he may consider necessary for the purposes of such sanctuary:

[Provided that no construction of commercial tourist lodges, hotels, zoos and safari parks shall be undertaken inside a sanctuary except with the prior approval of the National Board;]

(b) shall take such steps as will ensure the security of wild animals in the sanctuary and the prevention of the sanctuary and wild animals therein;

(c) may take such measures, in the interests of wildlife, as he may consider necessary for the improvement of any habitat;

(d) may regulate, control or prohibit, in keeping with the interests of wildlife, the grazing or movement of [livestock]

(e) [Omitted 1991.]

**[33A. Immunisation of livestock.** – (1) The Chief Wildlife Warden shall take such measures in such manner as may be prescribed, for immunisation against communicable diseases of the livestock kept in or within five kilometres of the sanctuary.

(2) No person shall take, or cause to be taken or graze, any livestock in a sanctuary without getting it immunised.]

**[33B. Advisory Committee.** – (1) The State Government shall constitute an Advisory Committee consisting of the Chief Wildlife Warden or his nominee not below the rank of Conservator of Forests as its head and shall include a member of State Legislature within whose constituency the sanctuary is situated, three representatives of Panchayati Raj institutions, two representatives of non-governmental organisations and three individuals active in the field of wildlife conservation, one representative each from departments dealing with Home and Veterinary matters, Honorary Wildlife Warden, if any, and the officer-in-charge of the sanctuary as Member –Secretary.

(2) The Committee shall render advice on measures to be taken for better conservation and management of the sanctuary including participation of the people living within and around the sanctuary.

(3) The Committee shall regulate its own procedure including quorum.]

**34. Registration of certain persons in possession of arms. –**

(1) Within three months from the declaration of any area as a sanctuary, every person residing in or within ten kilometres of any such sanctuary and holding a licence granted under the Arms Act, 1959 (54 of 1959), for the possession of arms or exempted from the provisions of that Act and possessing arms, shall apply in such form, on payment of such fee, and within such time as may be prescribed, to the Chief Wildlife Warden or the authorised officer, for the registration of his name.

(2) On receipt of an application under sub-section (1), the Chief Wildlife Warden or the authorised officer shall

register the name of the applicant in such manner as may be prescribed.

[(3) No new licences under the Arms Act, 1959 (54 of 1959), shall be granted within a radius of ten kilometres of a sanctuary without the prior concurrence of the Chief Wildlife Warden.]

**[34A. Power to remove encroachment.** – (1) Notwithstanding anything contained in any other law for the time being in force, any officer not below the rank of an Assistant Conservator of Forests may –

- (a) evict any person from a sanctuary or National Park, who unauthorisedly occupies Government land in contravention of the provisions of this Act;
- (b) remove any unauthorised structures, buildings, or constructions erected on any Government land within any sanctuary or National Park and all the things, tools and effects belonging to such person shall be confiscated, by an order of an officer not below the rank of the Deputy Conservator of Forests:

Provided that no such order shall be passed unless the affected person is given an opportunity of being heard.

- (2) The provisions of this section shall apply notwithstanding any other penalty which may be inflicted for violation of any other provision of this Act.]

#### **National Parks**

**35. Declaration of National Parks.** – (1) Whenever it appears to the State Government that an area, whether within a sanctuary or not, is, by reasons of its ecological, faunal,



floral, geomorphological, or zoological association or importance, needed to be constituted as a National Park for the purpose of protecting, propagating, or developing wildlife therein on its environment, it may, by notification, declare its intention to constitute such area as a National Park:

[Provided that where any part of the territorial waters is proposed to be included in such National Park, the provisions of Sec.26A shall, as far as may be, apply in relation to the declaration of National Park as they apply in relation to the declaration of a sanctuary.]

- (2) The notification referred to in sub-section (1) shall define the limits of the area which is intended to be declared as a National Park.
- (3) Where any area is intended to be declared as a national Park, the provisions of Sec. [19 to 26A (both inclusive except clause (c) of sub-section (2) of Sec.24)] shall, as far as may be, apply to the investigation and determination of claims and extinguishments of rights, in relation to any land in such area as they apply to the said matters in relation to any land in a sanctuary.
- (4) When the following events have occurred, namely -
  - (a) the period for preferring claims has elapsed, and all claims, if any, made in relation to any land in an area intended to be declared as a National Park, have been disposed of by the State Government, and
  - (b) all rights in respect of lands proposed to be included in the National Park have become vested in the State Government,

the State Government shall publish a notification

specifying the limits of the area which shall be comprised within the national Park and declare that the said area shall be a National Park on and from such date as may be specified in the notification.

- [(5) No alteration of the boundaries of a National Park by the State Government shall be made except on a recommendation of the National Board.]
- [(6) No person shall destroy, exploit or remove any Wildlife including forest produce from a National Park or destroy or damage or divert the habitat of any wild anima by any act whatsoever or divert, stop or enhance the flow of water into or outside the National Park, except under and in accordance with a permit granted by the Chief Wildlife Warden, and no such permit shall be granted unless the State Government being satisfied in consultation with the National Board that such removal of wild life from the National Park or the change in the flow of water into or outside the National Park is necessary for the improvement and better management of wild life therein, authorises the issue of such permit:

Provided that where the forest produce is removed from a National Park, the same may be used for meeting the personal bona fide needs of the people living in and around the National Park and shall not be used for any commercial purposes.]

- (7) No grazing of any [livestock] shall be permitted in a National Park and no livestock shall be allowed to enter except where such [livestock] is used as a vehicle by a person authorised to enter such National Park.
- (8) The provisions of Secs.27 and 28, Secs.30 to 32 (both

inclusive), and Cls, (a), (b) and (c) of [Sec. 33, 33A] and Sec. 34 shall, as far as may be apply in relation to a National Park as they apply in relation to a sanctuary.

**[Explanation.** – For the purposes of this section, in case of an area whether within a sanctuary or not, where the rights have been extinguished and the land has become vested in the State Government under any Act or otherwise, such area may be notified by it, by a notification, as a National Park and the proceedings under Secs.19 to 26 (both inclusive) and the provision of sub-sections (3) and (4) of this section shall not apply.]

**36. [Omitted 1991.]**

**[36A. Declaration and management of a conservation reserve.** – (1) The State Government may, after having consultations with the local communities, declare any area owned by the Government, particularly the areas adjacent to national Parks and sanctuaries and those areas which link one protected area with another, as a conservation reserve for protecting landscapes, seascapes, flora and fauna and their habitat:

Provided that where the conservation reserve includes any land by the Central Government, its Prior concurrence shall be obtained before making such declaration.

(2) The provisions of sub-section (2) of Sec.18, sub-sections (2), (3) and (4) of Sec.27, Secs.30, 32 and Cls. (b) and (c) of Sec.33 shall, as far as may be, apply in relation to a conservation reserve as they apply in relation to a sanctuary.]

**[36B. Conservation reserve management committee.** – (1) The State Government shall constitute a conservation reserve management committee to advise the Chief

Wildlife Warden to conserve, manage and maintain the conservation reserve.

- (2) The committee shall consist of a representative of the forest or Wild Life Department, who shall be the Member-Secretary of the Committee, one representative of each Village Panchayat in whose jurisdiction the reserve is located, three representatives of non-governmental organisations working in the field of wild life conservation and one representative each from the Department of Agriculture and Animal Husbandry.
- (3) The Committee shall regulate its own procedure including the quorum.]

**[36C. Declaration and management of community reserve. –**

- (1) The State Government may, where the community or an individual has volunteered to conserve wild life and its habitat, declare any private or community land not comprised within a national park, sanctuary or a conservation reserve, as a community reserve, for protecting fauna, flora and traditional or cultural conservation values and practices.
- (2) The provisions for sub-section (2) of sec. 18 sub-sections (2), (3) and (4) of Sec.27, Sec.30, 32 and Cls. (b) and (c) of Sec. 33 shall, as far as may be, apply in relation to a community reserve as they apply in relation to a sanctuary.
- (3) After the issue of notification under sub-section (1), no change in the land use pattern shall be made within the community reserve, except in accordance with a resolution passed by the management committee and approval of the same by the State Government.]

- [36D. Community reserve management committee.** –(1) The State Government shall constitute a Community Reserve management committee, which shall be the authority responsible for conserving, maintaining and managing the community reserve.
- (2) The committee shall consist of live representatives nominated by the Village Panchayat or where such Panchayat does not exist by the member of the Gram Sabha and one representative of the State Forests or Wild Life Department under whose jurisdiction the community reserve is located.
- (3) The committee shall be the competent authority to prepare and implement the management plan for the community reserve and to take steps to ensure the protection of wild life and the habitat in the reserve.
- (4) The committee shall elect a Chairman who shall also be the honorary Wild Life Warden of the community reserve.
- (5) The committee shall regulate its own procedure including the quorum.]

#### **Closed Area**

**[37. [Omitted 2002.]]**

Sanctuaries or National Park declared by Central Government

- 38. Power of Central Government to declare areas as Sanctuaries or National Park,** - (1) Where the State Government leases or otherwise transfers any area under its control, not being an area within a Sanctuary, to the

Central Government, the Central government may, if it is satisfied that the conditions specified in Sec.18 are fulfilled in relation to the area so transferred to it, declare such area, by notification, to be a sanctuary and the provisions of [Sec.18 to 35 (both inclusive)], 54 and 55 shall apply in relation to such sanctuary as they apply in relation to a sanctuary declared by the State Government.

- (2) The Central Government may, if it is satisfied that the conditions specified in Sec.35 are fulfilled in relation to any area referred to in sub-section (1), whether or not such area has been declared, to be a sanctuary by the Central government, or the State Government, declare such area, by notification, to be a National Park and the provisions of Secs.35, 54 and 55 shall apply to such National Park as they apply in relation to National Park declared by the State Government.
- (3) In relation to a sanctuary or a National Park declared by the Central Government, the powers and duties of the Chief Wildlife Warden under the Section referred to in sub-section (1) and (2), shall be exercised and discharged by the Director or by such other officer as may be authorised by the Director in this behalf and references in the sections aforesaid to the State Government, shall be construed as reference to the Central Government, and reference therein to the Legislation of the State shall be construed as reference to Parliament.

**[CHAPTER IVA]**  
**CENTRAL ZOO AUTHORITY AND**  
**RECOGNITION OF ZOOS**

- 38A. Constitution of Central Authority.** – (1) The Central Government shall constitute a body to be known as the Central Zoo Authority (hereinafter in this Chapter referred to as the Authority), to exercise the powers conferred on, and to perform the functions assigned to it under this Act.
- (2) The Authority shall consist of–
- (a) Chairperson;
  - (b) Such number of members not exceeding ten; and
  - (c) Member-Secretary;  
to be appointed by the Central Government.
- 38B. Term of office and conditions of service of chairperson and members etc.** –
- (1) The chairperson and every member [other than the Member-Secretary] shall hold office for such period, not exceeding three years, as may be specified by the Central Government.
  - (2) The chairperson or a member may, by writing under this hand, addressed to the Central Government, resign from the office of the chairperson or, as the case may be, of the Member.
  - (3) The Central Government shall remove a person from the office of chairperson or member referred to in subsection (2) if that person, -
    - (a) becomes an undischarged insolvent;
    - (b) gets convicted and sentenced to imprisonment

for an offence which, in the opinion of the Central Government, involves moral turpitude;

- (c) becomes of unsound mind and stands so declared by a competent court;
- (d) refuses to act or becomes incapable of acting;
- (e) is, without obtaining leave or absence from the authority, absent from three consecutive meetings of the Authority; or
- (f) in the opinion of the Central Government has so abused the position of chairperson or member as to render that person's continuance in office detrimental to the public interest:

Provided that no person shall be removed under this clause unless that person has been given a reasonable opportunity of being heard in the matter.

- (4) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh appointment.
- (5) The salaries and allowances and other conditions of appointment of chairperson, members and Member-Secretary of the Authority shall be such as may be prescribed.
- (6) The Authority shall, with the previous sanction of Central Government, employ such officer and other employees as it deems necessary to carry out the purposes of the Authority.
- (7) The terms and conditions of service of the officers and other employees of the Authority shall be such as may be prescribed.
- (8) No act or proceeding of the Authority shall be questioned or shall be invalid on the ground merely of



the existence of any vacancies or defect in the constitution of the Authority.

**38C. Functions of the Authority.** – The Authority shall perform the following functions, namely:

- (a) specify the minimum standards for housing, unkeep and veterinary care of animals kept in the zoo;
- (b) evaluate and assess the functioning of zoos with respect to the standards or the norms as may be prescribed;
- (c) recognise or derecognise zoos;
- (a) identify endangered species of wild animals for purposes of captive breeding and assigning responsibility in this regard to a zoo;
- (b) co-ordinate the acquisition, exchanging and loaning of animals for breeding purposes;
- (c) ensure maintenance of stud-books of endangered species of wild animals bred in captivity;
- (d) identify priorities and themes with regard to display of captive animals in a zoo;
- (e) co-ordinate training of zoo personnel in India and outside India;
- (f) co-ordinate research in captive breeding and educational programmes for the purposes of zoos;
- (g) provide technical and other assistance to zoos for their proper management and development on scientific lines;
- (h) perform such other functions as may be necessary to carry out the purposes of this Act with regards to zoos.

**38D. Procedure to be regulated by the Authority.** – (1) The Authority shall meet as and when necessary and shall meet as such time and place as the chairperson may think fit.

(2) The Authority shall regulate its own procedure.

(3) All orders and decisions of the Authority shall be authenticated by the Member-Secretary or any other officer of the Authority duly authorised by the Member-Secretary in this behalf.

**38E. Grants and loans to Authority and constitution of fund.** –

(1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants and loans of such sums of money as that Government may consider necessary.

(2) There shall be constituted a Fund to be called the Central Zoo Authority Fund and there shall be credited there to any grants and loans of such sums of money as the Government may consider necessary.

(3) The Fund referred to in sub-section (2) shall be applied for meeting salary, allowances and other remuneration of the members, officers and other employees of the Authority and the expenses of the Authority in the discharge of its functions under this chapter and expenses on objects and for purposes authorised by the Act.

(4) The Authority shall maintain proper accounts and other relevant records and prepare the annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.

- (5) The accounts of the Authority shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and the Auditor-General.
- (6) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.
- (7) The accounts of the Authority as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the Central Government by the Authority.

**38F. Annual report.** – The Authority shall prepare in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

**38G. Annual report and audit report to be laid before Parliament.** – The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they

relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid as soon as may be after the reports are received before each House of parliament.

**38H. Recognition of Zoos.**—(1) No zoo shall be operated without being recognised by the Authority.

Provided that a zoo is being operated immediately before the date of commencement of the Wild Life (Protection) Amendment Act, 1991 may continue to operate without being recognised for a period of [eighteen months from the date of such commencement and] if the application seeking recognition is made within that period, the zoo may continue to be operated until the said application is finally decided or withdrawn and in case of refusal for a further period of six months from the date of such refusal.

[(1A) On and after the commencement of the Wild Life (Protection) Amendment Act, 2002 a zoo shall not be established without obtaining the prior approval of the Authority.]

- (2) Every application for recognition of a zoo shall be made to the Authority in such form and on payment of such fee as may be prescribed.
- (3) Every recognition shall specify the conditions, if any, subject to which the applicant shall operate the zoo.
- (4) No recognition to a zoo shall be granted unless the Authority, having due regard to the interests of protection and conservation of wild life, and such standards, norms and other matters as may be prescribed, is satisfied that recognition should be granted.

- (5) No application for recognition of a zoo shall be rejected unless the applicant has given a reasonable opportunity of being heard.
- (6) The Authority may, for reason to be recorded by it, suspend or cancel any recognition granted under sub-section (4):

Provided that no such suspension or cancellation shall be made except after giving the person operating the zoo a reasonable opportunity of being heard.

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- (7) An appeal from an order refusing to recognise a zoo under sub-section (5) or an order suspending or cancelling a recognition under sub-section (6) shall lie to the Central Government.
- (8) An appeal under sub-section (7) shall be preferred within thirty days from the date of communication to the applicant, of the order appeal against:

Provided that the Central Government may admit any appeal preferred after the expiry of the period aforesaid if it is satisfied that the applicant had sufficient cause for not preferring the appeal.

**[38-I. Acquisition of animals by a zoo.** – (1) Subject to the other provisions of this Act, no zoo shall acquire, sell or transfer any wild animal or captive animal specified in Schedules I and II except with the previous permission of the Authority.

- (2) No zoo shall acquire, sell or transfer any wild or captive animal except from or to a recognised zoo.

**38J. Prohibition of teasing, etc., in a zoo.** – No person shall tease, molest, injure or feed any animal or cause disturbance to the animals by noise or otherwise, or litter the grounds in a zoo.

**CHAPTER V**  
**Trade or Commerce in Wild Animals**  
**Animal Articles and Trophies**

**39. Wild Animal, etc. to be government property.** –

1) Every –

- (a) wild animal, other than vermin, which is hunted under Sec.11 or Sec.29 or sub-section (6) of Sec.35 or kept or [bred in captivity or hunted] in contravention of any provisions of this Act or any rule or order made thereunder, or found dead, or killed by [\*\*\*] mistake;
- (b) animal article, trophy or uncured trophy or meat derived from any wild animal referred to in Cl. (a) in respect of which any offence against this Act or any rule or order made thereunder has been communicated;
- [c] ivory imported into India and an article made from such ivory in respect of which any offence against this Act or any rule or order made thereunder has been committed;
- (d) vehicle, vessel, weapon, trap or tool that has been used for committing an offence and has been seized under the provision of this Act.]  
shall be the property of the State Government and, where such animal is hunted in a sanctuary or National Park declared by he Central Government,

such animal or any article, trophy, uncured trophy or meat [derived from such animal or any vehicle, vessel, weapon, trap, or tool used in such hunting,] shall be the property of Central Government.

- (2) Any person who obtains, by any means, the possession of Government property, shall, within forty-eight hours of obtaining such possession, report it to the nearest police station or authorised officer and shall, if so required, handover, such property to the officer-in-charge of such police station or such authorised officer as the case may be.
- (3) No person shall, without the previous permission in writing of the chief Wildlife Warden or the authorised officer, -
  - (a) acquire or keep in his possession, custody, or control, or
  - (b) transfer to any person, whether by way of gift, sale or otherwise, or
  - (c) destroy or damage such Government property.

### **Comments**

Defective charge. – A reading of the charge shows that all that had been referred to therein is that the petitioner had displayed for sale of lizard and snake skin articles without declaring the same to the Chief Wildlife Warden. That no particulars whatsoever have been afforded as to what articles were seized, or which were the subject-matter of the charge, nor have any particulars been given as to species of lizards or snakes of which the articles are said to have been made, or for that matter no clue whatsoever has been afforded so to whether these articles referred to in the charge were made of any of those species specified in any

of the Schedules of the Wild Life (Protection) Act, 1972. That the charges being defective, the plea of guilt of the accused would be immaterial and of no consequence whatsoever and the conviction must hence fail. Thus it could be said that in so far as the charge is concerned, this too admits of several infirmities.

Ownership of the elephant who voluntarily quit the reserve forest and entered the private land where it died. - Determination of. – It is clear whatever might be the position in regard to live animals, as regards wild animals which are found dead in a private land the owner of the land is entitled to claim the ownership of the dead animal, and that the bodies of wild animal which are found on a particular land become the absolute property of the owner of the soil even if killed by a trespasser, unless the trespasser chased the animal on the land of one person and killed it on the land of another. Admittedly, the animal was found dead in the patta land of the appellant. The dead elephant in question had not been chased or pursued by the forest authorities, but it had been shot at by some unknown person and it voluntarily quit the reserve forest and entered the private land where it died. In this view, the order of the lower Appellate Court cannot be sustained.

- 40. Declaration.-(1)** Every person having at the commencement of this Act the control, custody or possession of any captive animal specified in Sch. I or Part II of Sch. II, [or animal article, trophy or uncured trophy] derived from such animal or salted or dried skin of such animal or the musk of a musk deer or the horn of a rhinoceros, shall, within thirty days from the commencement of this Act, declare to the Chief Wildlife Warden or the authorised officer the number and description of animal, or article of the foregoing



description under his control, custody or possession and the place where such animal or article is kept.

(2) no person shall, after the commencement of this Act, acquire, receive, keep in his control, custody or possession, sell, offer for sale, or otherwise transfer or transport any animal specified in Sch. 1 or Part II of Sch. II, any uncured trophy or meat derivative from such animal, or the salted or dried skin of such animal or the musk of a musk deer or the horn of a rhinoceros, except with the previous permission in writing of the Chief Wildlife Warden or the authorised officer.

[(2A) No person other than a person having a certificate of ownership, shall, after the commencement of the Wild Life (Protection) Amendment Act, 2002 acquire, receive, keep in his control, custody or possession any captive animal article, trophy or uncured trophy specified in Sch. 1 or Part II of Sch. II, except by way of inheritance.]

[(2B) Every person inheriting any captive animal, animal article, trophy or uncured trophy under sub-section (2A) shall, within ninety days of such inheritance make a declaration to the Chief wildlife Warden or the authorised officer and the provisions for Sec.41 and 42 shall apply as if the declaration had been made under sub-section (1) of Sec.40:

Provided that nothing in sub-sections (2A) an

(2B) shall apply to the live elephant.]

[(3) Nothing in sub-section (1) or sub-section (2) shall apply to a recognised zoo subject to the provisions of Sec.38I or to a public museum.]

- (4) The State Government may, by notification, require any person to declare to the Chief Wildlife warden or the authorised officer [any animal or animal article] or trophy (other than the musk of a musk deer or the horn of rhinoceros), or salted or dried skin derived from an animal specified in Sch. I or Part II of Sch. II in his control, custody or possession in such form, in such manner, and within such time as may be prescribed.

**[40A. Immunity in certain cases. –**

- (1) Notwithstanding anything contained in sub-sections (2) and (4) of Sec.40 of this Act, the Central Government may, by notification, require any person to declare to the Chief Wildlife warden or the authorised officer, any captive animal, animal article, trophy or uncured trophy derived from animal specified in Sch. I or Part II of Sch. II in his control, custody or possession, in respect of which no declaration had been made under sub-section (1) or sub-section (4) of Sec.40, in such form, in such manner and within such time as may be prescribed.
- (2) Any action taken or purported to be taken for violation of Sec.40 of this Act at any time before the commencement of the Wild Life (Protection) Amendment Act, 2002 shall not be proceeded with and all pending proceedings shall stand abated.
- (3) Any captive animal, animal article, trophy or uncured trophy declared under sub-section (1), shall be dealt in with such manner and subject to such conditions as may be prescribed.]

## Comments

**Offence.** – When could not be said to be made out.

– The admission by the petitioner-accused can only extend to the factual part incorporated in the charge, viz; that certain articles were seized from him and that he did not have or possess any certificates or documents issued by the authorities under the Wildlife (Protection) Act, 1972. But this cannot mean that the petitioner-accused admitted that the articles that were seized from him did require such documents as specified by the Wildlife (Protection) Act, 1972. This could have arisen only provided that the charge went further to state that the skins used in said articles were of the species of lizards or snakes mentioned in the Schedules. Looking to the nature of the complaint and the texture of the evidence led in this case, it is apparent that the petitioner never intend by his plea of guilty to admit more than the facts alleged against him were true. On the facts before the Court no offence has been made out, and the plea of guilty must be held to be immaterial in these circumstances.

**41. Inquiry and preparation of inventories.** –(1) On receipt of a declaration made under Sec. 40, the Chief Wildlife Warden or the authorised officer may, after such notice, in such manner and at such time as may be prescribed, -

- (a) enter upon the premises of a person referred to in Sec. 40;
- (b) make inquiries and prepare inventories of animal articles, trophies, uncured trophies, salted and dried skins, and captive animals specified in Sch. I and Part II of Sch. II and found thereon; and
- (c) affix upon the animals, animal articles, trophies

or uncured trophies, identification marks in such manner as may be prescribed.

(2) No person shall obliterate or counterfeit any identification mark referred to in this Chapter.

- 42. Certificate of ownership.** – The Chief Wildlife Warden may, for the purpose of Sec. 40, issue a certificate of ownership in such form, as may be prescribed, to any person who, in his opinion, is in lawful possession of any wild animal or animal article, trophy, or uncured trophy, and may, where possible, mark, in the prescribed manner, such animal article, trophy or uncured trophy for the purpose of identification.

[Provided that before issuing the certificate of ownership in respect of any captive animal, the Chief wildlife Warden shall ensure that the applicant has adequate facilities for housing, maintenance and upkeep of the animal.]

- [43. Regulation of transfer of animal, etc.]** – (1) No person having in his possession captive animal, animal article, trophy or uncured trophy in respect of which he has a certificate of ownership shall transfer by way of sale or offer for sale or by any other mode of consideration of commercial nature, such animal or article or trophy or uncured trophy.

(2) Where a person transfers or transport from the State in which he resides to another State or acquires by transfer from outside the State, any such animal, animal article, trophy or uncured trophy in respect of which he has a certificate of ownership, he shall, within thirty days of transfer or transport, report the transfer or transport to the Chief wildlife Warden or the authorised officer within whose jurisdiction the transfer or transport is effected.

- (3) Nothing in this section shall apply -
  - (a) to tail feather of peacock and the animal article or trophies made therefrom;
  - (b) to transfer of captive animals between recognised zoos subject to the provision of Sec. 38I, and transfer amongst zoos and public museums.]
- (4) Before granting any permission under sub-section (1) or sub-section (3), the Chief Wildlife Warden or the authorised officer shall satisfy himself that the animal or article referred to therein has been lawfully acquired.
- (5) While permitting the transfer or transport of any animal, animal article, trophy or uncured trophy, as is referred to in sub-section (1), the Chief Wildlife Warden or the authorised officer -
  - (a) shall issue a certificate of ownership after such inquiry as he may deem fit;
  - (b) shall, where the certificate of ownership existed in the name of the previous owner, issue a fresh certificate of ownership in the name of the person to whom the transfer have been effected;
  - (c) may affix an identification mark on any such animal, animal article, trophy or uncured trophy.
- 2) Nothing in this section shall apply –
  - [(a) to tail feather of peacock and the animal article or trophies made therefrom;]
  - [(b) to any transaction entered into by a recognised zoo subject to the provisions of Sec. 38I or by a public museum with any other recognised zoo or public museum.]

**44. Dealings in trophy and animal articles without licence prohibited.** – (1) [Subject to the provisions of Chapter VA, no person shall, except under, and in accordance with, a

licence granted under sub-section (4), -]

- (a) commence or carry on the business as –
  - (i) a manufacturer of, or dealer in, any animal article; or
  - (ia) [Omitted];
  - (ii) a taxidermist; or
  - (iii) a dealer in trophy or uncured trophy; or
  - (iv) a dealer in captive animal; or
  - (v) a dealer in meat; or
- (b) cook or serve meat in any eating-house;
- [(c) derive, collect or prepare, or deal in, snake venom,]:

Provided that nothing in this sub-section shall prevent a person, who immediately before the commencement of this Act was carrying on the business or occupation specified in the sub-section, from carrying on such business or occupation for a period of thirty days from such commencement, or where he has made an application within that period for the grant of a licence to him, until the licence is granted to him or he is informed in writing that a licence cannot be granted to him.

[Provided further that nothing in this sub-section shall apply to the dealers in tail feathers of peacock and articles made therefrom and the manufacturers of such article.]

Explanation. – For the purpose of this section, “eating-house” includes a hotel, restaurant or any other place where any eatable is served on payment, whether or not such payment is separately made for such eatable or is included in the amount charged in board and lodging.

- (2) Every manufacturer of , or dealer I animal article, or every dealer in captive animals, trophies or uncured trophies, or every taxidermist shall, within fifteen days from the commencement of this Act, declare to the Chief Wildlife Warden his stocks of animal articles, captive animals, trophies or uncured trophies, as the case may be, as on the date of such declaration and the Chief Wildlife warden or the authorised officer may place an identification mark on every animal article, captive animal or trophy or uncured trophy, as the case may be.
- (3) Every person referred to in sub-section (1) who intends to obtain a licence shall, make as application to the Chief Wildlife Warden or the authorised officer for the grant of a licence.
- (4) (a) Every application referred to in sub-section (3) shall be made in such form and on payment of such as fee s may be prescribed, to the Chief Wildlife Warden or the authorised officer.  
[(b) no licence referred to in sub-section (1) shall be granted unless the Chief Wildlife Warden or the authorised officer having regard to the antecedents and previous experience of the applicant, the implications which the grant of such licence would have on the status of wildlife and to such other matters as may be prescribed in this behalf and after making such inquiry in respect of those maters as he may think fit, is satisfied that the licence should be granted].
- (5) Every licence granted under this section shall specify the premises in which and the conditions, if any, subject to which the licensee shall carry on his business.

- (6) Every licence granted under this section shall -
  - (a) be valid for one year from the date of its grant;
  - (b) not be transferable; and
  - (c) be renewable for a period not exceeding one year at a time.
- (7) No application for the renewal of licence shall be rejected unless the holder of such licence has been given enough reasonable opportunity of presenting his case and unless the Chief Wildlife Warden or authorised officer is satisfied that -
  - (i) the application for such renewal has been made after the expiry of the period specified thereof, or
  - (ii) any statement made by the applicant at the time of the grant or renewal of the licence was incorrect or false in material particulars, or
  - (iii) the applicant has contravened any term of condition of the licence, or any provision of this Act, or any rule made thereunder, or
  - (iv) the applicant does not fulfil the prescribed conditions.
- (8) Every order granting or rejecting an application for the grant or renewal of a licence shall be made in writing.
- (9) Nothing in the foregoing sub-section shall apply in relation to vermi

### **Comments**

**Accused – When ought to have been discharged.** – The Wildlife (Protection) Act, 1972, was designed to afford protection to certain species of wildlife as were from time to time included in the various schedules of the Act. That



there are about 2,500 different types of lizards and over 3,00 types of snakes. That the Act does not extend to all types of lizards and snakes but only to those specified in the schedule. That the Act provides that it is an offence to deal in skins of such protected species. That in this matter the prosecution could only proceed on the basis that the articles seized were made of skins of lizards and snakes species protected by Act and the petitioner had thereby committed an offence, yet neither the complainant nor the evidence led had spelt out any offence. That this being the position, no charge could have been framed. That the petitioner's plea of guilty would, therefore, be of no relevance whatsoever, for the petitioner could never have been convicted on the material placed before the court. That in the result, the order was liable to be set aside and the petitioner ought to have been discharged.

**Absence of licence for dealing in articles and its effect. –**

It is the prosecution case that the petitioner carries the business in the firm name and the style of “Jooti” at Hotel Sea Rock, Bandra, Bombay. That on the 4<sup>th</sup> August, 1981, the petitioner was found exhibiting for sale articles made of lizard and snake skins. Hence on the 5<sup>th</sup> of August, 1981, the respondent accompanied by one Assistant Conservator of Forests raided the said shop. At this time they were accompanied by two panchas. During the course of this raid certain articles came to be seized and a panchanama was drawn up. The complaint shows that the respondent asked the petitioner to produce a dealer's licence for dealing in articles or such documents as required to be kept under the Wildlife (Protection) Act, 1972, and the petitioner was unable to produce this. That it is in view of this that petitioner was charged with having committed offences under Sec.51 read with Sec 39 (3), Sec. 51 read

with Sec.40 (1), Sec.51 read with Sec. 40 (2), Sec. 51 read with Sec. 44 (4), Sec. 51 read with Sec. 44 (1), Sec. 51 read with Sec. 44 (2) and Sec. 51 read with Sec. 49 of the said Act. That nowhere in the complaint has it been stated that the article seized were made of the skins of lizards or snakes such as were specified in any of Sch. I, Sch. II, Sch. II, Sch. IV, or Sch. V, or were otherwise covered by the Act, and if the complaint did not make out the case, then ex facie no offence was disclosed and no further proceeding could lie nor could any subsequent proceeding, continue, much less would the question of petitioner putting in a plea of guilty or otherwise arise. Further the statement only shows that the petitioner admitted two facts: (1) that he were in possession of the articles that were seized from him, and (2) that he did not have any documents issued under the provision of the Wildlife (Protection) Act, 1972. But this statement can never mean that the petitioner accepted the position that the article seized from him required any certification or permission from the wildlife protection authorities or that the articles were made of the skins of lizards and snakes covered under one or the other schedules. That this too cannot assist the prosecution in any manner whatsoever. Thus, it could be said that on this basis no charge have been framed and the accused ought to have been discharged.

45. **Suspension or cancellation of licence.** – Subject to any general or special order of the State Government the Chief Wildlife Warden or the authorised officer may, for reason to be recorded by him in writing, suspend or cancel any licence granted or renewed under Sec. 44:

Provided that no such suspension or cancellation shall be made except after giving the holder of the licence a reasonable opportunity of being heard.

- 46. Appeal.** – (1) An appeal from an order refusing to grant or renew a licence under Sec. 44 of an order suspending or cancelling a licence under Sec. 45 shall lie –
- (a) if the order is made by the authorised officer, to the Chief Wildlife Warden, or
  - (b) if the order is made by the Chief Wildlife Warden to the State Government.
- (2) In the case of an order passed in appeal by the Chief Wildlife Warden under Cl. (a) of sub-section (1), a second appeal shall lie to the State Government.
- (3) Subject as aforesaid, every order passed in appeal under this section shall be final.
- (4) An appeal under this section shall be preferred within days from the date of the communication, to be applicant, or the order appealed against.

Provided that the appellate authority may appeal preferred after the expiry of the period aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

- 47. Maintenance of records.** – A licensee under this Chapter shall -
- (a) keep records, and submit such returns of his dealings, as may be prescribed. –
    - (i) to the Director or any other officer authorised by him in his behalf, and
    - (ii) to the Chief Wildlife Warden or the authorised officer, and
  - (b) make such records available on demand for inspection by such officers.

**48. Purchase of animal, etc., by licensee.** – No licensee under this Chapter shall -

- (a) keep in his control, custody or possession –
  - (i) any animal, animal article, trophy or uncured trophy in respect of which a declaration under the provisions of sub-section (2) of Sec. 44 has to be made but has not been made;
  - (ii) any animal or animal article, trophy or uncured trophy or meat which has not been lawfully acquired under the provisions of this Act or any rule of order made thereunder.
- (b) (i) capture any wild animal, or
  - (ii) acquire, receive, keep in control, custody or possession, or sell, offer to sale, or transport, any captive animal specified in Sch. I or Part II of Sch. II or any animal article, trophy or uncured trophy, or meat derived therefrom, or serve such meat, or put under a process of taxidening or make animal article containing part or whole of such animal, except in accordance with such rules as may be made under this Act:

Provided that where the acquisition, or possession, or control, or custody of such animal, animal article, trophy or uncured trophy entails the transfer or transport from one State to another, no such transfer or transport shall be effected except with the previous permission in writing of the Director or any other officer authorised by him in his behalf.

Provided further that no such permission under the foregoing proviso shall be granted unless the Director or

the officer authorised by him is satisfied that the animal or article has been lawfully acquired.

**[48A. Restriction of transportation of wildlife.** – No person shall accept any wild animal (other than vermin) or any animal article, or any specified plant or part or derivative thereof, for transportation except after exercising due care to ascertain that permission from the Chief Wildlife Warden or any other officer authorised by the State Government in this behalf has been obtained for such transportation.]

**49. Purchase of captive animal, etc. person other than a licensee.** – No person shall purchase, receive or acquire any captive animal, wild animal other than vermin, or any animal article, trophy or uncured trophy, or meat derived therefrom otherwise than from a dealer or from a person authorised to sell or otherwise transfer the same under this Act.

[Provided that nothing in this section shall apply to a recognised zoo subject to the provision of Sec. 38I or to a public museum.]

#### **Comments**

Absence of offence in the complaint and its effect. – The complaint in the present case, *ex facie* does not disclose any offence whatsoever in as much as there is not a clue as to whether the articles seized were made of skins of the species of lizards or snakes specified in any of the several Schedules of the Act. The matter ought to have ended there. In so far as the evidence is concerned, here again one finds the same lacuna and unless the prosecution went further to establish that the article seized were made of skins of those species specified in one or the other of the several Schedules, the question of there being an offence

cannot arise. The so-called confessional statement does not assist the prosecution. Therefore the charge should be quashed.

**[CHAPTER VA]**

**Prohibition of Trade or Commerce in Trophies,  
Animal Articles, etc. derived from certain Animals.**

**49A. Definitions.** – In this Chapter, -

- (a) “scheduled animal” means an animal specified for the time being in Sch. I or Part II of Sch. II;
- (b) “scheduled animal article” means an article made from any scheduled animal and includes an article or object in which the whole or any part of such animal [has been used but does not include tail-feather of peacock, an article or trophy made therefrom and snake venom or its derivatives;]
- (c) “specified date” means –
  - (I) in relation to a scheduled animal on the commencement of the Wildlife (Protection) Amendment Act, 1986, the date of expiry of two months from such commencement.
  - (ii) in relation to any animal added or transferred to Sch. I or Part II of Sch. II at any time after such commencement, the date of expiry of two months such addition or transfer;
  - [(iii) in relation to ivory imported into India or an article made from such ivory, the date of expiry of six months from the commencement of the Wildlife (Protection) Amendment Act, 1991.]

## Comments

Section 49A (a), (c) in the amended Act provides only two months time to the dispose of scheduled animal articles. Several traders had filed writ petitions complaining that this time is not sufficient and had obtained stay orders from various High Courts. In 1992, World Wild Fund for nature intervened in the said petitions and after a keen contest by the traders succeeded in getting the said stay order vacated on 22<sup>nd</sup> May 1992. Thus, though a complete embargo on trade in animal articles, etc. was imposed in November 1986, it actually came into operation in May 1992.

**49B. Prohibition of dealing in trophies, animal articles, etc. derived from Scheduled animals.** – (1) Subject to the other provisions of this section, on and after the specified date, no person shall –

- (a) commence or carry on the business as –
  - (i) a manufacturer of, or dealer, in scheduled animal articles; or
  - [(Ia) a dealer in ivory imported into India or article made therefrom or a manufacturer of such article; or]
  - (ii) a taxidermist with respect to any schedule animals or any parts of such animals; or
  - (iii) a dealer in trophy or uncured trophy derived from any scheduled animal; or
  - (iv) a dealer in any captive animal being scheduled animal; or
  - (v) a dealer in meat derived from any scheduled animal; or
- (b) cook or serve meat derived from any scheduled animal in any eating-house.

Explanation – For the purposes of this sub-section, “eating-house” has the same meaning as in the Explanation below sub-section (1) of Sec.44.

- (2) Subject to the other provisions of this section, no licence granted or renewed under Sec. 44 before the specified date shall entitle the holder thereof or any other person to commence or carry on the business referred to in Cl. (a) of sub-section (1) of this section on the occupation referred into Cl. (b) of that sub-section after such date.
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2), where the Central Government is satisfied that it is necessary or expedient to do so in the public interest, it may, by general or special; order published in the official Gazette, exempt, for purposes of export, any corporation owned or controlled by the Central Government (including a Government company within the meaning of Sec. 617 of the Companies Act, 1956 (1 of 1956), or any society registered under the Societies Registration Act, 1860 (21 of 1860), or any other law for the time being in force, wholly or substantially financed by the Central Government, from the provisions of sub-sections (1) and (2).
- (4) Notwithstanding anything contained in sub-section (1) or sub-section (2), but subject to any rule which may be made in this behalf, a person holding a licence under section 44 to carry on the business as a taxidermist may put under a process of taxidermy any scheduled animal or any part thereof, -
  - (a) for or on behalf of the Government or any corporation or society exempted under sub-section (3), or



- (b) with the previous authorisation in writing of the Chief Wildlife Warden, for and on behalf of any person for educational or scientific purposes.

**49C. Declaration by dealer.**—(1) Every person carrying on the business or occupation referred to in sub-section (1) of Sec. 49B shall, within thirty days from the specified date, declare to the Chief Wildlife Warden or the authorised officer, -

- (a) his stock, if any, as at the end of the specified date of—
    - (i) scheduled animal articles;
    - (ii) scheduled animals and part thereof;
    - (iii) trophies and uncured trophies derived from scheduled animals;
    - (iv) captive animals, being scheduled animals;
    - [(v) ivory imported into India or article made therefrom.]
  - (b) the place or places at which the stocks mentioned in the declaration are kept; and
  - (c) the description of such items, if any, of the stocks mentioned in the declaration which he desires, to retain with himself for his bonafide personal use.
- (2) On receipt of a declaration under sub-section (1), the Chief Wildlife Warden or the authorised officer may take all or any of the measures specified in Sec. 41 and for this purpose, the provisions of Sec. 41 shall, so far as may be, apply.
- (3) Where, in a declaration made under sub-section (1), the person making the declaration expresses his desire

to retain with himself any of the items of the stocks specified in the declaration for his bonafide personal use, the Chief Wildlife Warden, with the prior approval of the Director, may, if he is satisfied that the person is in lawful possession of such items, issue certificate of ownership in favour of such person with respect to all, or as the case may be, such of the items as in the opinion of the Chief Wildlife warden are required for the bonafide personal use of such person and affix upon such items identification marks in such manner a may be prescribed.

Provided that no such item shall be kept in commercial premises.

- (4) No person shall obliterate or counterfeit any identification mark referred to in sub-section (3).
- (5) An appeal shall lie against any refusal to grant certificate of ownership under sub-section (3) and the provisions of sub-sections (2), (3) and (4) of Sec. 46 shall, so far as may be, apply in relation to appeals under this sub-section.
- (6) Where a person who has been issued a certificate of ownership under sub-section (3) in respect of any item, -
  - (a) transfer such item to any person, whether by way of gift, sale or otherwise, or
  - (b) transfer or transport from the State in which he resides to another State in which he resides, he shall, within thirty days of such transfer or transport, report the transfer or transport to the Chief Wildlife Warden or the authorised officer within whose jurisdiction the transfer or transport is effected.

- (7) No person, other than a person who has been issued a certificate of ownership under sub-section (3) shall, on and after the specified date, keep under his control, sell or offer to sale or transfer to [any person any scheduled animal or scheduled animal article or ivory imported into India or any article made therefrom.]

## **CHAPTER VI**

### **Prevention and Detection of Offences.**

- 50. Power of entry, search, arrest and detention. – (1)** Notwithstanding anything contained in any other law for the time being in force, the Director or any other authorised by him in his behalf or the Chief Wildlife Warden or the authorised officer or any forest officer or any police officer not below the rank of a sub-inspector may, if he has reasonable grounds for believing that any person has committed an offence against this Act, -
- (a) require any such person to produce for inspection of any captive animal, wild animal, animal article, meat, [trophy, uncured trophy, or nay specified plant or part or derivative thereof] in his control, custody or possession, or any licence, permit or any other document granted to him or required to be kept by him under the provisions of this Act;
  - (b) stop any vehicle or vessel in order to conduct search or inquiry or enter upon and search any premises, land, vehicle, or vessel in the occupation of such person, and open or search any baggage or other things in his possession;

[(c) seize any captive animal, wild animal, animal article, meat, trophy or uncured trophy, or any specified plant or part or derivative thereof in respect of which an offence against this Act appears to have been committed, in the possession of any person together with any trap, tool, vehicle, vessel, or weapon used for committing any such offence and unless he is satisfied that such person will appear and answer any charge which may be preferred against him, arrest him without any warrant and detain him.

Provided that where a fisherman, residing within ten kilometres of a sanctuary or National Park, inadvertently enters on a boat not used for commercial fishing, in the territorial waters in the sanctuary or National Park, a fishing tackle or net on such boat shall not be seized.]

(2) [Omitted 1991.]

(3) It shall be lawful for any of the officers referred to in sub-section (1) to stop and detain any person, whom he sees doing any act for which a licence or permit is required under the provisions of this Act, for the purposes of requiring such person to produce the licence or permit and if such person fails to produce the licence or permit, as the case may be, he may be arrested without warrant, unless he furnishes his name and address, and otherwise satisfy the officer arresting him that he will duly answer any summons or other proceedings which may be taken against him.

[(3A) Any officer of a rank not inferior to that of an Assistant Director of Wildlife Preservation or [an

Assistant Conservator of Forests], who, or who's subordinate, has seized any captive animal or wild animal under Cl. (c) of sub-section (1) may give the same for custody on the execution of any person of a bond for the production of such animal if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.]

- (4) Any person detained, or thing seized under the foregoing power, shall forthwith be taken before a Magistrate to be dealt with according to law [under intimation to the Chief Wildlife Warden or the officer authorised by him in this regard].
- (5) Any person who, without reasonable cause, fails to produce anything, which he is required to produce under this section, shall be guilty of an offence against the Act.
- (6) [(a) Where any meat, uncured trophy, specified plant or part or derivative thereof is seized under the provisions of this section, the Assistant Director of Wild Life Preservation or any other officer of a Gazetted rank authorised by him in this behalf or the Chief Wildlife Warden or the authorised officer may arrange for the disposal of the same in such manner as may be prescribed.]
  - (b) Where it is proved that the [meat or uncured trophy, specified plant or part or derivative thereof] seized under the provision of this section is not Government property, the proceed of the sale shall be returned to the owner.
- (7) Whenever any person is approached by any of the officers referred to in sub-section (1) for assistance in

the prevention or detection of an offence against this Act, or in apprehending persons charged with the violation of this Act, or for seizure in accordance with Cl. (c) of sub-section (1), it shall be the duty of such person or persons to render such assistance.

[(8) Notwithstanding anything contained in any other law for the time being in force, any officer not below the rank of an Assistant Director of Wildlife Preservation or [an officer not below the rank of Assistant Conservator of Forests authorised by the State Government in this behalf] shall have the powers, for the purpose of making investigation into any offence against any provision of this Act. –

- (a) to issue a search warrant;
- (b) to enforce the attendance of witness;
- (c) to compel the discovery and production of documents and material objects, and;
- (d) to receive and record evidence.

(9) Any evidence recorded under Cl. (d) of sub-section (8) shall be admissible I any subsequent trial before a Magistrate provided that it has been taken in presence of the accused person.]

**51. Penalties.** – (1) Any person who [contravenes any provisions of this Act [except Chapter VA and Sec. 38J]] or any rule or order made thereunder or who commits a breach of any of the conditions of any licence or permit granted under this Act, shall be guilty of an offence against this Act, and shall, on conviction, be punishable with the imprisonment for a term which may extend to [three years] or with fine which may extend to [twenty five thousand rupees] or with both.

[Provided that where the offence committed is in

relation to any animal specified in Sch. I or Part II of Sch. II or meat of any such animal or animal article, trophy or uncured trophy derived from such animal or where the offence relates to hunting in a sanctuary or a National Park or altering the boundaries of a sanctuary or a National Park, such offences is punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and also with fine which shall not be less than ten thousand rupees:

Provided further that in case of a second or subsequent offence of the nature mentioned in this subsection, the term of the imprisonment shall not be less than three years but may extend to seven years and also with fine which shall not be less than twenty-five thousand rupees.]

[(1A) Any person who contravenes any provisions of Chapter VA, shall be punishable with imprisonment for a term which shall not be less than [three years] but which may extend to seven years and also pwith fine which shall not be less than [ten thousand rupees].

[(1B) Any person who contravenes the provisions of Sec. 38J] shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or both

Provided that in case of second or subsequent offence the term of imprisonment may extend to one year or the fine may extend to five thousand rupees.]

(2) When any person is convicted of an offence against this Act, the Court trying the offence may order that any captive animal, wild animal, animal article, trophy, [uncured trophy, meat, ivory imported into

India or an article made from such ivory, any specified plant or part or derivative thereof] in respect of which the offence has been committed, any trap, tool, vehicle, vessel, or weapon used in the commission of the said offence be forfeited to the State Government and that any licence or permit, held by such person under the provisions of this Act, be cancelled.

- (3) Such cancellation of licence or permit or such forfeiture shall be in addition to any other punishment that may be awarded for such offence.
- (4) Where any person is convicted of an offence against this Act, the Court may direct that the licence, if any, granted to such person under the Arms Act, 1959 (54 of 1959) for possession of any arm with which an offence against this Act has been committed, shall be cancelled, and that person shall not be eligible for a licence under the Arms Act, 1959, for a period of five years from the date of conviction.

[(5) Nothing contained in Sec. 360 of the Code of Criminal Procedure, 1973 (2 of 1974) or in the Probation of Offenders Act, 1958 (20 of 1958) shall apply to a person convicted of an offence with respect to hunting in a sanctuary or a National Park or of an offence against any provision of Chapter VA unless such person is under eighteen years of age.]

**[51A. Certain conditions to apply while granting bail.** – When any person accused of, the commission of any offence relating to Sch. I or Part II of Sch. II or offences relating to hunting inside the boundaries of National Park or wildlife sanctuary or altering the boundaries of such parks and sanctuaries, is arrested under the provisions of the Act, then



notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no such person who had been previously convicted of an offence under this Act shall, be released on bail unless –

- (a) the Public Prosecutor has been given an opportunity of opposing the release on bail; and
- (b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.]

### **Comments**

**Question of sentence.** – In the under-noted case, so far as the merit of the case is concerned, it is no doubt concluded by the concurrent findings of the Courts below that the High Court has got very limited power to interfere with the concurrent findings of the Court below in its revisional jurisdiction. So far as the sentence awarded to the petitioners is concerned, it is submitted that the occurrence took place in 1974, i.e. ten years ago, and no fruitful purpose would be served in sending the petitioners, who are on bail, again to jail after a lapse of ten years. It is pleaded that the sentence be converted into some fine. The ends of justice would be fully met if the sentence of rigorous imprisonment of three months is altered into a fine of Rs.50/- each. The fine must be paid by each of the petitioners within two months from today. If the petitioners fail to pay the fine with the time specified, the modification in the sentence would become inoperative.

**If it is an offence for a person holding a licence to go about with a loaded gun in his possession.** – To convict the accused under the Act, it is necessary to prove that he

had either killed or attempted to kill one of the animals or birds mentioned in the schedules. But there is no evidence to show that he had actually fired at any bird or animal, much less at any mentioned in the schedules of the Act. It is no offence for a person holding a licence to go about with a loaded gun in his possession. Therefore the conviction could be quashed.

**Conviction – when could be set aside.** – The petitioner was questioned and he is said to have made a statement admitting his guilt. This statement was reduced to writing. That a complaint was then filed in the Court of the Additional Chief Metropolitan Magistrate. The complaint was proceeded with and the evidence of the respondent and of one of paanchs came to be recorded. On the basis of this evidence, the learned Magistrate proceeds to frame a charge. On the charge being framed, the accused pleaded “guilty”. By his order and judgement dated the 13<sup>th</sup> of April 1983, the learned Magistrate convicted the petitioner on various counts, and sentenced him. That in the evidence of the prosecution witness there is no mention whatsoever that the articles seized were or are made of the skins of such lizards or snakes, the species whereof have been enumerated in any one of the several schedules. That there are over 2,500 species of lizards and over 3,00 species of snakes, a position borne out by the Encyclopaedia Britannica, and if this be so, it was incumbent on the prosecution to lead evidence to show that the articles seized were made of the skins of such lizards and snakes such as were specified in one or the other schedules of the said Act. That since the prosecution failed to establish this fact, the prosecution must fail. The panchanama has, of course, been put in, but this can only establish the fact of

what as seized at the time of the raid and no more, and cannot advance the prosecution case any further. The provisions of the Wildlife (Protection) Act, 1972, have been designed to prevent discrimination and commercial exploitation of rare species of animal and reptiles, and prosecution need to be undertaken and conducted in all seriousness. In this matter, however, right from the complaint till the completion of the evidence the approach of the prosecution has been casual in as much as the prosecution has failed to adduce any evidence that the article seized were made of the skins of such lizards or snakes as were enumerated in one or the other schedule. In the result, the conviction and sentence is set aside.

In the evening of 8<sup>th</sup> May 1975, a tiger was shot dead by the accused petitioner at about 5.30 pm et Changlai Camp, while on sentry duty. The accused, prior to shooting, informed the Guard Commander of the presence of the tiger and the Commander instructed that 2/3 round might be fired into the air to scare it away, but while this was being done, the tiger instead of fleeing, charged at the accused who fired two shots at it, one hitting the left shoulder blade and the other the chest, and so hit, the tiger jumped and fall dead a few yards away. In the instant case it is in record that the accused did not got out of his post while the tiger approached him. On three shots being fired in the air, the animal instead of fleeing away charged at the accused seeing which the accused fired two shots to kill, which killed the tiger. The Deputy Commissioner, while convicting the accused under Sec.51 (1), followed the spirit of the Act to protect Wildlife but the provision of Sec.11 were not brought to his notice.

**No fault can be found with the acquittal where the**

**evidence is insufficient.** – The respondents were charged with having allegedly killed two tigers on 21/22 March, 1979, by administering poison and deskinning them, which was punishable under Sec. 51 of the Act. The prosecution case, in brief, was that the appellants had mixed aldrin into the water for drinking by animals, which resulted in the death of two tigers. Thereafter, they took away those tigers and deskinning them. On receiving this information the Range Officer Hanslal informed the police authorities. Later on, the tiger skins, nails, and meat were seized from some of the respondents. During the trial the first prosecution witness stated that the police did not know who had brought the tiger skins, etc., to the police station. He also denied any memorandum having been made in his presence though he admitted his signatures on the memorandums and seizure memos. The witness was therefore, declared hostile and was permitted to be cross-examined. The second witness also denied that any of the respondents was interrogated in his presence. He further denied any seizure from the respondents. In spite of it, he accepted his signatures on the memorandums and seizure memos. This witness was, also, declared hostile and cross-examined. During the cross-examination, he admitted that the tiger skins were seized in his presence and that he had signed the seizure memo. He also admitted that the respondents had given statements leading to the recovery of the seized articles. The third witness did not support the prosecution, as during the cross-examination he was not able to say how much aldrin was sufficient to kill a tiger. He did not also know how much aldrin was found in the stomach of the tigers. According to him, aldrin was an agricultural insecticide easily available in the market. Except for these there is no other witness to connect the

respondents with the crime. The aforesaid evidence, however, does not indicate that the respondents had either mixed aldrin, or given any statement leading to recovery of the articles at their instance. The evidence being insufficient, no fault can be found with the acquittal of the respondents.

- 52. Attempts and abetment.** – Whoever attempts to contravene, or abets the contravention of, any of the provisions of this Act or for any rule of order made thereunder shall be deemed to have contravened that provision or rule or order, as the case may be.
- 53. Punishment for wrongful seizure.** – If any person, exercising powers under this Act, vexatiously and unnecessarily seizes the property of any other person on the pretence of seizing it for the reasons mentioned in Sec. 50, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.
- [54. Power to compound offences.** –
- (1) The Central Government may, by notification, empower the Director of Wild Life Preservation or any other officer not below the rank of Assistant Director of Wild Life Preservation and in the case of a State Government in the similar manner, empower the Chief Wildlife Warden or any officer of a rank not below the rank of a Deputy Conservator of Forests, to accept from any person against whom a reasonable suspicion exists that he has committed an offence against this Act, payment of a sum of money by way of composition of the offence which such person is suspected to have committed.

- (2) On payment of such sum of money to such officer, the suspected person, if in custody, shall be discharged and no further proceedings in respect of the offence shall be taken against such person.
- (3) The officer compounding any offence may order the cancellation of any licence or permit granted under this Act to the offender, or if not empowered to do so, may approach an officer so empowered, for the cancellation of such licence or permit.
- (4) The sum of money accepted or agreed to be accepted as composition under sub-section (1) shall, in no case, exceed the sum of twenty-five thousand rupees:

Provided that no offence, for which a minimum period of imprisonment has been prescribed in Sec. 51, shall be compounded.]

### **Comments**

**Jurisdiction to file the complaint.** – A Wildlife Warden in Palamau National Park submitted a forwarding report on 28<sup>th</sup> December, 1974, to the Sub-Divisional Judicial Magistrate, Lather alleging, inter alia, that while he along with the other staff was on patrolling duty in the Betla Reserve Forest, he heard a gunshot. When the patrolling party reached the Junction of roads No. 2 and 5, they heard some sound of people talking and saw that a bison was lying dead and one of the petitioners was standing with a gun while the other petitioners were skinning the dead animal. The patrolling party could catch only petitioners 1 and 3 and it was alleged that petitioners no. 4 managed to escape. The complainant prepared a seizure list on the spot and arrested petitioners 1 to 3. Therefore a complaint was filed on the basis of which Sub-Divisional Judicial

Magistrate, Latehar took cognisance against the petitioners and they were put on trial. It was submitted that the entire conviction and the sentence was bad in law and fit to be set aside because the complaint had not been filed by any officer who has either the Chief Wildlife Warden or an officer authorised under the Act by the State Government. It may be relevant to mention here that Sec. 5(2) of the Act also gives power to the authorities concerned to delegate his power to any of his subordinate officers. Therefore it could not be said that the complaint had no jurisdiction or no authority to file the complaint.

**[55. Cognisance of offences.** – No Court shall take cognisance of any offence against this Act on the complaint of any person other than –

- (a) the Director of Wild Life Preservation or any other officer authorised in this behalf by the State Government; or
- [(aa) the Member-Secretary, Central Zoo Authority in matters relating to violation of the provisions of Chapter IVA; or]
- (b) the Chief Wildlife Warden or nay other officer authorised in this behalf by the State Government, [subject to such conditions as may be specified by that Government;] or
- [(bb) the officer-in-charge of the zoo in respect o violation of provisions of Sec. 38J;] or
- (c) any person who has given notice not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the officer authorised aforesaid.

**56. Operation of other laws not barred.** – Nothing in the Act shall be deemed to prevent any person from being prosecuted under any other law for the time being in force, for any act or omission which constitutes an offence against this Act or from being liable under such other law to any higher punishment or penalty than that provide by this Act.

Provided that no person shall be punished twice for the same offence.

**57. Presumption to be made in certain cases.** – Where in any prosecution for one offence against this Act, it is established that a person is in possession, custody or control of any captive animal, animal article, [meat, trophy, uncured trophy, specified plant or part or derivative thereof,] it shall be presumed until the contrary is proved, the burden of proving which shall lie on the accused, that such person is in unlawful possession, custody or control of such captive animal, animal article, meat, [trophy, uncured trophy, specified plant, or part of derivative thereof.]

**58. Offences by companies.** – (1) Where an offence against this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be prosecuted against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.



- (2) Notwithstanding anything contained in sub-section (1), where an offence against this Act has been committed by a company and it is proved that the offence has been committed with the consent or the connivance of, or is attributable to any neglect on the part of any director, manager, secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation – For the purpose of this section, -

- (a) “company” means any body corporate or includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm means partner in the firm.

**[CHAPTER VIA]**  
**[FORFEITURE OF PROPERTY DERIVED FROM**  
**ILLEGAL HUNTING OR TRADE**

**[58A. Application.** – the provisions of this Chapter shall apply only to the following persons, namely: -

- (a) every person who has been convicted of an offence punishable under this Act with imprisonment for a term of three years or more;
- (b) every associate of a person referred to in clause (a);
- (c) any holder (hereafter in this clause referred to as the present holder) of any property which was at any time previously held by a person referred to in clause (a) or clause (b) unless the present holder or, as the case may

be, any one who held such property after such person and before the present holder, is or was a transferee in good faith for adequate consideration.]

- [58B. Definitions.** – (a) “Appellate Tribunal” means the Appellate Tribunal for Forfeited property constituted under Sec. 58N;
- (b) “associates” in relation to a person whose property is liable to be forfeited under this Chapter, includes –
- (i) any individual who had been or is managing the affairs or keeping the accounts of such person;
  - (ii) any association of persons, body of individuals, partnership firm or private company within the meaning of the Companies Act, 1956 of which such person had been or is a member, partner or director;
  - (iii) any individual who had been or is a member, partner or director of an association of persons, body of individuals, partnership firm or private company referred to in sub-clause (ii) at any time when such person had been or is a member, partner or director of such association, body, partnership firm or private company;
  - (iv) any person, who had been or is managing the affairs, or keeping the accounts of any association of persons, body of individuals, partnership firm or private company referred to in sub-clause (iii);

- (v) the trustee of any trust, where, -
  - (1) the trust has been created by such person; or
  - (2) the value of the assets contributed by such person (including the value of the assets, if any, contributed by him earlier) to the trust amounts on the date on which contribution is made, to not less than twenty percent, of the value of the assets of the trust on that date;
- (vi) where the competent authority, for reasons to be recorded in writing, considers that any properties of such person are held on his behalf by any other person, such other person;
- (c) “competent authority” means an officer authorised under Sec. 58D;
- (d) “concealment” means the concealment of disguise of the nature, source, disposition, movement or ownership of property and includes the movement or conversion of such property by electronic transmission or by any other means;
- (e) “freezing” means temporarily prohibiting the transfer, conversion, disposition or movement of property by an order issued under Sec. 58F;
- (f) “identifying” includes establishment of proof that the property was derived from, or used in, the illegal hunting and trade of wild life and its products;
- (g) “illegally acquired property” in relation to any person to whom this Chapter applies, means, -

- (i) any property acquired by such person, wholly or partly out of or by means of any income, earnings or assets derived or obtain from or attributable to illegal hunting and trade of wild life and its products and derivatives;
- (ii) any property acquired by such person, for a consideration or by any means, wholly or partly traceable to any property referred in the sub-clause (i) or the income or earning from such property, and includes –
  - (A) any property held by such person which would have been, in relation to any previous holder thereof, illegally acquired property under this clause if such previous holder had not ceased to hold it, unless such person or any other person who held the property at any time after such previous holder or, where there are two or more such previous holders, the last of such previous holders is or was a transferee in good faith for adequate consideration;
  - (B) any property acquired by such person, for a consideration, or by any means, wholly or partly traceable to any property falling under item (A), or the income or earnings therefrom;
- (h) “property” means property and assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets, derived from the illegal hunting and trade of wild life and its products;

- (i) “relative” means –
  - (1) spouse of a person;
  - (2) brother or sister of the person;
  - (3) brother or sister of the spouse of the person;
  - (4) any lineal ascendant or descendant of the person;
  - (5) any lineal ascendant or descendant of the spouse of the person;
  - (6) spouse of a person referred to in sub-clause (2), sub-clause (3), sub-clause (4) or sub-clause(5);
  - (7) any lineal descendant of a person referred to in sub-clause (2) or sub-clause (3);
- (j) “tracing” means determining the nature, source, ,disposition, movement, title or ownership of property;
- (k) “trust” includes any other legal obligation.]

**[58C. Prohibition of holding illegally acquired property.–**

- (1) From the date of commencement of this Chapter, it shall not be lawful for any person to whom this Chapter applies to hold any illegal acquired property either by himself or through any other person on his behalf.
- (2) Where any person holds such property in contravention of the provisions of sub-section (1), such property shall be liable to be forfeited to the State Government concerned in accordance with the provisions of this Chapter:

Provided that no property shall be forfeited under this Chapter if such property was acquired by a person to whom this Act applies before a period of six years from the date on which he was charged for an offence

relating to illegal hunting and trade of wild life and its products.]

- [58D. Competent authority.** – The State Government may, by order published in the Official Gazette, authorised any officer not below the rank of Chief Conservator of Forests to perform the functions of the competent authority under this Chapter in respect of such persons or classes of persons as the State Government may, direct.]
- [58E. Identifying illegally acquired property.** – (1) An officer not below the rank of Deputy Inspector General of Police duly authorised by the Central Government or as the case may be, the State Government, shall, on receipt o a complaint from the competent authority about any person having illegally acquired property, proceed to take all steps necessary for facing and identifying any property illegally acquired by such person.
- (2) The steps referred to in sub-section (1) may include any inquiry, investigation or survey in respect of any person, place, property, assets, documents, books of account in any bank or financial institution or any other relevant step as may be necessary.
- (3) Any inquiry, investigation or survey referred to in sub-section (2) shall be carried out by any officer mentioned in sub-section (1) in accordance with such directions or guidelines as the competent authority may make or issue in this behalf.]
- [58F. Seizure or freezing of illegally acquired property.** – (1) Where any officer conducting an inquiry or investigation under section 58E has reason to believe that any property in relation to which such inquiry or investigation is being conducted is an illegally acquired

property and such property is likely to be concealed, transferred or dealt within any manner which may result in frustrating any proceeding relating to forfeiture of such property under this Chapter, he may make an order for seizing such property and where it is not practicable to seize such property, he may make an order that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, or of the competent authority and the copy of such order shall be served on the person concerned:

Provided that a copy of such an order shall be sent to the competent authority within forty-eight hours of its being made.

(2) Any order made under sub-section (1) shall have no effect unless the said order is confirmed by an order of the competent authority within a period of thirty days of its being made.

Explanation. – For the purposes of this section, “transfer of property” means any disposition, conveyance, assignment, settlement, delivery, payment or other alienation of property and, without limiting the generality of the foregoing, includes –

- (a) the creation of a trust in property;
- (b) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in property;
- (c) the exercise of a power of appointment, of property vested in any person not the owner of the property, to determine its disposition in favour of any person other than the donee of the power; and

- (d) any transaction entered into by any person with intent thereby to diminish directly or indirectly the value of his own property and to increase the value of the property of any other person.]

**[58G. Management of properties seized or forfeited under this Chapter.** – (1) The State Government may, by order published in the Official Gazette, appoint as many of its officers (not below the rank of Conservator of Forests) as it thinks fit, to perform the function of an Administrator.

- (2) The Administrator appoint under sub-section (1) shall receive and manage the property in relation to which an order has been made in sub-section (1) of Sec. 58F or under Sec. 58I in such manner and subject to such conditions as may be prescribed.

- (3) The Administrator shall also takes such measures as the State Government may direct, to dispose of the property which is forfeited to the State Government.]

**[58H. Notice of forfeiture of property.** – (1) If having regard to the value of the properties held by any person to whom this Chapter applies, either by himself or through any other person on his behalf, his known sources of income, earnings or assets, and any other information or material available to it as a result of a report from any officer making an investigation under Sec. 58E or otherwise, the competent authority for reasons to be recorded in writing believes that all or any of such properties are illegally acquired properties, it may serve a notice upon such person (hereinafter referred to as the person affected) calling upon



him within a period of thirty days specified in the notice to show cause why all or any of such properties, as the cause may be, should not be declared to be illegally acquired properties and forfeited to the State Government under this Chapter and in support of his case indicate the sources of his income, earnings, or assets, out of which or by means of which he has acquired such property, the evidence on which he relies and other relevant information and particulars

(2) Where a notice under sub-section (1) to any person specifies any property as being held on behalf of such person by any other person, a copy of the notice shall also be served upon such other person.]

**[58-I. Forfeiture of property in certain cases. – (1)** The competent authority may, after considering the explanation, if any, to the show cause notice issued under Sec. 58H, and the materials available before it and after giving to the person affected and in a case where the person affected holds any property specified in the notice through any other person, to such other person, also a reasonable opportunity of being heard, by order, record a finding whether all or any of the properties in question are illegally acquired properties:

Provided that if the person affected (and in a case where the person affected holds any property specified in the notice through any other person, such other person also), does not appear before the competent authority or represent his case before it within a period of thirty days specified in the show cause notice, the competent authority may proceed to record a finding under this sub-section ex parte on the basis of evidence available before it.

- (2) Where the competent authority is satisfied that some of the properties referred to in the show cause notice are illegally acquired properties but is not able to identify specially such properties, then, it shall be lawful for the competent authority to specify the properties which, to the best of its judgement, are illegally acquired properties and record a finding accordingly under sub-section (1) within a period of ninety days.
- (3) Where the competent authority records a finding under this section to the effect that any property is illegally acquired property, it shall declare that such property shall, subject to the provision of this Chapter stand forfeited to the State Government free from all encumbrances.
- (4) In case the person affected establishes that the property specified in the notice issued under Sec.58H is not an illegally acquired property and therefore not liable to be forfeited under the Act, the said notice shall be withdrawn and the property shall be released forthwith.
- (5) Where any shares in a company stands forfeited to the State Government under this Chapter, the company shall, notwithstanding anything contained in the Companies Act, 1956 or the article of association of company, forthwith register the state Government as the transferee of such shares.]

**[58J. Burden of proof.** – In any proceedings under this Chapter, the burden of proving that any property specified in the notice served under Sec. 58H is not illegally acquired property shall be on the person affected.]

**[58K. Fine in lieu of forfeiture.**—(1) Where the competent authority makes a declaration that any property stands forfeited to the State Government under Sec. 58 I and it is a case where the source of only a part of the illegally acquired property has not been proved to the satisfaction of the competent authority, it shall make an order giving option to the person affected to pay, in lieu of forfeiture, a fine equal to the market value of such part.

(2) Before making an order imposing a fine under subsection (1), the person affected shall be given a reasonable opportunity of being heard.

(3) Where the person affected pays the fine due under subsection (1), within such time as may be allowed in that behalf, the competent authority may, by order revoke the declaration of forfeiture under Sec. 58I and thereupon such property shall stand released.]

**[58L. Procedure in relation to certain trust properties.**— In the case of any person referred to in sub-clause (vi) of clause (b) of Sec. 58B, if the competent authority, on the basis of the information and materials available to it, for reasons to be recorded in writing believes that any property held in trust is illegally acquired property, it may serve a notice upon the author of the trust, or as the case may be, the contributor of the assets out of or by means of which such property was acquired by the trust or the trustees, calling upon them within a period of thirty days specified in the notice, to explain the source of money or other assets out of or by means of which such property was acquired or, as the case may be, the source of money or other assets which were contributed to the trust for acquiring such property and thereupon such notice shall be deemed to be a notice served under Sec. 58H and all the other provisions of this Chapter

shall apply accordingly.

Explanation. – For the purposes of this section “illegally acquired property” in relation to any property held in trust, includes –

- (i) any property which if it had continued to be held by the author of the trust or the contributor of such property to the trust would have been illegally acquired property in relation to such author or contributor;
- (ii) any property acquired by the trust out of any contributions made by any person which would have been illegally acquired property in relation to such person had such person acquired such property out of such contributions.

**[58M. Certain transfers to be null and void.** – Where after the making of an order under sub-section (1) of Sec. 58F or issues of a notice under Sec. 58 or under Sec. 58L, any property referred to in the said order or notice is transferred by any mode whatsoever, such transfer shall, for the purposes of proceedings under this Chapter, be ignored and if such property is subsequently forfeited to the State Government under Sec. 58 I, then, the transfer of such property shall be deemed to be null or void.]

**[58N. Constitution of Appellate Tribunal.** – (1) The State Government may, by notification in the Official Gazette, constitute an Appellate Tribunal to be called the Appellate Tribunal for Forfeited property consisting of a Chairman, and such number of other members (being officers of the State Government not below the rank of a Principal Secretary to the Government), as the State Government thinks fit, to be appointed by the Government for hearing appeals against the orders made under Sec. 58F, Sec. 58 I, sub-section (1) of Sec. 58K or Sec. 58 L.

- (2) The Chairman of the Appellate Tribunal shall be a person who is or has been or is qualified to be a Judge of a High Court.
- (3) The terms and conditions of service of the Chairman and other members shall be such as may be prescribed.

**[58O. Appeals.** – (1) Any person aggrieved by an order of the competent authority made under Sec. 58F, Sec. 58 I, sub-section (1) of Sec. 58K or Sec. 58L may, within forty-five days from the date on which the order is served on him prefer an appeal to the Appellate Tribunal:

Provided that the Appellate Tribunal may entertain an appeal after the said period of forty-five days, but not after sixty days, from the date aforesaid if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

- (2) On receipt on an appeal under sub-section (1), the Appellate Tribunal may, after giving an opportunity of being heard to the appellant, if he so desires, and after making such further inquiry as it deems fit, confirm, modify or set aside the order appealed against.
- (3) The Appellate Tribunal may regulate its own procedure.
- (4) On application to the Appellate Tribunal and on payment of the prescribed fee, the Appellate Tribunal may allow a party to any appeal or any person authorised in this behalf by such party to inspect at any time during office hours, any relevant records and registers of the Appellate Tribunal and obtain a certified copy or any part thereof.]

**[58P. Notice or order not to be invalid for error in description.** – No notice issued or served, no declaration made, and no

order passed under this Chapter shall be deemed to be invalid by reason of any error in the description of the property or person mentioned therein if such property or person is identifiable from the description so mentioned.]

**[58Q. Bar of jurisdiction.** – No order passed or declaration made under this Chapter shall be appealable except as provided therein and no civil court shall have jurisdiction in respect of any matter which the Appellate Tribunal or any competent authority is empowered by or under this Chapter to determine, and no jurisdiction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.]

**[58R. Competent Authority and Appellate Tribunal to have powers of civil court.** – The Competent Authority and the Appellate Tribunal shall have all the powers of a civil court while trying a suit under the Code of Civil procedure, 1908 in respect of the following matters, namely: -

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for examination of witnesses or documents;
- (f) any other matter which may be prescribed.]

**[58S. Information for competent authority. – (1)** Notwithstanding anything contained in any other law for the time being in force, the competent authority shall have power to require any officer or authority of the Central

Government or a State Government or a local authority to furnish information in relation to such persons, on points or matters as in the opinion of the competent authority will be useful for, or relevant to, the purposes of this Chapter.

(2) Every officer referred to in Sec. 58T may furnish suo motu any information available with him to the competent authority if in the opinion of the officer such information will be useful to the competent authority for the purposes of this Chapter.]

**[58T. Certain officers to assist Administrative competent authority and Appellate Tribunal.** – For the purposes of any proceedings under this chapter, the following officers shall render such assistance as may be necessary to the Administrator appointed under Sec. 58G, competent authority and the Appellate Tribunal, namely: -

- (a) officers of police;
- (b) officers of the State Forest Departments;
- (c) officers of the Central Economic Intelligence Bureau;
- (d) officers of the Directorate of revenue Intelligence;
- (e) such other officers as specified by the State Government in this behalf by notification in the Official Gazette.]

**[58U. Power to be possession.** – (1) Where any property has been declared to be forfeited to the State Government under this Chapter, or where the person affected has failed to pay the fine due under sub-section (1) of Sec. 58K within the time allowed therefore under sub-section (3) of that section, the competent authority may order the person affected as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the Administrator appointed under

Sec. 58G or to any person duly authorised by him in this behalf within thirty days of the service of the order.

- (2) If any person refuses or fails to comply with an order made under sub-section (1), the Administrator may take possession of the property and may for that purpose use such force as may be necessary.
- (3) Notwithstanding anything contained I sub-section (2), the Administrator may, for the purpose of taking possession of any property referred to in sub-section (1) requisition the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.]

**[58V. Rectification of mistakes.** - With a view to rectifying any mistake apparent from record, the competent authority or the Appellate Tribunal, s the case may be, may amend any over made by it within a period of one year from the ate of the order done:

Provided that if any such amendment is likely to affect any person prejudicially and the mistake is not of clerical nature, it shall not be made without giving to such person a reasonable opportunity o being heard.]

**[58W. Findings under other laws not conclusive for proceedings under this Chapter.** – No finding of any officer or authority under any other law shall be conclusive for the purposes of any proceedings under this Chapter.]

**[58X. Service of notices and orders.** – Any notice or order issued or made under this Chapter shall be served, -

- (a) by tendering the notice or order or sending it by registered post to the person for whom it is intended or to his agent;
- (b) if the notice o order cannot be served in the



manner provided in clause (a), then, by affixing it on a conspicuous place in the property in relation to which the notice or order is issued or made or on some conspicuous part of the premises in which the person for whom it is intended is known to have last resided or carried on business or personally worked for gain.]

**[58Y. Punishment for acquiring property in relation to which proceedings have been taken under this Chapter.** – Any person who knowingly acquires, by any mode whatsoever, any property in relation to which proceedings are pending under this Chapter shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to fifty thousand rupees.]

## **CHAPTER VII**

### **Miscellaneous**

- 59. Officers to be public servants.** – Every officer referred to [in Chapter II and the chairperson, members, member-secretary, officers and other employees referred to in Chapter IVA] and every other officer exercising any of the power conferred by this Act shall be deemed to be a public servant within the meaning of Sec. 21 of the Indian Penal Code (45 of 1860).
- 60. Protection of action taken in good faith.** – (1) No suit, prosecution, or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is good faith done or intended to be done under this Act.
- (2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of

its officers or other employees, for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

[(3) No suit or other legal proceeding shall lie against the authority referred to in Chapter IVA and its chairperson, members, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.]

**[60A. Reward to a person.** – (1) When a court imposes a sentence of fine or a sentence of which fine forms a part, the court may when passing judgement order that the reward be paid to a person who renders assistance in the detection of the offence or the apprehension of the offenders out of the proceeds of fine not exceeding [fifty percent of such fine].

(2) When a case is compounded under Sec. 54, the officer compounding may order reward to be paid to a person who renders assistance in the detection of the offence or the apprehension of the offenders out of the sum of money excepted by way of composition not exceeding [fifty percent of such money].

**[60B. Reward by State Government.** – The State Government may empower the chief Wild Life Warden to order payment of reward not exceeding ten thousand rupees to be paid to a person who renders assistance in the detection of the offence or the apprehension of the offender, from such fund as in such manner as may be prescribed.]

**61. Power to alter entries in schedules.** –(1) The Central Government may, if it is of the opinion that it is expedient so to do, by notification, [add or delete any entry to or from any schedule] or transfer any entry from one part of the schedule to another part of the same schedule or from one schedule to another.

(2) [Omitted 1991.]

- (3) On the issue of a notification under sub-section (1) [\*\*\*] the relevant schedule shall be deemed to be altered accordingly, provided that every such alteration shall be without prejudice to anything done or omitted to be done before such alteration.
- (4) [Omitted 1991.]

### Comments

Sec. 62. was challenged in the case of Sukhdev Singh vs Union of India.

Vide civil write petition 3286 of 1992 Sec. 62 was held beyond the legislative competence of the Parliament. The court by the judgement on 24<sup>th</sup> February 1993 upheld the validity of Sec. 62.

- 62. Declaration of certain wild animal to be vermin.** – [The Central Government] may by notification, declare any wild animal other than those specified in Sch. I and part II of Sch. II to be vermin for any area and for such period as may be specified therein and so long as such notification is in force, such wild animal shall be deemed to have been included in Sch. V.
- 63. Power of Central Government to make rules.** – [(1) T h e Central government may, by notification, make rules for all or any of the following matters, namely:
  - (a) conditions and other matters subject to which a licensee may keep any specified plant in his custody or possession under Sec. 17F;
  - [(ai) the term of office members other than those who are members ex officio, the manner of filing vacancies, the procedure to be followed by National Board under sub-section (2) and allowances of those members under sub-section (3) of Sec. 5A;]

- (b) the salaries and allowances and other conditions of appointment of chairperson, members and member-secretary under sub-section (5) of Sec. 38B;
- (c) the terms and conditions of service of the officer and other employees of the central Zoo Authority under sub-section (7) of Sec. 38B;
- (d) the form in which the annual accounts statement of Central Zoo Authority shall be prepared under sub-section (4) of Sec. 38E;
- (e) the form in which and the time at which the annual report of Central Zoo Authority shall be prepared under Sec. 38F;
- (f) the form in which and the fee required to be paid with application for recognition of a zoo under sub-section (2) of Sec. 38H;
- (g) the standards, norms and other matters to be considered for granting recognition under sub-section (4) of Sec. 38H;
- (h) the form in which the declaration shall be made under sub-section (2) of Sec. 44;
- (i) the matters to be prescribed under clause (b) sub-section (4) of Sec. 44;
- (j) the terms and conditions which shall govern transaction referred to in clause (b) of Sec, 48;
- (k) the manner in which notice may be given by a person under clause (c) of Sec. 55;
- (l) the matters specified in sub-section (2) of Sec. 64 in so far as they relate to sanctuaries and National Parks declared by the Central Government.]

- (2) Every rule made under this section shall be laid, as soon as may be, after it is made before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**64. Power of State Government to make rules.** – (1) The State Government may, by notification, make rules for carrying out the provisions of this Act in respect of matters which do not fall within the purview of Sec. 63.

- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:
  - [(a) the term of office of members other than those who are members, ex officio, the manner of filing vacancies and the procedure to be followed by the board under sub-section (2) of Sec. 6;]
  - [(b) allowances referred to in sub-section (3) of Sec. 6;]
  - (c) the forms to be used for any application, certificate, claim, declaration, licence, permit, registration, return, or other document, made granted, or submitted under the provision of this Act and the fees, if, any, therefor;
  - (d) the conditions subject to which any licence or permit may be granted under this Act;

- [(dd)the conditions subject to which the officers will be authorised to file cases in the court;]
- (e) the particulars of the record of the wild animal (captured or killed) to be kept and submitted by the licensee;
- [(ee)the manner in which measures for immunization of live-stock shall be taken;]
- (f) regulation of the possession, transfer, and the sale of captive animals, meat, animal articles, trophies, and uncured trophies;
- (a) regulation of taxidermy;
- [(ga)the manner and conditions subject to which the Administrator shall receive and manage the property under sub-section (2) of Sec. 58G;]
- [(gb)the terms of conditions of service of the Chairman and other members under sub-section (3) of Sec. 38H;]
- (b) any other matter which has to be, or may be, prescribed under this Act.

**65. Rights of Schedule Tribes to be protected.** – Nothing in this Act shall affect the hunting rights conferred on the Schedule Tribes of the Nicobar Islands in the Union Territory of Andaman and Nicobar Islands by notification of Andaman and Nicobar Administration, NO. 40/97/F. No. G-635. Vol. III, dated the 28<sup>th</sup> April, 1967 published at pages 1 to 5 extraordinary issue of the Andaman and Nicobar Gazette, dated 28<sup>th</sup> April, 1967.

**66. Repeal and savings.** – (1) As from the commencement of this Act, every other Act relating to any matter contained in this Act and in force in a State shall, to the extent to which that Act or any provision contained therein corresponds, or is repugnant, to this Act or any provision contained in this Act, stand repealed:

Provided that such repeal shall not –

- (i) affect previous operation of the Act so repealed, or anything duly done or suffered thereunder;
- (ii) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under the Act so repealed;
- (iii) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or
- (iv) affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceedings, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, and punishment may be imposed, as if the aforesaid Act had not been repealed.

**(2) Notwithstanding such repeal, -**

- (a) anything done or any action taken under the Act so repealed (including any notification, order, certificate, notice, or receipt issued, application made or permit granted) which is not inconsistent with the provisions of this Act be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force at the time such thing was done or action was taken, and shall continue to be in force, unless and until superseded by anything done or any action taken under this Act;
- (b) every licence granted under any Act so repealed

and in force immediately before the commencement of this Act shall be deemed to have been granted under the corresponding provisions of this Act and shall, subject to the provisions of this Act, continue to be in force for the unexpired portion of the period for which such licence had been granted.

(3) For the removal of doubts, it is hereby declared that any sanctuary or National Park declared by a State Government under any Act repealed under sub-section (1) shall be deemed to be a sanctuary or National Park, as the case may be, declared by the State Government under this Act and where any right in or over any land in any such National Park which has not been extinguished under the said Act, at or before the commencement of this Act, the extinguishments of such rights, shall be made in accordance with the provisions of this Act.

[(4) For the removal of doubts, it is hereby further declared that where any proceedings under any provision of Secs. 19 to 25 (both inclusive) is pending on the date of commencement of the Wild Life (Protection) Amendment Act, 1991, any reserved forest or a part of territorial waters comprised within a sanctuary declared under Sec. 18 to be a sanctuary before the date of such commencement shall be deemed to be a sanctuary before the date of such commencement shall be deemed to be a sanctuary declared under Sec. 26A.]



## SCHEDULE I

(See Secs. 2, 8, 9, 11, 40, 41, 43, 48, 51, 61 and 62)

### PART I

#### Mammal

1. Andaman wild pig (*Sus andamanensis*)
- 1-A. Bharal (*Ovis nahura*)
- 1-B. Binturong (*Arctictis binturong*)
2. Blackbuck (*Antilope cervicapra*)
- 2-A. \* \* \* \* \*
3. Brow-antlered deer or thamin (*Cervus eldi*)
- 3-A. Himalayan brown bear (*Ursus arctos*)
- 3-B. Capped langur (*Presbytis pileatus*)
4. Caracal (*Felis caracal*)
- 4-A. Catacean spp.
5. Cheetah (*Acinonyx jubatus*)
- 5-A. Chinese pangolin (*Manis pentadactyla*)
- 5-B. Chinkara or Indian gazella (*Gazella gazella bennetti*)
6. Clouded leopard (*Neofelis nebulosa*)
- 6-A. Crab-eating macaque (*Macaca irus umbrosa*)
- 6-B. Desert cat (*Felis libyca*)
- 6-C. Desert fox (*Vulpes bucopus*)
7. Dugong (*Dugong dugon*)
- 7-A. Ermine (*Mustela erminea*)
8. Fishing cat (*Felis viverrina*)
- 8-A. Four-horned antelope (*Tetraceros quadricornis*)
- 8-B. \* \* \*
- 8-C. \* \* \*
- 8-D. Gangetic dolphin (*Platanista gangetica*)
- 8-E. Gaur or Indian bison (*Bos gaurus*)
9. Golden cat (*Felis temmincki*)

10. Golden langur (*Presbytis geei*)
- 10-A. Giant squirrel (*Ratufa macroura*)
- 10-B. Himalayan ibex (*Capra ibex*)
- 10-C. Himalayan tahr (*Hemitragus jemlahicus*)
11. Hispid hare (*Caprolagus hispidus*)
- 11-A. Hog badger (*Arctonyx collaris*)
12. Hoolock gibbon (*Hylobates hoolock*)
- 12-A. \* \* \* \*
- 12-B. Indian elephant (*Elephas maximus*)
13. Indian lion (*Panthera leo persica*)
14. Indian wild ass (*Equus hemionus khur*)
15. Indian wolf (*Canis lupus pallipes*)
16. Kashmir stag (*Cervus elaphus hanglu*)
- 16-A. Leaf monkey (*Presbytis phayrei*)
- 16-B. Leopard or panther (*Panthera pardus*)
17. Leopard cat (*Felis bengalensis*)
18. Lesser or red panda (*Ailurus fulgens*)
19. Lion-tailed macaque (*Macaca silenus*)
20. Loris (*Loris tardigradus*)
- 20-A. Little Indian porpoise (*Neomeris phocaenoides*)
21. Lynx (*Felis lynx isabellinus*)
22. Malabar civet (*Viverra megaspila*)
- 22-A. Malay or sun bear (*Helarctos malayanus*)
23. Marbled cat (*Felis marmorata*)
24. Markhor (*Capra falconeri*)
- 24-A. Mouse deer (*Tragulus meminna*)
25. Musk deer (*Moschus moschiferus*)
- 25-A. Nilgiri langur (*Presbytis johni*)
- 25-B. Nilgiri tahr (*Hemitragus hylocrius*)

26. Nayan or great Tibetan sheep (*Ovis ammon hodgsoni*)
27. Pallas's cat (*Felis manul*)
28. Pangolin (*Manis crassicaudata*)
29. Pygmy hog (*Sus salvanius*)
- 29-A. Ratel (*Mellivora capensis*)
30. Indian one-horned rhinoceros (*Rhinoceros unicornis*)
31. Rusty-spotted cat (*Felis rubiginosa*)
- 31-A. Serow (*Capricornis sumatraensis*)
- 31-B. Clawless otter (*Aonyx cinerea*)
- 31-C. Sloth bear (*Melursus ursinus*)
32. Slow loris (*Nyeticebus coveang*)
- 32-A. Small Travancore flying squirrel (*Petinomys fuscopapillus*)
33. Snow leopard (*Panthera uncia*)
- 33-A. Snubfin dolphin (*Orcaella brevirostris*)
34. Spotted linsang (*Prionodon pardicolor*)
35. Swamp deer (all sub-species of *Cervus duvauceli*)
36. Takin or Mishmi takin (*Budorcas taxicolor*)
- 36-A. Tibetan antelope or chiru (*Panthelops hodgsoni*)
- 36-B. Tibetan fox (*Vulpes ferrilatus*)
37. Tibetan gazella (*Procapra picticaudata*)
38. Tibetan wild ass (*Equus hemionus kiang*)
39. Tiger (*Panthera tigris*)
40. Urial or shapu (*Ovis vignei*)
41. Wild buffalo (*Bubalus bubalis*)
- 41-A. Wild yak (*Bos grunniens*)
- 41-B. Tibetan wolf (*Canis lupus chancoi*)

**PART II**  
**Amphibians and reptiles**

1. \* \* \*
- 1-A. \* \* \* \* \*
- 1-B. Audithia turtle (*Pelochelys bibroni*)
- 1-C. Barred, oval, or yellow monitor lizard (*Varanus flavescens*)
- 1-D. Crocodiles (including the estuarine or saltwater crocodile)  
(*Crocodylus porosus* and *Crocodylus palustris*)
- 1-E. Terrapin (*Batagur baska*)
- 1-F. Eastern hill terrapin (*Melanochelys tricarinata*)
2. Gharial (*Gavialis gangeticus*)
3. Ganges soft-shelled turtle (*Trionyx gangeticus*)
- 3-A. Golden gecko (*Calodactyloides aureus*)
4. Green sea turtle (*Chelonia mydas*)
5. Hawksbill turtle (*Eretmochelys imbricata imbricata*)
6. \* \* \* \* \*
7. Indian egg-eating snake (*Elachistodon westermanni*)
8. Indian soft-shelled turtle (*Lissemys punctata*)
9. Indian tent turtle (*Kachuga tecta tecta*)
- 9-A. Kerala Forest Terrapin (*Hoesemys sylratiea*)
11. Leathery turtle (*Dermochelys coriacea*)
12. Loggerhead turtle (*Caretta caretta*)
13. Oliverback loggerhead turtle (*Lepidochelys olivacea*)
14. Peacock-marked soft-shelled turtle (*Trionyx hurum*)
- 14-A. Pythons (Genus *python*)
- 14-B. Sail terrapin (*Kachuga kachuga*)
- 14-C. Spotted black terrapin (*Geoclemys hamiltoni*)

- 15. \* \* \* \* \*
- 16. \* \* \*
- 17. \* \* \*
- 17-A. \* \* \*

**PART IIA**  
**Fishes**

- 1. Whale shark (*Rhincodon typus*)
- 2. Shark and ray
  - Anoxypristis cuspidata*
  - Carcharhinus hemiodon*
  - Glyphis gangeticus*
  - Glyphis glyphius*
  - Himantura fluviatilis*
  - Pristis microdon*
  - Pristis zijsron*
  - Rhynchobatus djiddensis*
  - Urogymnus asperrimus*
- 3. Sea horse (All sygnathidians)
- 4. Giant grouper (*Epinephelus lanceolatus*)

**PART III**  
**Birds**

- 1. Andaman teal (*Anas gibberifrons albogularis*)
- 1-A. Assam bamboo partridge (*Bambusicola fytchii*)
- 1-B. Bazas (*Aviceda jerdoni* and *Aviceda leuphotes*)
- 1-C. Bengal florican (*Eupodotis bengalensis*)
- 1-D. Black-necked crane (*Grus nigricollis*)
- 1-E. Blood pheasants (*Ithaginis cruentus tibetanus*, *I.c.kuseri*)

- 1-F. \* \* \*
- 2. Cheer pheasant (*Catreus wallichi*)
- 2-A. Eastern white stork (*Ciconia ciconia boyciana*)
- 2-B. Forest spotted owlet (*Athena blewitti*)
- 2-C. Frogmouths (Genus *batrachostomus*)
- 3. Great Indian bustard (*Chloriotis nigriceps*)
- 4. Great Indian hornbill (*Buceros bicornis*)
- 4-A. Hawks (fam. *Accipitridae*)
- 4-B. Hooded crane (*Grus monacha*)
- 4-C. Hornbills(*Ptiloemus tickelli austeni*, *Aceros nipalensis*, *Rhyticeros undulatus ticehursti*)
- 4-D. Houbara bustard (*Chlamydotis undulata*)
- 4-E. Hume's bar-backed pheasant (*Syrmaticus humiae*)
- 4-F. Indian pied hornbill (*Anthracoceros malabaricus*)
- 5. Jerdon's courser (*Cursorius bitorquatus*)
- 6. Lammergeier (*Gypaetus barbatus*)
- 7. Large falcons (*Falco peregrinus*, *F.biarmicus*, *F.chicquera*)
- 7-A. Large whistling teal (*Dendrocygna bicolour*)
- 7-B. Lesser florican (*Sypheotides indica*)
- 7-C. Monal pheasants (*Lophophorus impejanus*, *L. sclateri*)
- 8. Mountain quail (*Ophrysia superciliosa*)
- 9. Narcondam hornbill (*Rhyticeros (undulatus) narcondami*)
- 9-A. \* \* \*
- 10. Nicobar megapode (*Megapodius freycinet*)
- 10-A. Nicobar pigeon (*Caloenas nicobarica pelewensis*)
- 10-B. Osprey or Fish eating eagle (*Pandion haliaetus*)
- 10-C. Peacock pheasants (*Polyplectron bicalcaratum*)
- 11. Peafowl (*Pavo cristatus*)

12. Pink-headed duck (*Rhodonessa carryophyllacea*)
13. Scater's monal (*Lophophorus sclateri*)
14. Siberian white crane (*Grus leucogeranus*)
- 14-A. \* \* \*
- 14-B. Tibetan snow cock (*Tetraogallus tibetanus*)
15. Tragopan pheasants (*Tragopan melanocephalus*,  
*T. blythii*, *T. satyra*, *T. temminckii*)
16. White-bellied sea eagle (*Haliaeetus leucogaster*)
17. White-eared pheasants (*Crossoptilon crossoptilon*)
- 17-A. White spoonbill (*Platalea leucorodia*)
18. White-winged wood duck (*Cairina scutulata*)

## PART IV

### Crustacea and Insects

#### 1. Butterflies and Moths

##### Family Amathusidae

##### Common English name

<i>Discophora deo deo</i>	Duffer, banded
<i>Discophora sondaica muscina</i>	Duffer, common
<i>Faunis faunula faunoloides</i>	Pallid fauna

##### Family Danaidae

<i>Danaus gautama gautamoides</i>	Tigers
<i>Euploea crameri nicevillei</i>	Crow, spotted black
<i>Euploea midamus roepstorfti</i>	Crow, blue-spotted

##### Family Lycaenidae

<i>Allotinus drumila</i> Darkie,	crenulate/great
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Allotinus fabius penormis	Angled darkie
Amblopala avidiena	Hairstreak, Chinese
Amblypodia ace arata	Leaf blue
Amblypodia alea constanceae	Rosy oakblue
Amblypodia ammon arial	Malayan bush blue
Amblypodia arvina ardea	Purple brown tailless oakblue
Amblypodia asopia	Plain tailless oakblue
Amblypodia comica	Comic oakblue
Amblypodia opalina	Opal oakblue
Amblypodia zeta	Andaman tailless oakblue
Biduanda melisa cyana	Blue posy
Callophrys leechii	Hairstreak, ferruginous
Castalius rosimon alarbus	Pierrot, common
Charana cepheis	Mandarin blue, Cachar
Chloria othona	Tit, orchid
Deudoryx epijarbas amatius	Comelian, scarce
Everes moorei	Cupid, Moore's
Gerydus biggsii	Bigg's brownie
Gerydus symethus diopeithes	Great brownie
Heliophorus hybrida	Sapphires
Horaga albimacula	Onyxes
Jamides ferrari	Caeruleans
Liphyra brassolis	Butterfly, moth
Listeria dudgeni	Lister's hairstreak
Logania Watsoniana subfasciate	Mottle, Watson's
Lycaenopsis binghami	Hedge blue
Lycaenopsis haraldus ananga	Hedge blue, Felder's
Lycaenopsis purpa prominens	Common hedge blue
Lycaenopsis quadriplaga dohertyi	Naga hedge blue
Nacaduba noreia hampsonii	Lineblue, white-tipped



Polymmatius orbitulus leela  
Pratapa icetas mishmia  
Simiskina phalena harterti  
Sinthusia virgo  
Spindasis elwesi  
Spindasis rukmini  
Strymonidia mackwoodi  
Tajuria ister  
Tajuria luculentus nela  
Tajuria yajna yajna  
Thecla ataxus zulla  
Thecla bieti menlera  
Thecla letha  
Thecla paona  
Thacla pavo  
Virachola smiles

**Family Nymphalidae**

Apatura ulupi ulupi  
Argynnis hegamone  
Calinaga Buddha  
Charaxes durnfordi nicholi  
Cirrochroa fasciata  
Diagora nicevillei  
Dilipa morgiana  
Doleschallia bisaltide andamana  
Eriboea moori sandakanus  
Eriboea schreiberi  
Eulaceura manipurensis  
Euthalia durga splendens

Greenish mountain blue  
Royal, dark blue  
Brilliant, boardlanded  
Spark, pale  
Silverline, Elwes's  
Silverline, khaki  
Hairstreak, Mackwood's  
Royal, uncertain  
Royal, Chinese  
Royal, chestnut and black  
Wonderful hairstreak  
Indian purple hairstreak  
Watson's hairstreak  
Paona hairstreak  
Peacock hairstreak  
Guava blues

Emperor, tawny  
Silver-washed fritillary  
Freak  
Rajah, chestnut  
Yeomen  
Siren, scarce  
Emperor, golden  
Autumn leaf  
Malayan nawab  
Blue nawab  
Emperor, Tytler's  
Barons/Counts/Dutchesses

Euthalia iva	Duke, grand
Euthalia khama curvifascia	Duke, Naga
Euthalia telchinia	Baron, blue
Helcyra hemina	Emperor, white
Hypolimnas missipus	Eggfly, danaid
Limenitis austenia purpurascens	Commodorre, grey
Limenitis zulema	Admirals
Melitaea shandura	Fritillaries/Silverstripes
Neptis antilope	Sailer, variegated
Neptis aspasia	Sailer, great hockeystick
Neptis columella kankena	Sailer, short-banded
Neptis cydippe kirbariensis	Sailer, Chinese yellow
Neptis ebusa	Sailer, lascar
Neptis jumbah binghami	Sailer, chestnut-streaked
Neptis manasa	Sailer, pale hockeystick
Neptis nyctens	Sailer, hockeystick
Neptis Poona	Lascar, Tytler's
Neptis sankara	Sailer, broad-banded
Panthoporia jina jina	Bhutan sergeant
Panthoporia reta moorei	Malay staff sergeant
Prothoe franckii regalis	Begum, blue
Sasakia funebris	Empress
Sephisia chandra	Courtier, eastern
Symbrenthia silana	Jester, scarce
Vanessa antiopa yednula	Admirables
<b>Family Papilionidae</b>	
Chilasa clytia clytia f. commixtus	Common mime
Papilio elephenor	Spangle, yellow-crested
Papilio liomedon	Swallowtail, Malabar banded

Parnassius aeco geminifer	Apollo
Parnassius delphius	Banded apollo
Parnassius hannyingtoni	Hannyington's apollo
Parnassius imperator augustus	Imperial apollo
Parnassius stoliczkanus	Ladakh banded apollo
Polydorus coonsambilanga	Common clubtail
Polydorus crassipes	Black windmill
Polydorus hector	Crimson rose
Polydorus nevillei	Nevill's windmill
Polydorus plutonius pembertoni	Chinese windmill
Polydorus polla	Deniceyille's windmill

#### **Family Pieridae**

Aporia harrietae harrietae	Black veins
Baltia butleri sikkima	White butterfly
Colias colias thrasibulus	Clouded yellows
Colias dubi	Dwarf clouded yellow
Delias sanaea	Jezebel, pale
Pieris krueperi devta	Butterfly cabbage/ White II

#### **Family Satyriidae**

Coelites nothis adamsoni	Cat's eye, scarce
Cyllogenes janetae	Evening brown, scarce
Elymnias peali	Palmfly, Peal's
Elymnias penanga philansis	Palmfly, painted
Erabia annada annada	Argus, ringed
Erabia narasingha narasingha	Argus, mottled
Lethe distans	Forester, scarce red
Lethe dura gammiee	Lilacfork, scarce
Lethe europa tamuna	Bamboo tree brown

Lethe gemina gafuri	Tytler's tree brown
Lethe guluihal guluihal	Forester, dull
Lethe margaritae	Tree brown, Bhutan
Lethe ocellata lyncus	Mystic, dismal
Lethe ramadeva	Silverstripe, single
Lethe satyabati	Forester, pallid
Mycalesis orseis nawtilus	Bushbrown, purple
Parargemenava maeroides	Wall dark
Yothima dohertyi persimilis	Five ring, great
1-A. Coconut or Rubber crab ( <i>Birgus latro</i> )	
2. Dragonfly ( <i>Epioplebia laidlawi</i> )	

#### [PART IV A]

##### **Coelenterates**

1. Reef building coral (All Scleractinians)
2. Black coral (All Antipatharians)
3. Organ pipe coral (*Tubipora musica*)
4. Fire coral (All *Millipora* species)
5. Sea fan (All Gorgonians)

#### [PART IV B]

##### **Mollusca**

1. *Cassis cornuta*
2. *Charonia tritonis*
3. *Conus milneedwardsi*
4. *Cypraeacassis rufa*
5. *Hippopus hippopus*
6. *Nautilus pompilius*
7. *Tridacna maxima*
8. *Tridacna squamosa*

9. Tudicla spirillus

**[PART IV C]**

**Echinodermata**

- Sea cucumber (All Holothurians)

**SCHEDULE II**

(See Secs. 2, 8, 9, 10, 11, 40, 41, 43, 48, 51, 61 and 62)

**PART I**

1. \* \* \*
- 1-A. Assamese macaque (*Macaca assamensis*)
2. Bengal porcupine (*Atherurus mecrourus assamensis*)
3. \* \* \*
- 3-A. Bonnet macaque (*Macaca radiata*)
- 3-B. \* \* \*
- 3-C. Cetatean spp.(other than those listed in Sch.I and Sch.II Part II)
4. \* \* \* \* \* \* \*
- 4-A. Common langur (*Presbytis entellus*)
5. \* \* \*
6. \* \* \* \* \* \* \*
7. Ferret badgers (*Melogale moschata*, *M. persenata*)
8. \* \* \* \* \* \* \*
9. \* \* \* \* \* \* \*
10. \* \* \* \* \*
11. Himalayan crestless porcupine (*Hystrix hodgsoni*)
- 11-A. Himalayan newt or salamander (*Tyletrotiton verrucosus*)
12. \* \* \* \*
13. \* \* \* \* \* \* \*
14. \* \* \* \* \*

15. \* \* \* \* \*
16. Pig-tailed macaque (*Macaca nemestrina*)
17. \* \* \* \* \*
- 17-A. Rhesus macaque (*Macaca mulatta*)
18. \* \* \* \* \*
19. Stump-tailed macaque (*Macaca speciosa*)
20. \* \* \* \* \*
21. \* \* \*
22. Wild dog or dhole (*Cuon alpinus*)
23. \* \* \* \* \*
24. Chameleon (*Chameleo calcaratus*)
25. Spiny-tailed lizard or sanda (*Uromastix hardwickii*)

## PART II

### 1. Beetles,

#### Family Amathusidae

##### **Aemona amathusia amathusia**

*Amathusia philippus andamanicus*

*Amathusia amythaonam*

*Discophora deo deooides*

*Discophora lepida lepida*

*Discophora timora andamanensis*

*Enispe cynus*

*Faunis sumeus assama*

*Sticopthalma nourmahal*

*Thauria aliris amplifascia*

#### Family Carabidae

##### **Agonotrechus andrewesi**

*Amara brucei*

#### Family Cucujidae

##### **Carinophloeus raffrayi**

*Cucujus bicolor*

*Cucujus grouvelle*

*Cucujus imperialis*

*Heterojinus semilacteneus*

*Laemophloeus belli*

*Laemophloeus incertus*

*Pediacus rufipes*

#### Family Danaidae

*Euploea melanoleuca*

*Euploea midamus rogenhoferi*

#### Family Erycinidae

Amara elegantula  
Brachinus atripennis  
Brososoma gracile  
Brosopus bipillifer  
Broter ovicollis  
Calathus amaroides  
Callistominus belli

Chalenius championi  
Chalenius kanarae  
Chalenius masoni  
**Family Chrysomelidae**  
**Acrocrypta rotundata**

Bimala indica  
Clitea indica  
Gopala pita  
Griva cyanipennis  
Nisotra cardoni  
Nisotra madurensis  
Nisotra nigripennis  
Nisotra semicoerulea  
Nisotra striatipennis  
Nonarthra patkaia  
Psylliodes plana  
Psylliodes shira  
Sebaethe cervina  
Sebaethe patkaia  
Sphaeroderma brevicorne  
Amblypodia paraganesa zephpreeta  
Amblypodia paralea

Abisara kausambi  
Dodona adonira  
Dodona dipoea  
Dodona egeon  
Libythea lepita

**Family Hesperiiidae**

Baoris philippina  
Bebasa sena  
Halpe homolea

**Family Inoepilidae**

**Inoepilus albonotalus**

**Family Lycaenidae**

Allotinus subviolaceous manychus  
Amblypodia aberrans  
Amblypodia aenea  
Amblypodia agaba aurelia  
Amblypodia agrata  
Amblypodia alesia  
Amblypodia apidanus ahamus  
Amblypodia aresta aresta  
Amblypodia bazaloides  
Amblypodia camdeo  
Amblypodia ellisi  
Amblypodia fulla ignara  
Amblypodia ganesa watsoni  
Orthomiella pontis  
Pithecopus fulgens

<i>Amblypodia silhetensis</i>	<i>Polymmatius devanica devanica</i>
<i>Amblypodia suffusa suffusa</i>	<i>Polymmatius metallica metallica</i>
<i>Amblypodia yendava</i>	<i>Polymmatius orbitulus jaloka</i>
<i>Apharitis tilacinus</i>	<i>Polymmatius yeonghusbandi</i>
<i>Araotes lapithis</i>	<i>Poritia erycinoides elisei</i>
<i>Artipe eryx</i>	<i>Poritia hewitsoni</i>
<i>Bindahara phocides</i>	<i>Poritia plusrata geta</i>
<i>Bothrinia chennellii</i>	<i>Pratapa bhotes</i>
<i>Castalius roxus manluena</i>	<i>Pratapa blanka</i>
<i>Catapoecilma elegans myositina</i>	<i>Pratapa deva</i>
<i>Charana jalindra</i>	<i>Pratapa icetas</i>
<i>Cheriterlla truncipennis</i>	<i>Rapala buxaria</i>
<i>Chliaria kina</i>	<i>Rapala chandrana chandrana</i>
<i>Deudoryx hypargyria gaetulia</i>	<i>Rapala nasala</i>
<i>Enchrysops onejus</i>	<i>Rapala refulgens</i>
<i>Everes kalaroi</i>	<i>Rapala rubida</i>
<i>Heliphorus androcles moorei</i>	<i>Rapala scintilla</i>
<i>Horaga onyx</i>	<i>Rapala ophinx ophinx</i>
<i>Horaga viola</i>	<i>Rapala varuna</i>
<i>Hypolycaena nilgirica</i>	<i>Spindasis elima elima</i>
<i>Hypolycaena thecloides nicobarica</i>	<i>Spindasis lohita</i>
<i>Iraota rochana boswelliana</i>	<i>Spindasis nipalicus</i>
<i>Jamides alectokandulana</i>	<i>Suasa lisides</i>
<i>Jamides celeodus pura</i>	<i>Surendra todara</i>
<i>Jamides kankena</i>	<i>Tajuria albiplaga</i>
<i>Lampides boeticus</i>	<i>Tajuria cippus cippus</i>
<i>Lilacea albocaerulea</i>	<i>Tajuria culta</i>
<i>Lilacea atroguttata</i>	<i>Tajuria diaeus</i>
<i>Lilacea lilacea</i>	<i>Tajuria illurgoodes</i>
<i>Lilacea melaena</i>	<i>Tajuria illurgis</i>



Lilacea minims	Tajuria jangala andamanica
Logania massalia	Tajuria melastigma
Lycaenesthes lycaenina	Tajuria sebonga
Mahathala ameria	Tajuria thydia
Mahathala atkinsoni	Tajuria yajna istroides
Magisba malaya presbyter	Tarucus callinara
Nacaduba aluta coelestis	Tarucus dharta
Nacaduba ancyra aberrans	Thaduka multicaudata kanara
Nacaduba dubiosa fulva	Thecla ataxus ataxus
Nacaduba helicon	Thecla bitei
Nacaduba hermus major	Thecla icana
Nacaduba pactolus	Thecla jakamensis
Neucheritra febronia	Thecla kabrea
Niphanda cymbia	Thecla khasia
Thecla kirbariensis	Euthalia merta eriphylea
Thecla suroia	Euthalia nara nara
Thecla syla assamica	Euthalia patala taoana
Thecla vittata	Euthalia teuta
Thecla ziba	Herona marathus andamana
Thecla zoa	Hypolimnas missipus
Una usta	Hypolimnas polynice birmana
Yasoda tripunctata	Kallima albofasciata
	Kallima alompora
	Kallima philarchus horsfieldii
<b>Family Nymphalidae</b>	<b>Limnitis austenia austenia</b>
<b>Adolias cyanipardus</b>	Limnitis damava
Adolius dirtea	Limnitis dudu
Adolius khasiana	Melitaea robertsi lutko
Apatura chevana	Neptis ananta
Apatura parvata	Neptis anjana nashona
Apatura sordida	

Apatura ulupi florenciae	Neptis aurelia
Argynnis adippe pallida	Neptis magadha khasiana
	Neptis nandina hamsoni
Argynnis altissima	Neptis narayana
Argynnis clara clara	Neptis radha radha
Argynnis pales horla	Neptis soma
Atella iscippe	Neptis zaida
Calinaga buddha brahaman	Neurosigma doubledayi doubledayi
Charaxes aristogiton	Pantoporia asura asura
Charaxes fabius sulphurous	Pantoporia kanwa phorkys
Charaxes nabruba	Pantoporia larymna siamensis
Charaxes marmax	Pantoporia pravara acutipemnis
Charaxes polyxena heman	Pantoporia ranga
Chersonesia rahria arahrioides	Parthenos sylvia
Cyrestis cocles	Penthema lisarda
Diagora persimilis	Symbrenthia niphanda
Doleschallia bisaltide malabarica	Vanesa egea agnicula
Eriboea athamas andamanicus	Vanesa lalbum
Eriboea delphis	Vanesa polychloros fervida
Eriboea dolon	Vanesa prarsoides dohertyi
Eriboea lissainei	Vanesa urticae rizama
Euripus consimilis	
Euripus halitherses	<b>Family Papilionidae</b>
Euthalia anosia	Bhutanitis liderdalii
Euthalia cocytus	Chilasa epycides epycides
Euthalia duda	Chilasa paradoxa telearchus
Euthalia durga durga	Chilasa slateri slateri
Euthalia evalina landabilis	Graphium aristus anticrates
Euthalia francae	Graphium arycles arycles
Euthalia gauda acontius	Graphium eurypylus macronius
Graphium evemon albociliates	Erebia manii manii

Graphium gyas gyas	Erebia seanda opima
Graphium megarus megarus	Erites falcipennis
Papilio bootes	Hipparchis heydenreichi shandura
Papilio Buddha	Lethe atkinsoni
Papilio fuscus andamanicus	Lethe baladeva
Papilio machaon verityi	Lethe brisanda
Papilio mayo	Lethe goalpara goalpara
Parnassius charltonius charltonius	Lethe insana insana
Parnassius epaphus hillensis	Lethe jalaurida
Parnassius jacquemonti jacquemonti	Lethe kabrua
Polydorus latreillei kabrua	Lethe latiaris latiaris
Polydorus plutonius tytleri	Lethe moelleri moelleri
Teinopalpus imperialis imperialis	Lethe naga naga
	Lethe nicetella
<b>Family Pieridae</b>	Lethe pulaha
Aporia nabellica	Lethe scanda
Appias albina darada	Lethe serbonis
Appias indra shiva	Lethe siderea
Appias lyncida latifasciata	Lethe sinorix
Appias wardica	Lethe tristigmata
Baltia butleri butleri	Lethe violaceodicta kanjupkula
Cepora nadian remba	Lethe visrava
Cepora nerissa dapha	Lethe yama
Colias eocandica hinducucica	Maniola davendra davendra
Colias eogene	Melanitis zitanius
Colias ladakensis	Mycalesis adamsoni
Colias stoliczkana Miranda	Mycalesis anaxias
Delias lativitta	Mycalesis botama chamba
Dercas lycorias	Mycalesis heri
Euchloe charlonia lucilla	Mycalesis lepcha bethami
Eurema andersoni ormistoni	Mycalesis malsarida

Metaporja agathon	Mycalesis misenus
Pieris deota	Mycalesis mestra
Pontia chloridice alpina	Mycalesis mystes
Saletara panda chrysaea	Mycalesis suavolens
<b>Valeria avatar avatar</b>	<b>Neorina hilda</b>
	Neorina patria westwoodii
<b>Family Satyridae</b>	Oeneis buddha gurhwalica
Aulocera brahminus	Parantirrhoea marshali
Cyllogenes suradeva	Paraga maerula maefula
Elymnias melilas milamba	Ragadia crisilda crito
Elymnias vasudeva	Rhapticera sttricus kabrua
Erebia annada suroia	Ypthima bolanica
Erebia hydriva	Ypthima lycus lycus
Erebia kalinda kalinda	Ypthima mathora mathora
Ypthima similes affectata	
Zipotis saitis	

- 1-A. Civets (all species of Viverridae except Malabar civet)
- 1-B. Common fox (*Vulpes bengalensis*)
- 1-C. Flying squirrels (all species of the genera *Bulopetes*, *Petaurista*, *Pelomys* and *Eupetaurus*)
- 1-D. Giant squirrels (*Ratufa indica*, and *R. bicolour*)
- 2. \* \* \* \* \*
- 2-A. Himalayan black bear (*Selenarctos thibetanus*)
- 2-B. Jackal (*Canis aureus*)
- 2-C. Jungle cat (*Felis chaus*)
- 2-D. Marmots (*Marmota bobak himalayana*, *M. caudata*)
- 2-E. Martens (*Martes foina intermedia*, *M. flavigula*, *M. watkinsii*)
- 3. \* \* \* \* \*
- 4. \* \* \*
- 4. Otters (*Lutra*, *L. perspicillata*)
- 4-A. Pole cats (*Vermela peregusna*, *M. putorius*)

- 4-B. Red fox (*Vulpes vulpes*, *V. montana*, *V. griffithi*, *V. pusilla*)
- 5. \*
- 5-A. Sperm whale (*Physeter macrocephalus*)
- 6. \* \* \* \*
- 7. Weasels (*Mustela sibirica*, *M. kathian*, *M. altaica*)
- 8. Checkered keelback snake (*Xenochrophis piscator*)
- 9. Dhaman or rat snake (*Ptyas mucosus*)
- 10. Dog-faced water snake (*Cerberus rhynchopi*)
- 11. Indian cobras (all sub-species of the genus *Naja*)
- 12. King cobra (*Ophiophagus hannah*)
- 13. Oliveaceous keelback snake (*Artretium schistosum*)
- 14. Russel's viper (*Vipera ruselli*)
- 15. Varanus species (excluding yellow monitor lizard)

**SCHEDULE III**  
(See Secs. 2, 8, 9, 11 and 61)

- 1. \* \* \* \*
- 2. Barking deer or muntjac (*Muntiacus muntjak*)
- 3. \* \* \* \*
- 4. \* \* \*
- 5. Chital or spotted deer (*Axis axis*)
- 6. \* \* \* \* \*
- 7. Gorals (*Nemorhaedus goral*, *N. hodgsoni*)
- 8. \* \* \* \* \*
- 9. \* \* \* \* \*
- 10. \* \* \* \* \*
- 11. Hog deer (*Axis porcinus*)
- 12. Hyaena (*Hyaena hyaena*)
- 13. \* \* \* \* \*
- 14. Nilgai (*Boselaphus tragocamelus*)
- 15. \* \* \* \* \*
- 16. Sambar (*Cervus unicolor*)
- 17. \* \* \* \* \*
- 18. \* \* \* \* \*

- 19. Wild pig (*Sus scrofa*)
- 20. Sponges (All Calcareans)

**SCHEDULE IV**  
(See Secs. 2, 8, 9, 11 and 61)

- 1. \* \* \* \* \*
- 1-A. \* \* \*
- 2. \* \* \*
- 3. \* \* \*
- 3-A. Five-striped palm squirrel (*Funambulus pennanti*)
- 4. Hares (Black Naped, Common Indian, Desert and Himalayan mouse hare)
- 4-A. Hedgehog (*Hemiechinus auritus*)
- 4-B. \* \* \* \*
- 4-C. \* \* \*
- 4-D. \* \* \*
- 4-E. Indian porcupine (*Hystrix indica*)
- 5. \* \* \* \* \*
- 6. \* \* \* \* \*
- 6-A. Mongooses (all species of genus *Herpestes*)
- 6-B. \* \* \* \* \*
- 7. \* \* \* \* \*
- 7-A. \* \*
- 7-B. \* \* \*
- 8. \* \* \*
- 8-A. \* \* \*
- 9. \* \* \* \* \*
- 9-A. \* \* \*
- 10. \* \* \*
- 11. Birds (other than those, which appear in other Schedules):
  - 1. Avadavat (*Estrildinae*)
  - 2. Avocet (*Recurvirostridae*)
  - 3. Babblers (*Timaliinae*)
  - 4. Barbets (*Capitonidae*)
  - 5. Barnowls (*Tytoninae*)

6. Bitterns (Ardeidae)
7. Brown-headed gull (*Larus brunnicephalus*)
8. Bulbuls (Pycnonotidae)
9. Buntings (Emberizidae)
10. Bustards (Otididae)
11. Bustard-quails (Turnicidae)
12. Chloropsis (Irenidae)
13. Comb duck (*Sarkidiornis melanotos*)
14. Coots (Rallidae)
15. Cormorants (Phalacrocoracidae)
16. Cranes (Gruidae)
17. Cuckoos (Cuculidae)
- 17-A. Curlews (Scolopacinae)
18. Darters (Phalacrocoracidae)
19. Doves including the Emerald dove (Columbidae)
20. Drongos (Dicruridae)
21. Ducks (Anatidae)
22. Egrets (Ardeidae)
23. Fairy bluebirds (Irenidae)
24. Falcons (Falconidae), except the shaheen and peregrine falcons (*Falco peregrinus*), the saker and laggar falcons (*F. biarmicus*), and the redheaded merlin (*F. chicquera*)
25. Finches including the chaffinch (Fringillidae)
26. Flamingos (Phoenicopteridae)
27. Flowerpeckers (Dicaeidae)
28. Flycatchers (Muscicapidae)
29. Geese (Anatidae)
30. Goldfinches and allies (Carduelinae)
31. Grebes (Podicipitidae)
32. Herons (Ardeidae)
33. Ibises (Threskiornithidae)
34. Ioras (Irenidae)
35. Jays (Corvidae)
36. Jacanas (Jacanidae)

- 36-A. Junglefowl (Phasianidae)
- 37. Kingfishers (Alcedinidae)
- 38. Larks (Alaudidae)
- 39. Lorikeets (Psittacidae)
- 40. Magpies including the Hunting magpie (Corvidae)
- 41. Mannikins (Estrildinae)
- 42. Megapodes (Megapodidae)
- 43. Minivets (Campephagidae)
- 44. Munias (Estrildinae)
- 45. Mynas (Sturnidae)
- 46. Nightjars (Caprimulgidae)
- 47. Orioles (Oriolidae)
- 48. Owls (Strigidae)
- 49. Oystercatchers (Haematopodidae)
- 50. Parakeets (Psittacidae)
- 51. Partridges (Phasianidae)
- 52. Pelicans (Pelecanidae)
- 53. Pheasants (Phasianidae)
- 54. Pigeons (Columbidae) except the  
Blue rock pigeon (*Columba livia*)
- 55. Pipits (Motacillidae)
- 55-A. Pittas (Pittidae)
- 56. Plovers (Charadriinae)
- 57. Quails (Phasianidae)
- 58. Rails (Rallidae)
- 59. Rollers or Blue jays (Coraciidae)
- 60. Sandgrouses (Pteroclididae)
- 61. Sandpipers (Scolopacinae)
- 62. Snipes (Scolopacinae)
- 63. Spurfowls (Phasianidae)
- 64. Starlings (Sturnidae)
- 65. Stone curlews (Burhinidae)
- 66. Storks (Ciconiidae)
- 67. Stilts (Recurvirostridae)
- 68. Sunbirds (Nectariniidae)



69. Swans (sic) (Anatidae)
  70. Teals (Anatidae)
  71. Thrushes (Turdinae)
  72. Tits (Paridae)
  73. Tree pies (Corvidae)
  74. Trogons (Trogonidae)
  75. Vultures (Accipitridae)
  76. Waxbills (Estrildinae)
  77. Weaverbirds or bayas (Ploceidae)
  78. White-eyes (Zosteropidae)
  79. Woodpeckers (Picidae)
  80. Wrens (Troglodytidae)
12. Snakes [other than those species listed in Sch.I, Part II; and Sch.II, Part II]
- Amblycayhalidae
  - Amilidae
  - Boidae
  - Colubridae
  - Dasyptidae
  - Elapidae (cobras, kraits and coral snakes)
  - Glauconidae
  - Hydrophidae (freshwater and sea snakes)
  - Ilysiidae
  - Leptotyphlopidae
  - Typhlopidae
  - Uropeltidae
  - Viperidae
  - Xenopeltidae
13. Freshwater frogs (*Rana* spp.)
  14. Three-keeled turtle (*Geomyda tricarinata*)
  15. Tortoises (Testudinidae, Tryonichidae)
  16. Viviparous toads (*Nectophrynoides* spp.)
  17. Voles
  18. Butterflies and moths:

Family Danaidae

**Euploea core simulatrix**

Euploea crassa

Euploea dioeletianus ramsahai

Euploea mulciber

**Family HesperIIDae**

Baoris farri

Hasaro vitta

Hyarotis adrastus

Oriens concinna

Pelopidas assamensis

Pelopidas sinensis

Polytrema discreta

Polytrema rubricans

Thoressa horiorei

**Family Lycaenidae**

**Tarucus ananda**

**Family Nymphalidae**

**Eiuthalia lubentina**

**Family Pigeridae**

**Appias agathon ariaca**

Appias libythea

Appias nero galba

Prioneris sita

19. Mollusca:

Cypraea lamacina

Cypraea mappa

Cypraea talpa

Fasciolaria trapezium

Harpulina arausiaca

Lambis chiragra

Lambis chiragra arthritica  
Lambis crocea  
Lambis millepeda  
Lambis scorpius  
Lambis truncata  
Placenta placenta  
Strombus plicatus siboldi  
Trochus niloticus  
Turbo marmoratus

**SCHEDULE V**  
**(See Secs. 2, 8, 61 and 62)**

Vermin

1. Common crow
2. \* \* \* \*
3. Fruit bats
4. \* \* \*
5. Mice
6. Rats
7. \* \* \*

**SCHEDULE VI**  
**(See Section 2)**

1. Beddome's cycad (*Cycas beddomei*)
2. Blue vanda (*Vanda coerulea*)
3. Kuth (*Saussurea lappa*)
4. Ladies slipper orchid (*Paphiopedilum*)
5. Pitcher plant (*Nepenthes khasiana*)
6. Red vanda (*Renanthera imschootiana*)

**THE WILDLIFE (TRANSACTION AND TAXIDERMY)  
RULES, 1973**

G.S.R. 198(E), dated the 9<sup>th</sup> April, 1973

In exercise of the powers conferred by Cl. (b) of sub-section (1) of Sec. 63 of the Wild Life (Protection) Act, 1972 (53 of 1972), the Central Government hereby makes the following rules.

**1. Short title, extent and commencement**

- (1) These rules may be called the Wildlife (Transactions and Taxidermy) Rules, 1973.
- (2) They extend to the whole of the State of Bihar, Gujarat, Haryana, Himachal Pradesh, Madhya Pradesh and Uttar Pradesh.
- (3) They shall come into force on the 9<sup>th</sup> April, 1973.

**2. Definition**

In these rules, unless the context otherwise requires

- (a) "Act" means the Wildlife (protection) Act, 1972 (53 of 1972);
  - (b) "Form" means a Form appended to these rules;
  - (c) "Licensee" means a licensee under Chapter V of the Act;
  - (d) "Officer" means the Chief Wildlife Warden or any other officer whom the State Government may, for the purposes of these rules, by notification in the official Gazette, appoint;
  - (e) "specified animal" means any animal which is specified in Sch.I or Part II of Sch. II to the Act and which is
    - (i) captured or kept or bred in captivity, or
    - (ii) found wild in nature.
3. Acquiring, receiving or keeping specified animal, etc. in

control, custody or possession or put under process of taxidermy or make articles, etc.,

- (1) No person shall
  - (i) acquire, receive, keep in his control, custody or possession, any specified animal or any animal articles, trophy, uncured trophy, or meat derived therefrom, or
  - (ii) put under a process of taxidermy or make animal articles containing part of whole of such animal, except with the previous permission of the officer.
- (2) Every application for such permission shall be made in Form I.
- (3) On receipt of an application made under sub-rule (2), the officer may, after making such inquiry as he may think fit and within a period of fifteen days from the date of receipt of the application, either grant or refuse to grant the permission;  
Provided that no such permission shall be granted unless the officer is satisfied that the specified animal or animal article, trophy, uncured trophy or meat, referred to in sub-rule (1) has been lawfully acquired.
- (4) Where the officer refuses to grant the permission, he shall record the reason for so doing and a copy of the reason so recorded shall be communicated to the licensee applying for the permission.
- (5) Every permission granted under sub-rule (3) shall be in Form II.

#### **4. Submission of report of stocks**

- (1) Every licensee to whom permission has been granted

under sub-rule (3), of Rule 3 shall submit, to the officer who has granted the said permission, report regarding the stocks of specified animal or animal article, trophy, uncured trophy or meat, referred to in sub-rule (1) of Rule 3, in Form III within a period of [thirty days] of the acquisition, receipt or keeping of the same in his control, custody or possession.

- (2) The officer, after receiving such report, may arrange to affix identification marks on such stocks.

**5. Sale of specified animal, etc.**

- (1) No licensed dealer shall sell or offer for sale any specified animal or any animal article, trophy or uncured trophy derived therefrom, except to a person authorised to purchase by a permission granted by the officer and where the sale is effected the purchaser shall surrender the permission to the licensed dealer.
- (2) Every application for permission to purchase shall be made in Form IV.
- (3) On receipt of an application made under sub-rule (2), the officer may, after making such inquiry as he may think fit, and within a period of ten days from receipt of the application, either grant or refuse to grant the permission.
- (4) Where the officer refuses to grant the permission, he shall record the reasons for so doing and a copy of the reasons so recorded shall be communicated to the person applying for the permission.
- (5) Every permission granted under sub-rule (3) shall be valid up to a period of one month from the date of issue of the same.
- (6) Every licensed dealer shall, at the time of each sale, issue a

voucher in relation to the specified animal or animal article, trophy or uncured trophy referred to in sub-rule (1), to the person authorised to purchase.

- (7) Each voucher shall contain the following particulars, namely
- (a) date of issue of the voucher;
  - (b) the amount of price realised or to be realised;
  - (c) name and address of the licensed dealer issuing the voucher;
  - (d) name and address of the person to whom the voucher is issued;
  - (e) permission number of the person authorised to purchase;
  - (f) description of the specified animal/ animal article/ trophy/ uncured trophy derived therefrom and number;
  - (g) whether such specified animal/ animal article/ trophy/ uncured trophy/ was/were required to be declared under Sec.44 of the Wild Life (Protection) Act, 1972 (53 of 1972), and if so, whether it/they has/have been declared; signature of the licensed dealer issuing the voucher;
  - (h) signature of the person to whom the voucher is issued.

**6. Taxidermy or making animal article**

- (1) Every licensed taxidermist or licensed manufacturer shall, at the time of returning the trophy or animal article, issue a voucher to the owner of the said trophy or animal article.
- (2) Each voucher shall contain the following particulars, namely:
  - (a) date of issue of voucher;
  - (b) charges realised or to be realised;

- (c) name and address of the licensed taxidermist/ manufacturer issuing the voucher;
- (d) name and address of the person to whom the voucher is issued;
- (e) whether uncured trophy/ trophy/ animal article was required to be declared under Sec.40 or Sec.44 of the Wild Life (Protection) Act, 1972 (53 of 1972), and if so whether it/ they has/have been declared;
- (f) signature of the licensed taxidermist/ manufacturer issuing the voucher.

**7. Maintenance of vouchers**

- (1) The voucher referred to in Rules 5 or 6 shall be in triplicate and serially numbered.
- (2) The duplicate and the triplicate copy of the voucher shall be retained by the licensed dealer, licensed taxidermist or licensed manufacturer, and the original copy of the voucher shall be given to the person referred to in sub-rule (7) of Rule 5 or sub-rule (1) of rule 6.
- (3) Every book containing blank vouchers shall be presented to the officer for affixing his initials to stamps on such book before it is brought into use.
- (4) (a) Every licensed dealer, licensed taxidermist or licensed manufacturer shall send in monthly batches, not later than the seventh day of every month, the duplicate copies of vouchers retained by him, to the officer.  
(b) Every permission surrendered to a licensed dealer at the time of sale shall also be enclosed along with the duplicate copies aforesaid.



**8. Transport of specified animal, etc.**

- (1) No licensee shall transport from one place to another within the State any specified animal, animal articles, trophy or uncured trophy derived therefrom, except with the previous permission of the officer.
- (2) Every application for such permission shall be made in Form VI.
- (3) On receipt of an application made under sub-rule (2), the officer may, after making such inquiry as he may think fit, and within a period of seven days from the date of receipt of the application, either grant or refuse to grant the permission;  
Provided that no such permission shall be granted unless the officer is satisfied that the specified animal or animal article, trophy or uncured trophy, referred to in sub-rule (1) has been lawfully acquired.
- (4) Where the officer refuses to grant the permission, he shall record the reasons for so doing and a copy of the reasons so recorded shall be communicated to the licensee applying for the permission.
- (5) Every permission granted under sub-rule (3) shall be in Form VII.

**9. Appeal**

- (1) Any licensee or a person aggrieved by an order made by the Chief Wildlife Warden or any officer granting the permission under sub-rule (3) of rule 3, sub-rule (3) of rule 5 or sub-rule (3) of Rule 8, may prefer an appeal, if
  - (i) the order is made by an officer other than the Chief Wildlife Warden, to the Chief Wildlife Warden, or

- (ii) the order is made by the Chief Wildlife Warden, to the State Government.
- (2) In the case of an order passed in appeal by the Chief Wildlife Warden under Cl. (i) of sub-rule (1), a second appeal shall lie in the State Government
- (3) No appeal shall be entertained unless it is preferred within fifteen days from the date of the communication to the applicant of the order appealed against.  
 Provided that the appellate authority may admit any appeal after the expiry of the period aforesaid, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

**FORM I**

(See sub-rule (2) of Rule 3)

Application for permission to acquire, receive, keep specified animal, animal article, etc. or put under process of taxidermy or make animal article

To,

The \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Sir,

1. I ..... resident of ..... Taluk .....District ..... and holding License No. .... Granted under Sec.44 (4) of the Wild Life (Protection) Act, 1972 (53 of 1972), request that I may be granted permission to acquire/ receive/ keep in any control/ custody/ possession of specified animal/ animal article/ trophy/ uncured trophy/ meat derived from specified animal and/ or put under process of taxidermy/ make animal article containing part/ whole of such animal.

2. I furnish below the particulars in relation to such specified animal/ animal article/ trophy/ uncured trophy/ meat:
- (1) Species of animal
  - (2) Number
  - (3) Description(including sex, if possible)
  - (4) Source from which to be obtained
    - (i) Address and License No. if any
    - (ii) Whether declaration made/ permission/ licence obtained under Secs. 40, 43 or 44 of the Wild Life (Protection) Act, 1972, and if so the particulars:
  - (5) Particulars of certificate of ownership
  - (6) Identification mark, if any
  - (7) Premises in which intended to be kept
  - (8) Purpose for which to be acquired/ received/ kept in control/ custody/ possession
  - (9) If to be put under process of taxidermy or to make animal article,
    - (a) No. of trophies/ articles to be made
    - (b) Description of such trophies/ articles
    - (c) To whom will they be returned
    - (d) Probable date by which they will be returned
- 3.. I hereby declare that to the best of my knowledge and belief the information furnished herein is true and complete.

.....  
Signature of the applicant

Strike out whichever is not applicable

## FORM II

(See sub-rule (2) of Rule 5)

Possession to acquire, receive, keep in control, custody or permission of specified animal, animal article, etc. or put under process of taxidermy or make animal article.

Shri ..... Holding Licence No. .... granted under Sec.44(4) of the Wild Life (Protection) Act, 1972 (53 of 1972) is hereby permitted to acquire/ to keep under his control/ custody/ possession of specified animal/ animal article/ trophy/ uncured trophy/ meat derived from specified animal of the following description, or put under process of taxidermy or make animal article containing part or whole of such animal:

- (1) Species of animal
- (2) Description (including sex, if given in the application)
- (3) Number
- (4) Source from which to be obtained
- (5) Licence/ Permission No. of the source from which to be obtained
- (6) Particulars of the Certificate of Ownership
- (7) Identification mark, if any
- (8) Premises in which intended to be kept
- (9) Purpose for which permitted to be acquired/ received/ kept in control/ custody/ possession
- (10) If permitted to be put under process of taxidermy or to make animal article,
  - (a) No. of trophies/ articles to be made
  - (b) Description of such trophies/ articles
  - (c) To whom they should be returned
  - (d) Probable date by which they would be returned

Issued by me this ..... day of .....

Seal:  
Place:

.....  
Signature and Designation

Date:

Strike out whichever is not applicable

**FORM III**  
**(See sub-rule (1) of Rule 4)**  
**Report of stocks**

To,

The \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1. Full name, address and Licence No. of the Licensee
2. Stock held on the date of report in specified animals:
  - (a) Species and sex
  - (b) Number
  - (c) Adult or juvenile
  - (d) Premises where kept
3. Stock held on the date of report in animal articles:
  - (a) Description, including species of animal from which derived
  - (b) Number
  - (c) Dimension or weight
  - (d) Premises where kept
4. Stock held on the date of report in trophies:
  - (a) Description, including species of animal from which derived
  - (b) Number

- (c) Dimension or weight
  - (d) Premises where kept
5. Stock held on the date of report in uncured trophies:
- (a) Description, including species of animal from which derived
  - (b) Number
  - (c) Dimension or weight
  - (d) Premises where kept
6. Remarks, if any
- I do hereby declare that the information given above is true to the best of my knowledge and belief.

Place:

.....  
 Date: Signature of the person making declaration

Strike out whichever is not applicable

**FORM IV**  
**(See sub-rule (2) of Rule 5)**

Application for permission to purchase specified animal, etc.

To

The \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Sir,

I/ We, ..... residing at ... Taluk..... District .....

Request that I/ We may be granted permission to purchase specified animal/ animal article/ trophy/ uncured trophy derived

from specified animal of the following description, from a Licence:

- (1) Number and description of
  - (a) specified animal
  - (b) animal article
  - (c) trophy
  - (d) uncured trophy
- (2) Purpose for which the purchase is to be made
- (3) I/ We hereby declare that to the best of my/ our knowledge and belief the information furnished herein is true and complete.

.....  
Signature(s) of the applicant(s)

Place:

Date:

Strike out whichever is not applicable

**FORM V**

**(See sub-rule (5) of Rule 5)**

Permission to purchase specified animal etc.

S/ Shri ..... is/ are hereby permitted to purchase specified animal/ animal article/ trophy/ uncured trophy derived from specified animal of the following description, from ..... for the purpose of .....

Number and description of

- (a) Specified animal

- (b) Animal article
- (c) Trophy
- (d) Uncured trophy

Issued by me this ..... day of .....

.....  
Signature and Designation

Seal:

Place:

Date:

Note: This permission shall be valid up to a period of one month from the date of issue.

Strike out whichever is not applicable

**FORM VI**

**(See sub-rule (2) of Rule 8)**

Application for permission to transport specified animal etc.

To

The \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sir,

I, ..... residing at ..... Taluk ..... District ..... holding Licence No. .... granted under Sec.44 (4) of the Wild Life (Protection) Act, 1972 (53 of 1972), request that I may be granted permission to transport the following :

- (1) Species of specified animal or from which the animal article/ cured trophy/ uncured trophy is derived



- (2) Number \_\_\_\_\_
- (3) Description (including sex if possible) \_\_\_\_\_
- (4) Identification mark, if any \_\_\_\_\_
- (5) Source of procurement and the Licence/ Permission No. \_\_\_\_\_
- (6) Certificate of ownership, if any \_\_\_\_\_
- (7) Mode of transport \_\_\_\_\_
- (8) Route \_\_\_\_\_
- (9) Period required for transport \_\_\_\_\_
- (10) Destination \_\_\_\_\_

I hereby declare that to the best of my knowledge and belief the information furnished herein is true and complete.

.....  
Signature of the applicant

Place:  
Date:

Strike out whichever is not applicable

**FORM VII**  
**(See sub-rule (5) of Rule 8)**

Permission to transport specified animal etc.

Shri ..... Holding Licence No.  
..... granted under Sec.44(4) of the Wild Life  
(Protection) Act, 1972 (53 of 1972), is hereby permitted to  
transport in the manner prescribed below specified animal/ animal  
article/ cured trophy/ uncured trophy derived from specified  
animal, from ..... to .....

- (i) Mode of transport
- (ii) Route
- (iii) Period allowed for transport
- (iv) Remarks

Issued by me this ..... day of .....

.....  
Signature and Designation

Seal:

Place:

Date:

Strike out whichever is not applicable

**THE WILDLIFE (STOCK DECLARATION)**  
**CENTRAL RULES, 1973**

G.S.R. 29(E)

In exercise of the powers conferred by Cl. (a) of sub-section (1) of Sec.63 of the Wild Life (Protection) Act, 1972 (53 of 1972), the Central Government hereby makes the following rules, namely

1. Short title and commencement

(1) These rules may be called the Wildlife (Stock Declaration) Central Rules, 1973.

(2) They shall come into force in the State of Madhya Pradesh on the 25<sup>th</sup> January, 1973 and in other States and Union Territories on such date as the Central Government may, by notification appoint, and different dates may be appointed for for different States and union Territories.

2. Declaration by manufacturer or dealer or taxidermist in, animal article, etc.

Every manufacturer of, or dealer in, animal article or every dealer in captive animals, trophies, or uncured trophies, or every taxidermist shall, within fifteen days from the commencement of Wild Life (Protection) Act, 1972, declare his stock of animal article, captive animal, trophies, and uncured trophies, as the case may be, as on the date of such declaration to the Chief Wildlife Warden in the form given below.

Form of Declaration  
(See sub-section (2) of Sec. 44)

To

The Chief Wildlife Warden  
State or Union territory of

.....

1. Full name and address of the manufacturer/ dealer/ taxidermist making the declaration \_\_

---

2. Actual stock held on the date of declaration in animal articles:
- (i) Description including name of animal from which derived \_\_\_\_\_
  - (ii) Number \_\_\_\_\_
  - (iii) Dimensions or weight \_\_\_\_\_
  - (iv) Premises where kept \_\_\_\_\_
3. Actual stock held on the date of declaration in captive animals:
- (i) Species and sex \_\_\_\_\_
  - (ii) Number \_\_\_\_\_
  - (iii) Adult or juvenile \_\_\_\_\_
  - (iv) Premises where kept \_\_\_\_\_
4. Actual stock held on the date of declaration in trophies:
- (i) Description including name of animal from which derived \_\_\_\_\_
  - (ii) Number \_\_\_\_\_
  - (iii) Dimensions or weight \_\_\_\_\_
  - (iv) Premises where kept \_\_\_\_\_
5. Actual stock held on the date of declaration in uncured trophies:

- (i) Description including name of animal from which derived \_\_\_\_\_
- (ii) Number \_\_\_\_\_
- (iii) Dimensions or weight \_\_\_\_\_
- (iv) Premises where kept \_\_\_\_\_

6. Remarks, if any

I do hereby declare that the information given above is true to the best of my knowledge and belief.

.....  
Signature of the person making the declaration

Place:

Date:

**THE WILDLIFE (PROTECTION) LICENSING  
(ADDITIONAL MATTERS FOR CONSIDERATION)  
RULES, 1983**

G.S.R. 328(E), dated 13<sup>th</sup> April, 1983

In exercise of the powers conferred by Cl.(a) of sub-section (1) of Sec.63, read with Cl. (b) of sub-section (4) of Sec. 44 of Wild Life (Protection) Act, 1972 (53 of 1972), the Central Government hereby makes the following rules, namely

- 1. Short title, extent and commencement
  - (1) These rules may be called the Wild Life (Protection) Licensing (Additional Matters for Consideration) Rules, 1983
  - (2) They shall extend to the whole of India except the State

of Jammu and Kashmir.

(3) They shall come into force on the date of their publication in the official Gazette.

2. Definition

In these Rules, unless the context otherwise requires, "Act" means the Wild Life (Protection) Act, 1972 (53 of 1972).

3. Additional matters for consideration for grant of licence under Sec.44 of the Act.

For the purposes of granting a licence referred to in sub-section

(1) of Sec.44 of the Act, the Chief Wildlife Warden or the authorised officer, as the case may be, shall in addition to the matters specified in Cl. (b) of sub-section (4) of that section, have regard to the following other matters, namely

- (i) capacity of the applicant to handle the business concerned with referred to facilities, equipment and suitability of the premises for such business;
- (ii) the source and the manner in which the supplies for the business concerned would be obtained;
- (iii) number of licences for the relevant business already in existence in the area concerned;
- (iv) implications which the grant of such licence would have on the hunting or trade of the wild animals concerned.

Provided that no such shall be granted if the said implications relate to any wild animal specified in Sch.I or Part II of Sch.II to the Act, except with the previous consultation of the Central Government.

## **WILDLIFE (PROTECTION) RULES, 1995**

G.S.R. 348(E)

In exercise of powers conferred by clause (k) of sub-section (1) of Sec.63 of the Wild Life (Protection) Act, 1972 (53 of 1972), the Central Government hereby makes the following rules, namely:

1. Short title and commencement -
  - (1) These Rules may be called Wildlife (Protection) Rules, 1995.
  - (2) They shall come into force from the date of their publication in the Official Gazette.
2. In these rules, unless the context otherwise requires -
  - (a) "Act" means the Wild Life (Protection) Act, 1972.
  - (b) "Section" means the Section of the Act.
3. The manner of the notice under clause (c) of Sec.55 -
  - (1) The notice to the Central Government or the State Government or any authorised officer, as the case may be, shall be given in form "A" annexed to these rules.
  - (2) The person giving notice to the Central Government or the State Government or any authorised officer shall send the notice by registered post to:
    - (a) The Director of Wildlife Preservation, Government of India in the Ministry of Environment and Forests, New Delhi; and
    - (b) (I) The Secretary to the concerned State Govt./ Union Territory in charge Wildlife, or
    - (ii) The Chief Wildlife Warden of the concerned State Govt./ Union Territory, or

(iii) Any authorised officer of State Govt./ Union Territory.

**FORM "A"**

(See sub-rule (1) of Rule 3)

From:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notice under Sec. 55 of the Wild Life (Protection) Act, 1972.  
Whereas an offence under the Wild Life (Protection) Act, 1972 has been committed/ is being committed by [Full name(s) and complete address(es)] .....  
.....  
.....  
.....

And whereas the brief facts of the offence(s) are enclosed;  
I/ We hereby gives notice of 60 days under Sec. 55 of the Wild Life (Protection) Act, 1972, my/ our intention to file a complaint in the court of .....  
for violation of section(s) ..... of the Wild Life (Protection) Act, 1972.

I am/We are enclosing the following documents as evidence of proof of the violation of the said Act. (Documentary evidence may include photographs/ reports/ statements of witness(es) for enabling enquiry into the alleged violation/ offence).



[No.1-2/ 91/ WLI]  
SARWESHWAR JHA, Jt. Secy.

**WILDLIFE (SPECIFIED PLANTS – CONDITIONS FOR  
POSSESSION BY LICENSEE) RULES, 1995**

G.S.R. 349(E)

In exercise of powers conferred by Clause (a) of sub-section (1) of Sec. 63 of Wild Life (Protection) Act, 1972 (53 of 1972), the Central Government hereby makes the following rules, namely:

1. Short title, extent and commencement -
  - (1) These Rules may be called Wildlife (Specified Plants – Conditions for possession by licensee) Rules, 1995.
  - (2) These rules shall come into force from the date of commencement of provisions of Chapter IIIA of the Wild Life (Protection) Act, 1972.
2. Definition -

In these Rules, unless the context otherwise requires, “Act” means the Wild Life (Protection) Act, 1972 (53 of 1972).
3. Conditions and other matters subject to which the licensee may keep any specified plants in his custody or possession -
  - (1) No licensee shall acquire or receive or keep in his control, custody or possession any specified plant or part or derivative thereof in respect of which a declaration under Sec. 17E of the Act has not been made.
  - (2) No licensee shall acquire, purchase or receive any specified plant or part or derivative thereof from any person other than a licensed dealer in specified plants or a

cultivator having a license for cultivation of specified plants under the Act.

- (3) Licensee shall keep the stock of specified plants so purchased by him only in the premises approved by the Chief Wildlife Warden of the State.

[No.1-2/ 91/ WLI]  
SARWESHWAR JHA, Jt. Secy.

**WILDLIFE (SPECIFIED PLANT STOCK  
DECLARATION)  
CENTRAL RULES, 1995.**

G.S.R. 350(E)

In exercise of powers conferred by Clause (h) of Sec. 63 read with Sec. 17E of Wild Life (Protection) Act, 1972 (53 of 1972), the Central Government hereby makes the following rules, namely:

1. Short title and commencement -
  - (1) These rules may be called the Wildlife (Specified Plant Stock Declaration) Central Rules, 1995.
  - (2) These rules shall come into force from the date of commencement of provisions of Chapter IIIA of the Wild Life (Protection) Act, 1972.
2. Declaration of stocks by a cultivator or dealer in specified plants, parts and derivatives thereof -

Every cultivator of specified plants and the dealer in specified and derivatives thereof shall, within 30 days from the commencement of provisions of Chapter IIIA of Wild Life (Protection) Act, 1972, declare his stocks of specified plants, parts and derivatives thereof, as the case may be, as on the date

of such declaration to the Chief Wildlife Warden in the form given below

**Form of Declaration**

(See Sec. 17E and sub-section (2) of Sec. 44)

To

The Chief Wildlife Warden,  
State/ Union Territory of

.....  
1. Full name and address of the cultivator or dealer in specified plants, parts and derivatives thereof making the declaration  
.....

2. Actual stock held on the date of declaration:

Name of the specified plant (including scientific name)	Known Uses	Description of stock	Quantity held in	Premises where stock held Kgs number	Date of procurement are kept	Source and specific area of procurement	Documentary proof, if any
1	2	3	4	5	6	7	8

3. Remarks, if any .....

I do hereby declare that the information given above is true to the best of my knowledge and belief.

.....  
Signature of the person making the declaration

Place:

Date:

[No.1-2/ 91/ WLI]  
SARWESHWAR JHA, Jt. Secy.

DECLARATION OF WILD LIFE STOCK RULES,2003

REGISTERED NO. DL-33004/99

**The Gazette of India  
EXTRAORDINARY**

PART II – Section 3 – Sub-section (ii)

**PUBLISHED BY AUTHORITY**

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NO. 365]NEW DELHI,FRIDAY,APRIL 18,2003/ CHAITRA 28, 1925

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**MINISTRY OF ENVIRONMENT AND FORESTS  
NOTIFICATION**

New Delhi, the 18<sup>th</sup> April,2003

S.O. 445(E). – In exercise of the powers conferred by sub-section (1) and (3) of Sec. 40A read with Sec. 63 of the wild life (Protection) Act, 1972 (53 of 1972), the Central Government hereby marks the following rules, namely:-

1. Short title and commencement –

1. These rules may be called the Declaration of wild life stock Rules, 2003.
2. They shall come into force on the date of their publication in the Official Gazette

2. Definitions. -

In these rules, unless the context otherwise requires,-

- a) “Act” means the wild life (Protection) Act, 1972 (53 of 1972);
- b) “From” means the form annexed to these rules;

- c) all other words and expressions used in these rules shall have the meanings respectively assigned them in the Act
3. Publicity of intent of notification and Assistance in making application
- i. The Chief Wildlife The chief wildlife warden or the officer authorized by the state Government in this regard shall cause to give wide publicity to the intent of this notification in the regional language through electronic or print media or such other means.
  - ii. The Chief wildlife Warden of the officer authorized by the state Government in this regard shall take necessary action to assist the local communities and individuals especially the poor and illiterate in the declaration of their possession, filling up the specified form and any other matter connected there with and shall make every attempt to ensure that no individual or community associated with animals is deprived of this opportunity.
4. Procedure for filling application. -
- a. Warden or the officer authorized by the state Government in this regard shall be presented in the Form annexed to these rules by the application either in person or by an agent or by duly authorized legal practitioner or sent by registered post address to the Chief Wild Life Warden or the officer authorized by the State Government in this regard of the concerned State or the Union territory.
  - b. The application under sub rule (1) shall be present in four complete sets within a period of one hundred of one eight days from the date of publication of these rules.
  - c. The applicant may attach to and present with his

application an acknowledgement slip as is given in the From, Which shall be signed by the official receiving the application on behalf of the Chief Wild Life Warden or he officer authorized by the State Government in this regard in acknowledgement of the receipt of the application.

5. Presentation and scrutiny of application

1. The chief Wildlife warden or the officer authorized by the State Government in this regard shall endorse on every application the date on which it is presented or deemed to have been presented under that rule and shall sign the endorsement.
2. If on scrutiny the application is found to be in order, it shall be duly registered and given serial number
3. If the application, on scrutiny, is found to be defective, the same shall be returned to the application within fifteen days for rectifying the defects and resubmitting the corrected application within fifteen days from the date of its receipt.
4. If the applicant fails to rectify the defect within the time allowed under sub-rule (3), the Chief Wild Life Warden or thr officer authorized by the State Government in this regard may, by order and for the reasons to be recorded in writing decling to register the application.

6. Place of filling application

The application shall file application with the Chief Wild Life Warden of the officer authorized by the State Government in this regard

7. Date and palce of hearing to be notified.

The Chief wild life Warden of the officer authorized by the State Government in this regard shall notify to the parties the date, palce and time of hearing of each application if required.

8. Decision on application. -
  - a. The Chief Wild Life Warden of the officer authorized by the State Government in this regard shall verify the facts mentioned in the application and make such inquiry as may be required.
  - b. The Chief Wild Life Warden shall, as far as possible, decide the application within six months of the dates of its presentation and communicate the same to the applicant in writing under his own signature by register post
9. Hearing on application ex- parte.-

Where on the date fixed for hearing the application, the application fails to appear without intimation, the Chief Wild Life Warden or the officer authorized by the State Government in this regard may at their discretion adjourn or decide the application ex-parte.
10. Inquiry by the Chief Wild Life Warden or Authorized officer.-
  - a. The Chief Wild Life Warden or the officer authorized by the State Government in this regard shall conduct a detailed inquiry and take all actions as provided in Sec.41 of the Act.

(2) A copy of the report pertaining to sub-rule (1) of this rule, shall be provided to the application
11. Certificate of ownership
  - (1) The Chief Wild Life Warden shall provide a certificate ownership to the applicant whose claim is found valid.
  - (2) The certificate of ownership shall be provided as per the provisions of Sec. 42 of the Act
  - (3) The certificate of ownership shall contain the facsimile

of the identification mark and case of live animals the identification number of the transponder ( microchip) implanted shall be mentioned in the certificate.

12. Dealing with declared object.-

Any captive animal, animal article trophy or uncutred trophy under sub-section (1) Sec. 40A and in respect of which certificate of ownership has not been granted or obtained, shall be treated as government property

13. Order to be signed and dated.-

Every order of the Chief Wild Life Warden shall be in writing and shall be signed and dated by the Chief Wild Life Warden.

14. Commnication of order to parties.-

Every order passed on the application shall be communicated to the application either in person or by registered post free of cost.

[ F. No. 1-1/2003 WL-I]FORM

**APPLICATION UNDER SECTION 40A OF WILD LIFE PROTECTION ACT, 1972 FOR CERTIFICATION OF OWNERSHIP**

To

The Chief Wild Life Warden or the Authorized Officer  
State or Union Territory of .....

.....

(i) I

.....

(Surname ) (First name ) (Middle Name)

son/daughter of .....

(Surname ) (First name ) (Middle Name)



presently residing at House  
Number..... Taluk .....  
District.....  
State..... Pin Code..... ..and  
having permanent residence at House  
Number..... Taluk .....  
District.....  
State..... Pin Code.....

Here by declare that I am in control or possession of captive animal and/or its offspring bred in captivity/ animal article/ trophy/ uncured trophy/ derived from animal (strike out whichever is not applicable) specified in Schedule I or part II of Schedule II o the Wildlife ( Protection) Act, 1972 having following description

1. Common name of the animal species
2. Zoological name ( Mention sub-species if any):
3. Description of the item
4. State the condition of the item ( provide four colour photographs of size 8” x 6” covering front, left and right profiles and full photograph):
5. Number of item:
6. Method of procurement: Purchase/gift/inheritance/any other modes specify:
7. Date of procurement:
8. Name of person/ institute from whom obtain:
9. Address of person/ institute referred to in (6) above:
10. Size ( in meters/cms):
  - (i) Length
  - (ii) Width

(iii) Height

11 Weight ( in Kgs/gms):

12 any specific mark that can help in identification of the item

13 Mention the age and sex in case of live animals

(ii) I hereby declare that the above referred captive animal / item has been kept, store or maintained at the following address

.....  
.....  
.....

I hereby declare that the above referred captive animal / item was acquire by me through legal means but no declaration has been made by me under sub-section (1) or sub-section (4) of sec. 40 of the Wild Life (Protection) Act. 1972

I further declare that I have read and understood the provisions contain in Sec. 40A, 42 and 43 of wild Life ( Protection 0 Act, 1972 and state that the above shall not be transferred to anyone by any mode except by way of inheritance.

I hereby give my consent for fixing an identification mark to each item and transponder in case of captive animal and assure that mark of transponder will not be erased, altered or damaged and in the event of any damage, alternation or change of the mark, I shall inform the competent within twenty-four hours.

I do hereby declare that the information given above is true to the best my knowledge and belief.

Place :

Date :

Signature of the person making the declaration  
( Name

Acknowledge Slip

Receipt of the application filed by Shri/ Smt .....  
..... present residing at.....  
.....  
..... (Full Address and Telephone Number )  
..... in the office of the  
..... Is hereby  
acknowledged.

Official Seal

Signature

**GUIDELINES FOR APPOINTMENT OF HONORARY  
WILDLIFE WARDENS**

**The Need**

1. People's participation and support is crucial for nature and Wildlife conservation. One of the important ways of enlisting such support is by involving the community leaders and other persons of standing, who have the interest as well as the capacity to render assistance for this cause. Such assistance can be very useful in control over poaching for this clandestine trade in wild animals or their articles, identification of relatively less known wildlife refuges needing protection, carrying the message of conservation to the people living in and around the sanctuaries and national parks, and related matters. This objective can be accomplished if really suitable public men are identified, duties and Honorary Wildlife Wardens, with their responsibilities and powers clearly defined.

### **Legal Status**

2. Sec.4 of the Wild Life (Protection) Act, 1972 empowers the State Government to appoint
  - (a) a Chief Wildlife Warden;
  - (b) Wildlife Wardens; and
  - (c) Such other officers and employees as may be necessary for the purpose of the Act.

Honorary Wildlife Wardens can be appointed under sub-section (c) of Sec.4 of the Act. Under Sec.59 of the aforesaid Act, such Honorary Wildlife Wardens shall be deemed to be public servants within the meaning of Sec.21 of the Indian Penal Code.

### **Criteria for Selection**

3. It is very important that the right persons are selected for appointment as Honorary Wildlife Wardens. Every State has a Chief Wildlife Warden and it is mainly his duty to recommend the names of suitable person for this purpose. However, in order to assist him in this regard as well as to introduce a measure of wider participation, the members of the State Wildlife Advisory Board should be requested to suggest suitable names, especially from their own areas.
4. The following criteria should be kept in mind while assessing the suitability of a person as an Honorary Wildlife warden:
  - (a) Genuine concern for Wildlife conservation.
  - (b) Personal record free of involvement in any activity detrimental to the interest of nature and Wildlife conservation.

Any person involved in commercial exploitation of Wildlife should not be considered.
  - (c) Capacity to render help to the official machinery.
  - (d) Local standing which make him/ her effective, especially in conveying the conservation message.

5. An important point to bear in mind is the identification of areas particularly prone to poaching, e.g. forests in the vicinity of urban centres and cantonments or close to sanctuaries and national parks. Likewise, centres of clandestine trade in wildlife and products thereof should be identified; so also areas where damage to the people or their property from wild animals is heavy. Selection of persons as honorary Wildlife Wardens must be related to such problem areas because it is these areas, which need priority attention and where public participation is needed most.

#### **Procedure and Appointment**

6. Under Sec.6 of the Wild Life (Protection) Act, 1972, every State and Union Territory has a Wildlife Advisory Board to aid and advise the Government in matters connected with the protection of wildlife. The appointment of an Honorary Wildlife Warden should be generally with the recommendation of this Advisory Board. The Chief Wildlife Warden should submit the proposals for this purpose at the meeting(s) of the Board and then seek the orders of the Government.
7. While recommending any person for such appointment, the criteria led down in paras 4 and 5 above must be kept in mind by the Board.
8. The appointment of an Honorary Wildlife Warden should, in the first instance, be generally for a period of one year. Thereafter on the recommendation of the Wildlife Advisory Board, it may be renewed for a period not exceeding 2-3 years at a time.
9. The Wildlife Advisory Board of each State/ Union Territory should review the functioning of the scheme of Honorary Wildlife Wardens at least once every year.
10. The appointment order of an Honorary Wildlife Warden should clearly specify the jurisdiction, which should normally

be a district or a few districts, in the area where the person resides. However, there is no objection to making members of the State Wildlife Advisory Board Honorary Wardens for larger areas.

11. Each Honorary Warden should be issued an identity card having his signature and photograph duly attested by the Chief Wildlife Warden. The Chief Wildlife Warden should also give each Honorary Warden a small booklet containing the Wild Life (Protection) Act and the Rules made there under as well as the duties, responsibilities, and power of an Honorary Wildlife warden.
12. The State Government may, at its discretion, terminate the appointment of an Honorary Wildlife Warden at any time, without assigning reasons.

#### **Duties and Responsibilities**

13. The main duty and responsibility of an Honorary Wildlife Warden is to assist whole heartedly the State organization responsible for Wildlife conservation work, especially with regard to the following matters:
  - (a) Control of poaching and clandestine trade in wild animals and products/ articles thereof.
  - (b) Detection and prosecution of offences under the Wild Life (Protection) Act and the Rules made thereunder.
  - (c) Preventing damage to the habitat of Wildlife.
  - (d) Identification and selection of areas suitable to be declared as sanctuaries, national parks, closed areas, etc; as well as measures for their proper protection.
  - (e) Measures for dealing with the problem of damage by wild animals to life and property, including the assessment and payment of compensation, etc.
  - (f) Carrying the message of conservation to the people and enlisting public support for nature and Wildlife

conservation. The effort should be especially directed to the communities living in or near the declared Wildlife reserves.

- (g) Any other matter connected with the protection of Wildlife, which may be entrusted by the Wildlife Advisory Board or the Chief Wildlife Warden of the State, from time to time.

### **Powers**

14. In accordance with sub-section (3) of Sec.4 of the Wild Life (Protection) Act, 1972, an Honorary Wildlife Warden appointed under sub-section (2) (c) of Sec.4 shall be subordinate to the Chief Wildlife Warden of the State and under Sec.59 of aforesaid Act, he shall be deemed to be a public servant within the meaning of Sec.21 of the Indian Penal Code. Protection for action taken in good faith is provided under Sec.60 of the Act.
15. With a view of making the Honorary Wildlife Wardens useful and effective it is necessary that the following specific powers under the Wild Life (Protection) Act, 1972 should be delegated to them:
  - (a) Power to inspect records of licences under Sec.47 (b) of the Act;
  - (b) Powers of entry, search seizure and detention under Sec.50 for prevention and detection of offences under the Act.
16. Suitable Honorary Wildlife Wardens could be authorised also to file complaints in courts in accordance with Sec.55 of the Wild Life (Protection) Act, 1972. Normally, however, an Honorary Wildlife Warden should bring the offence detected by him to the notice of the Wildlife Warden having jurisdiction for making proper investigation and lodging a complaint in the court as laid down in Sec.55 of the Act.
17. Apart from the above, the State Government may delegate

any other power under the aforesaid Act, as it may consider necessary.

### **General**

18. Just as it is expected that the Honorary Wildlife Wardens should assist the State Wildlife organization, it is equally essential that the Chief Wildlife Warden and the whole State Machinery responsible for the protection of Wildlife should take all possible steps to associate the Honorary Wildlife Wardens in their work. This can be achieved best by fostering a spirit of mutual trust and confidence.
19. No staff or vehicle support can be provided to Honorary Wardens as a matter of course. However, if the circumstances warrant, the departmental staff should provide all possible help and assistance. Instructions to this effect should be issued by the State Government to all concerned officers in the field.
20. It is also appropriate that the actual expenses incurred by an Honorary Warden on travel by public transport for carrying out the duties assigned to him should be reimbursed by the State Government. In addition, all actual expenses incurred in the detection of an offence under the Wild Life (Protection) Act, 1972, which leads to successful prosecution may be reimbursed after due verification.
21. The State Government should recognise outstanding work or service rendered by any Honorary Warden. Such recognition can be by way of a letter of commendation, or a certificate signed by the Minister in charge of the Department, or the membership of the State Wildlife Advisory Board. Cash grants could also be considered in suitable cases





# भारत का राजपत्र The Gazette of India

असाधारण  
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)  
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY

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No 643] NEW DELHI, WEDNESDAY, NOVEMBER 11, 2009/KARTIKA 20, 1931

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## MINISTRY OF ENVIRONMENT AND FORESTS

New Delhi, the 10<sup>th</sup> November, 2009

### NOTIFICATION

G. S. R. 807 (E). \_\_\_\_ In exercise of the powers conferred by clauses (f) and (g) of Sub-section (1) of section 63 of the Wild Life (Protection) Act, 1972 (53 of 1972), and in supersession of the Recognition of Zoo Rules, 1992, except as in respect of things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely; :-

#### 1. Short title and commencement

- (1) These rules may be called the Recognition of Zoo Rules, 2009.
- (2) They shall come into force on the date of their publication in the Official Gazette

#### 2. Definitions

In these rules unless the context otherwise requires:

- (a) "Act" means the Wild Life (Protection) Act, 1972 (53 of 1972);

- (b) "Central Zoo Authority" means the Central Zoo Authority constituted under section 38A of the Act;
- (c) "Conservation Breeding Centre" means the facility specially dedicated to planned conservation breeding of an endangered species of wildlife.
- (d) "Enclosure" means any accommodation provided for zoo animals.
- (e) "Enclosure barrier" means a physical barrier to contain an animal within an enclosure.
- (f) "Endangered Species" means species included in Schedule I and Schedule II of the Act.
- (g) "Critically endangered species" means an endangered species whose total number in all the zoos in the country put together does not exceed 200.
- (h) "Form" means a form appended to these rules.
- (i) "Performance" means any effort to force the animal to carry out unnatural act including performance of circus tricks.
- (j) "Rescue Centre" means an establishment for the long-term care of animals specified in the Schedules to the Act.
- (k) "Stand-of-barrier" means a physical barrier set back from the outer edge of an enclosure barrier.
- (l) "Zoo Director" means an in-charge of the zoo with whatever designation, responsible for day to day management of the zoo.
- (m) "Zoo Operator" means the person who has ultimate control over the affairs of the zoos provided that \_\_\_\_\_
  - I. in the case of a firm or other association of individuals, any one of the individual partners or members thereof; or

- II. in the case of a company, any director, manager, secretary or other officer, who is in-charge of and responsible to the company for the affairs of the zoo ; or
- III. In case of zoo owned or controlled by the Central Government or any State Government or Union Territory Administration or any Trust or Society funded by the Central Government or a State Government or a Union Territory Administration, the Secretary of the concerned Department of that Government, or as the case may be the Union Territory Administration, shall be deemed to be the Zoo Operator.

**3. Application for Recognition**

- (1) An application for recognition of a Zoo under section 38H of the Act, shall be made to the Central Zoo Authority in Form I.
- (2) An application for obtaining prior approval of the Central Zoo Authority under sub-section (1A) of section 38H of the Act for establishment of a new zoo shall be made to the Central Zoo Authority in Form I along with the a detailed project report.

**4. Fees for Application**

There shall be paid in respect of every application made under rule 3, a fee of ten thousand rupees to be paid through Demand Draft or Postal Order in favour of the "Central Zoo Authority, New Delhi".

**5. Documents to be filled along with the application and particulars it should contain. -----**

Every application under rule 3 shall be accompanied by the fee specified under rule 4 and shall also contain documents and particulars as to the matters specified in Form I.

**6. Power to make inquiries and call for information**

The Central Zoo Authority may, before granting recognition to a zoo under Section 38H of the Act, make such inquiries and ask for from the applicant such further information, as it may considers necessary.

**7. Form of recognition -----** (1) The Central Zoo Authority may, on being satisfied with regard to sufficiency of facilities and standards in the zoo, grant recognition to such zoo.

(2) The recognition granted to a zoo under sub-rule (1) shall be subject to the following conditions, namely;

(a) that the recognition unless granted on a permanent basis, shall be for such period not less than one year as may be specified in the recognition.

(b) that the zoo shall comply with such standards and norms as are, or may be specified or imposed, by or under the provisions of the Act or the rules made thereunder; and

(c) the zoo shall comply with the directions and guidelines issued by the Central Zoo Authority from time to time, for the purpose of maintenance and upkeep of the zoo.

**8. Renewal of recognition -----** (1) A zoo, recognized under these rules, shall make an application to the Central Zoo Authority in Form I three months before the expiry of the period of recognition..

(2) The provisions of rule 3, rule 4, rule 5, rule 6 and rule 7 shall apply in relation to renewal of recognition as they apply in relation to grant of recognition except that the fee payable in respect of an application for renewal of recognition shall be five thousand rupees.

**9. Classification of zoos. -----** (1) For the purposes of deciding standards and norms for recognition of zoo and monitoring and evaluating its performance, the zoo, on the basis of area, number of visitors, number of species and animals,

endangered species and number of animals of endangered species in its collection shall be taken into consideration and the zoo shall accordingly be classified into following four categories as specified in the Table, namely:-

S. No.	Category of zoo	Criteria for Qualifying to the category					
		(3)	(4)	(5)	(6)	(7)	(8)
(1)	(2)	Area of the zoo (hectares)	No. of visitors in a year (in lakhs)	No. of species	No. of animals	No. of endangered species	No. of animals of endangered species
1.	Large	75	7.5	75	750	20	100
2.	Medium	35	3.5	35	350	10	50
3.	Small	10	1.0	10	100	3	15
4.	Mini	Less than 10	Less than 1.00	Less than 10	Less than 100	--	----

- (2) The zoo which meets at least any four of the aforesaid criteria (but including number of species and number of animals) shall be classified as such by the Central Zoo Authority.

Provided that the Central Zoo Authority may, by order in writing, allow a mini zoo to keep animals of endangered species subject to the conditions, if any, laid down in that order with regard to the area of the zoo, housing, upkeep and healthcare facilities including deployment of veterinarian and supervisory level staff.

#### **10. Standards and norms for recognition.-----**

The Central Zoo Authority shall grant recognition to a zoo, with due regard to the interest of protection and conservation of wildlife, and on being satisfied that the standards and norms and other matters specified in the Schedule are met by such zoo:

Provided that the Central Zoo Authority may, if it considers appropriate, and for reason to be recorded in writing, grant recognition, with conditions, if any, to such zoo which have shown considerable improvement in the past and

have the potential and resources to come up to the prescribed standards and norms within a reasonable time frame and are willing to do so. Such an action would lead to qualitative improvement in the zoos, and avoid logistic problems arising due to the closure of the zoos on the basis of their present status.

**11. Maintenance of Records and submission of Inventory**

- (1) Every zoo shall maintain record of the births, acquisitions, deaths and disposals of animals of each species in its collection in the manner and in the format determined by the Central Zoo Authority and the inventory of the animals in the collection of each zoo, along with the details mentioned above for each financial year shall be submitted to the Central Zoo Authority by 30th day of April of the ensuing year in Form II.

Provided that the details in respect of the animals pertaining to the species included in Schedule I and Schedule II to the Act, along with the detailed reasons of death identified on the basis of the post-mortem examination reports shall be submitted to the Central Zoo Authority every quarter, within a period of fifteen days of the end of that quarter.

- (2) Every zoo shall submit an annual report of its activities and compliance of the conditions stipulated by CZA for each financial year to the Central Zoo Authority by the 30th day of June of the year.

THE SCHEDULE

[See rule 10]

**1. General requirements.-----**

- (1) Every zoo shall endeavour to establish and sustain population of physically, genetically and behaviorally healthy animals for furthering the cause of wildlife conservation and communicating credible conservation

message to the visitors through display of healthy animals in naturalistic settings.

- (2) Every zoo shall, through proper landscaping and planting of appropriate species, provide a naturalistic environment within the zoo to enable the visitors to have communion with nature and get motivated for living in harmony with nature.
- (3) Every zoo shall endeavour to regulate the movement of visitors in the zoo in such a manner that zoo animals are not unduly disturbed, stressed or provoked and the zoo shall be closed to visitors at least one day in a week.
- (4) Every zoo, as a safeguard against the un-regulated access of visitors to the zoo and zoo animals being subjected to injury, pilferage and predation, shall design appropriately the barriers along the boundary of the zoo in accordance with the standards issued by the Central Zoo Authority in this regard.
- (5) Every zoo, which is surrounded by human landscape shall be encompassed by a perimeter wall of at least two meter in height from the ground level on both sides.
- (6) No residential colony shall be constructed within the zoo premises.

Provided that where such colonies already exist, it shall be separated from the zoo premises by a boundary wall with a minimum height of two meters from the ground level. The entry to the residential colony shall not be through the zoo premises.

- (7) Every zoo shall carry out its operations in a manner that causes minimum stress on natural resources and produces the minimum of solid wastes and effluents and the zoo shall also endeavour to put in place the practices of effective waste management through reducing, reusing and recycling and disposing the effluents and the

solid wastes in a manner that causes least adverse environmental impact.

- (8) Every zoo shall refrain from display of sick, injured, infirm and tethered animals to the visitors and such animals shall be housed in off-display facilities specially earmarked for and providing appropriate upkeep and healthcare for such animals
- (9) Every zoo shall refrain from housing of domestic animals and pets within the zoo premises and adequate safeguards shall also be put in place to prevent the entry of domestic livestock, stray animals and pets into the premises of the zoo.

**2. Administrative and Staffing Pattern**

- (1) The zoo operators shall post an officer of appropriate rank as “whole time in-charge” of the zoo with powers to take decision and ensure that adequate financial resources and infrastructural support is made available to such officer for proper housing, upkeep and healthcare of the zoo animals and managing the zoo in a planned manner.
- (2) Every zoo operator shall provide adequate scientific and technical staff to support the officer-in-charge of the zoo in carrying out the responsibilities of housing, upkeep and healthcare of zoo animals, research and visitor education as specified in the Table below, namely:

S. No.	Category of Staff	Large Zoo	Medium Zoo	Small Zoo	Mini Zoo
(1)	(2)	(3)	(4)	(5)	(6)
1.	Curator	1	1	1	Mini Zoos shall avail the assistance of appropriately qualified individuals available locally
2.	Veterinarian	2	1	1	
3.	Education Officer	1	1		
4.	Biologist	1	1	1	



- (3) In cases the scientific and technical posts are filled by direct recruitment, the recruitment rule for such posts shall provide for their career progression including the benefit of flexible complementing scheme for their promotions.

### **3. Development and Planning**

- (1) Every zoo shall prepare and get the master plan approved by the Central Zoo Authority
- (2) Zoos which are in operation at the time of the commencement of these rules, shall prepare and get the master plans approved from the Central Zoo Authority within one year from the date of commencement of these rules.
- (3) The master plan referred to in sub-paragraphs (1) & (2), shall inter alia, include all round development of the zoo for a period of twenty years which shall be revised every ten years along with a detailed layout plan prepared on the basis of the theme adopted by the zoo, indicating the locations of green belts, lawns, gardens, animal display area, visitor facilities, support infrastructure for animal upkeep and healthcare, buildings for administrative and maintenance unit.
- (4) Atleast 30% of the area earmarked for the zoo shall be kept under green belt and natural vegetation and the area for animal housing shall not exceed 30% area of the zoo
- (5) Every zoo shall take adequate care to locate and design all 'pucca' buildings including the visitor facilities in such a manner that the natural landscape of the zoo and animal enclosures are not masked and the cleanliness and hygiene of the zoo is not affected.
- (6) Every zoo shall, in consultation with the Central Zoo Authority, prepare a collection plan indicating the names of the species and maximum number of animals of each

species to be housed in the zoo, having due regard to the congeniality of the climatic conditions of the locality for the general health and well being of the species, availability of the space and infrastructural support for proper upkeep and healthcare of the species, proximity of the zoo to the habitat range of the species and the past record of the zoo in management and breeding of the species and no zoo shall compromise on housing and upkeep standards of animals for accommodating new species or additional animals of the species in its collection.

- (7) No zoo shall accept any rescued animal unless it has appropriately designed enclosure and upkeep facilities for the animal as well as the facilities for keeping it in isolation during quarantine period.
- (8) Whenever any zoo decides to accept any rescued animal for housing, a detailed report regarding the source from which the animal has been received, legality of its acquisition and the facilities available at the zoo for housing, upkeep and healthcare shall be sent to the Chief Wildlife Warden of the State. Provided that in case, the rescued animal pertains to an endangered species a copy of the report shall also be sent to the Central Zoo Authority.
- (9) Any decision of the Central Zoo Authority about any animal being sent to a particular zoo for augmenting the number of founder animals for the conservation breeding programme of the species shall be binding on the concerned zoo.

#### **4. Animal housing, display of animals and animal enclosures**

- (1) Every zoo shall endeavour to display the animals in nature immersing enclosures.
- (2) The designs and dimensions of every enclosure shall be

- determined having due regard to the biological behaviour of the species and the number of animals to be housed therein as per the standards specified by the Central Zoo Authority in this regard from time to time.
- (3) The zoo shall ensure that the enclosure is safe and secure for the animals, animal keepers and the visitors and has requisite space for free movement, exercise and expression of natural behaviour by the animals.
  - (4) Adequate space shall also be made available to the animals in order to maintain safe distance from the dominant animals in the group or herd.
  - (5) No zoo shall display any animal in the enclosure that is not in accordance with the standards specified by the Central Zoo Authority in this regard.
  - (6) Every zoo shall make special efforts to enrich the environment of the enclosure to meet the species specific behavioural requirements of the animals in accordance with the standards specified by the Central Zoo Authority.
  - (7) Adequate screening shall be provided between adjacent enclosures to safeguard against the animals getting unduly excited or stressed due to visibility of animals housed in these enclosures
  - (8) No new enclosures for endangered species shall be constructed without prior approval of the Central Zoo Authority.
  - (9) Every zoo shall provide appropriately designed and effective stand off barriers at every animal display enclosure to regulate the movement of visitors in the zoo in a manner that facilitates the visitors in getting unobstructed view of wild animals, without reaching in the vicinity or proximity of the animals and getting the opportunity to physically touch or provoke the animals

and shall also display adequate sign boards so as to give warning to the visitors to keep a safe distance from the animals.

- (10) Every zoo shall provide appropriate signage with relevant information on the biology, behaviour and the population status of the species in the wild at every display enclosure.

Provided that large and medium zoos shall endeavour to provide interactive interpretation facilities for the purpose of explaining behaviour and biology of the species displayed in the enclosure.

#### **5. Upkeep and healthcare of animals**

- (1) Every zoo shall house and maintain the animals in its collection in socially and behaviourally viable groups. No animal shall be separated from the group unless doing so is necessary for the security and welfare of the animal or other animals in the group.

Provided that the animals, so separated, shall be housed in accordance with standards specified by the Central Zoo Authority in this regard.

- (2) Every zoo shall endeavour to provide all the animals in its collection timely supply of quality food of such a composition and in such quantities that nutritional and behavioural requirement of each animal are fully met and adequate safeguards shall be taken to ensure that no animal remains under-nourished on account of dominant animals not permitting other animals getting their share of the feed and the zoo operator shall ensure round the clock supply of potable water to all the animals in the zoo.
- (3) The timing of distribution of food, placement of food and way of distribution of food to the animals shall be regulated in such a manner that the animals get

maximum opportunity to express natural instincts and skills and behaviour related to feeding.

- (4) As a safeguard against feral animals, free ranging wild animals and scavengers sharing the feed of the zoo animals, each animal shall be provided feed in the feeding cells/ kraals specially earmarked for the purpose and such feeding cells and kraals shall be so designed that these can also serve as indoor enclosures for the animals during extreme weather conditions as well as for secure stay during the nights:

Provided that the dimensions and designs of the feeding cells and kraal shall be as per the standards specified by the Central Zoo Authority.

- (5) Every zoo operators shall ensure that the left over feed, excreta of animals and all other wastes are removed promptly from the feeding cells and kraals and the feeding cells and kraals are washed and disinfected as per the advice of the authorized veterinary officers and the solid and the liquid waste generated during the process shall be disposed off in such manner that has no adverse impact on the hygiene and cleanliness of the zoo and the landscape surrounding the zoo.
- (6) The curatorial and the veterinary staff shall keep a close watch on the general behaviour and health parameters of the zoo animals. The animals shall be handled only by the staff having experience and training in handling the individual animals.
- (7) Any animal that shows any sign of dullness, loss of appetite, injury or abnormal behaviour shall be thoroughly assessed and provided medical attention promptly as per the standards specified by the Central Zoo Authority in this regard from time to time and the direction of the Zoo administration.

- (8) Every zoo animals shall be screened for parasitic loads as per written schedule prepared by the zoo in consultation with the veterinary officer and prophylactic medicines administered as per clinical requirements and vaccination of animals against infectious diseases shall also be done, as per the schedule prescribed by the Veterinary Officer from time to time.
- (9) All staff involved with upkeep and healthcare of zoo animals shall be screened against zoonotic diseases once every year and those found positive to any communicable disease shall be provided appropriate treatment till they get cured and freed of the infection and during the period of such treatment, the infected employees shall be kept away from the responsibility of upkeep and healthcare of the animals.
- (10) Every zoo shall maintain detailed records of observations of biological and social behaviour and health status of the animals including feed intake, medication and treatment provided in the keeper's diary, daily reports, animal history cards and treatment cards, as per standards specified by the Central Zoo Authority.

#### **6. Veterinary and infrastructure facilities**

- (1) Every zoo shall, -----
  - (a) have veterinary facilities appropriate to the size and type of the animal collection of the zoo;
  - (b) have a full fledged veterinary unit with all basic diagnostic facilities, comprehensive range of drugs, operation theatre and in-patient wards.
  - (c) Provided that a mini zoo shall have at least facilities of a treatment room.
- (2) No zoo shall acquire sophisticated and costly diagnostic equipments unless there is adequate technically qualified manpower to operate and use the same.

- (3) Every zoo, except mini zoo, shall have a postmortem room, isolation ward, quarantine ward, animal restraining and tranquilizing equipments and a veterinary care reference library.
- (4) Tranquilization of any animal shall be done exercising utmost care and following the standards specified in this regard by the Central Zoo Authority from time to time.
- (5) Every zoo operator shall provide each zoo the veterinary support staff as specified in the Table below; namely:-

S. No.	Support Staff	Large zoo	Medium zoo	Small zoo
(1)	(2)	(3)	(4)	(5)
1.	Lab. Assistant	1	1	-
2.	Stockman or compounder	2	1	1

Provided that a Mini zoo shall have atleast one whole time employee to take care of upkeep and feeding of the zoo animals.

- (6) Every zoo shall have linkages with the eminent institutions and organizations working in the field of wild animal healthcare with the objectives to provide for:
  - (a) the assistance in scientific diagnosis of diseases of serious nature and advise on the effective remedial treatment.
  - (b) the training and upgrading technical skills of zoo staff; and
  - (c) the development of protocols for preventive medicines and vaccination

#### **7. Post-mortem and disposal of carcasses of animals**

- (1) Every animal died in the zoo shall be subjected to a detailed postmortem examination by registered

veterinarian to determine conclusively the cause of the death.

- (2) The findings of the post-mortem examination referred to in sub-paragraph (1) shall be recorded in such format as may be prescribed by Central Zoo Authority and in this regard and shall be maintained for a period of not less than six years.
- (3) In the event of the post mortem being inconclusive and no specific reason for death is identified, the zoo authorities shall send the samples of the tissues and organs, blood, viscera etc. for further examination to the qualified diagnostic laboratory having adequate specialization for further investigation and identifying the cause of death.
- (4) Every zoo shall ensure that the carcasses of the animals, after the post-mortem has been conducted, is disposed off by burying or burning in a manner that does not have any adverse impact on the hygiene and cleanliness of the zoo:

Provided that the carcasses of large cats shall be disposed off by burning in the presence of the Director of the zoo or any officer in the next rank to him and authorized by him in this behalf.

Provided further that the carcasses of animals died due to Anthrax or such other communicable diseases shall not be opened and subjected to post-mortem, as a safeguard against spread of the disease. These shall be buried intact.

## **8. Euthanasia of the animals**

- (1) No animal in the zoo shall be euthanized unless doing so is essential for the health of other animals or relieving the animal from unnecessary suffering or agony and whenever such exigencies arrives, action may be taken in



accordance with the norms specified by the Central Zoo Authority in this regard.

**9. Acquisition and breeding of animals**

- (1) Every zoo shall endeavour to keep and maintain animals of various species in their collection in such a sex ratio that optimizes breeding and helps in developing a self-sustaining population of each species.
- (2) To safeguard against ill effects of inbreeding on the zoo population, the zoo shall endeavour to introduce unrelated animals to zoo stock through exchange, loaning and getting gifts of animals from other zoos.
- (3) No zoo shall acquire single animal or genetically non-viable number of animals unless such acquisition is necessary for pairing of single animals or making the group genetically/ biologically viable.
- (4) Every zoo shall endeavour to acquire mates for single and unpaired animals on priority basis and in the event of any zoo failing to find a mate for single and unpaired animal within a period of six months, the unpaired or single animal shall be transferred or exchanged or given on breeding loan to any other zoo in accordance with the norms specified by the Central Zoo Authority in this regard.
- (5) For the purpose of transportation of animals from one place to another, the standards specified in this regard by the Central Zoo Authority shall be complied with.
- (6) The Central Zoo Authority shall assign the responsibility of conservation breeding of the identified critically endangered species to identified zoos having technical capabilities and housing facilities, preferably close to the distribution range of the species and every zoo shall help the identified zoos in implementing the breeding programme.

- (7) The surplus animals from the breeding population shall be made available to the contributing zoo for display purposes on the basis of quality of housing and infrastructural facilities available with the zoos.
- (8) Every zoo shall, with a view to prevent inbreeding and the loss of heterozygosity, the zoos shall maintain the animal history cards & stud and herd book for the animals of endangered species housed in the zoo and put appropriate identification marks and transfer or exchange animals with other zoos.
- (9) Every zoo shall endeavour to limit the number of animals of each species within the limits set by the animal collection plan of the zoo by implementing appropriate population control measures like segregation of sexes, vasectomy, tubectomy and implantation of pellets etc., with due consideration of the health and welfare of the animals and interest of their long term survival.
- (10) Every zoo shall take effective measures to safeguard against escape of the zoo animals from the premises of the zoo and in the event of any accidental escape, immediate action shall be taken to retrieve the escaped animals.
- (11) No zoo shall release any captive animal into the wild except in accordance with the norms specified by the Central Zoo Authority in this regard.
- (12) Every zoo shall ensure that no hybridization of species or races of same species takes place in the zoo.

**10. Research activities—**

Every zoo shall endeavor to carry out collaborative research for evolving innovative strategies for providing the animals housed in the zoo a better quality of life, enhanced longevity, higher genetic and behavioural viability and improved reproduction potential and to achieve the said goal the every

zoo, other than mini zoos, shall make arrangements for meticulous recording of data on the social behaviour, group dynamics and reproductive biology of the species housed in the zoo and developing a data base to be shared with other zoos and the identified institutions, in accordance with norms specified by the Central Zoo Authority in this regard.

**11. Education and outreach activities ----** (1) Every zoo shall endeavour to educate the visitors to the zoo and the people at large about the significance of wildlife conservation for the general well being of the people and keeping the life support system of nature intact and the efforts shall be made to make people aware about the role played by the zoos in this regard and the ways and means through which general public can participate and contribute for the same.

(2) No physical handling or performances by animals shall be permitted as part of educational activity.

**12. Visitors facilities**

(1) Every zoo operator shall provide adequate civic facilities for visitors at appropriate and convenient places in the zoo including for physically disadvantaged persons and such facilities shall be so located that they do not mask or impact the view of enclosures.

(2) Every zoo shall have first aid facilities including snake anti-venom and life saving drugs, readily available in the zoo premises.

(3) Every zoo shall make arrangements for providing access to the handicapped persons for viewing wild animals at various animal enclosures.

**[F.No.5-1/2009-WL I]**

**(Anmol Kumar)**  
**Dy. Inspector General (Wildlife)**

**FORM- I**  
**[See rules 3 & 8 ]**

**APPLICATION FOR GETTING RECOGNITION FROM THE  
CENTRAL ZOO AUTHORITY UNDER SECTION 38H  
(Sub-section 2)**

To  
The Member Secretary  
Central Zoo Authority  
Annexe No. VI, Bikaner House,  
Shahjahan Road, New Delhi – 110 011.

We want to get recognition under section 38H of the Wild Life (Protection) Act, 1972 in respect of \_\_\_\_\_. Bank Draft for Rs. \_\_\_\_\_ drawn in favour of Central Zoo Authority, New Delhi is also enclosed. The required information in respect of \_\_\_\_\_ is as under :

1. Name of the Zoo:
2. Location and area of the Zoo:
3. Date of Establishment:
4. Name and address of the Zoo Operator:
- \*5. Total number of visitors to the Zoo during the last three years:  
(Year wise):
- \*6. Total number of days on which zoo is open to visitors during a calendar year:
7. Number of animals/ species exhibited by the zoo:

Stock position during the current financial year			
Number of species	Stock Position on the close of preceding year	Births/ Acquisitions/ Deaths/ Disposal	Stock as on the date of application
Mammals			
Birds			
Reptiles			
Amphibians			
Fishes and			
Invertebrates			

8. Total number of enclosures:
  - \*(i) Open air enclosures:
  - (ii) Closed cages/ aviaries:
9. List of endangered species bred during last 3 years:
10. Veterinary facilities:
  - (a) Whole time veterinarian available or not:
  - (b) Facilities available in the Veterinary Hospital:
    1. Operation theatre/ Surgical room
    2. X-ray facility
    3. Squeeze cages
    4. In-door patient ward
    5. Quarantine ward & Isolation ward
    6. Dispensary
    7. Veterinary care reference library
    8. Nursery for hand-rearing of animal babies
    9. Pathological laboratory
    10. Tranquilizing equipments/ drugs
    11. Post-mortem room
    12. Whether the following facilities exist in the zoo:
      - (a) Kitchen
      - (b) Food store

- (c) Deep freeze
  - (d) Portable water facility
  - (E) Food distribution van/ rickshaw etc.
11. Sanitary care and disease control:  
Whether:-
- (i) Pollution free water to animals for drinking is available?
  - (ii) Proper drainage system exists in enclosures?
  - (iii) Regular disposal of refuse material is done?
  - (iv) Programme for control of pests and predators exists?
  - (v) Preventive measures like deworm and vaccination are being provided?
- \*12. Amenities to visitors: Whether:
- (a) Public facilities like toilets/ bathrooms exist?
  - (b) Sufficient number of drinking water taps available?
  - (c) Visitor information centre and nature interpretation centre exist?
  - (d) Zoo education facilities have been provided?
  - (e) Public telephone booths are available?
  - (F) Kiosks and restaurants are available at the zoo?
- \*13. Safety measures for visitors: Whether:-
- (a) Effective stand-off barriers have been provided around enclosures?
  - (b) Adequate number of warning signboards exist?
  - (c) First-Aid measures are available?
14. Budget of the Zoo for the last 3 years Revenue Grants Total expenditure:
15. Annual Report, Guide books, Brochure or any other publication (copies enclosed)

16. Master plan/ detailed project report of the zoo (enclose a copy)

**Signature of the Applicant**

**Name of the Applicant**

**Date:**

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\*Rescue Centres and Conservation Breeding Centres are not required to provide information.





PART - B  
**Proforma for Annual Inventory Report**  
 Inventory Report for the Year :

Other than endangered Species		Scientific Name	Opening Stock as on 1-4-			Births			Acquisitions			Disposals			Deaths			Closing Stock as on 31-03-		
S.No	Animal Name		M	F	T	M	F	T	M	F	T	M	F	T	M	F	T	M	F	T
	Bird																			
1.																				
2.																				
....																				
	Total Birds																			
	Mammal																			
1.																				
2.																				
....																				
	Total Mammal																			
	Reptile/Amphibians																			
1.																				
2.																				
...																				
	Total Reptile/Amphibians																			
	Invertebrate																			
1.																				
2.																				
....																				
	Total Invertebrate																			
	Total Animals																			

Director

Curator (Animals)

**APPENDIX – I**  
**MINIMUM PRESCRIBED SIZE FOR FEEDING/ RETIRING**  
**CUBICLE/ ENCLOSURES FOR IMPORTANT**  
**MAMMALIAN SPECIES OF**  
**CAPTIVE ANIMALS.**

Name of the Species. [Size of feeding Cubicle/ Night shelter  
(L x B x H) -in meters]

	<b>Length</b>	<b>Breadth</b>	<b>Height</b>
<b>FAMILY – Felidae:</b>			
Tiger and lions	2.75	1.80	3.00
Panther	2.00	1.50	2.00
Clouded leopard & snow leopard	2.00	1.50	2.00
Small cats	1.80	1.50	1.50
<b>FAMILY – Elephantidae:</b>			
Elephant	8.00	6.00	5.50
<b>FAMILY – Rhinocerotidae:</b>			
One-horned Indian Rhinoceros	5.00	3.00	2.50
<b>FAMILY – Cervidae:</b>			
Brow antlered deer	3.00	2.00	2.50
Hangul	3.00	2.00	2.50
Swamp deer	3.00	2.00	2.50
Musk deer	2.50	1.50	2.00
Mouse deer	1.50	1.00	1.50
<b>FAMILY – Bovidae:</b>			
Nilgiri tahr	2.50	1.50	2.00
Chinkara	2.50	1.50	2.00
Four horned antelope	2.50	1.50	2.00
Wild buffalo	3.00	1.50	2.00

Indian bison	3.00	2.00	2.50
Yak	4.00	2.00	2.50
Bharal, goral, wild sheep and markhor	2.50	1.50	2.00
<b>FAMILY – Equidae:</b>			
Wild Ass	4.00	2.00	2.50
<b>FAMILY – Ursidae:</b>			
All types of Indian bears	2.50	1.80	2.00
<b>FAMILY – Canidae:</b>			
Jackal, wolf & wild dog	2.00	1.50	1.50
<b>FAMILY – Viverridae:</b>			
Palm civet	2.00	1.00	1.00
Large Indian civet & binturong	2.00	1.50	1.00
<b>FAMILY – Mustellidae:</b>			
Otters all types	2.50	1.50	1.00
Ratel/ Hogbadger	2.50	1.50	1.00
Martens	2.00	1.50	1.00
<b>FAMILY – Procyonidae:</b>			
Red Panda	3.00	1.50	1.00
<b>FAMILY – Lorisidae:</b>			
Slow loris and slender loris	1.00	1.00	1.50
<b>FAMILY – Cercopithecidae:</b>			
Monkeys and langurs	2.00	1.00	1.50

(S.S. HASURKAR)  
JOINT SECRETARY TO THE GOVT. OF INDIA  
(No. F. 6-3/ 91 – WLI)

## APPENDIX – II

### MINIMUM PRESCRIBED SIZE FOR OUTDOOR OPEN ENCLOSURE FOR IMPORTANT MAMMALIAN SPECIES OF CAPTIVE ANIMALS

Sl. No.	Name of the Species	Minimum size of outdoor enclosures (per pair)	Minimum area extra per additional animal
Square meter			
<b>FAMILY – Felidae:</b>			
1	Tiger and lions	1000	250
2	Panther	500	60
3	Clouded leopard	400	40
4	Snow leopard	450	50
<b>FAMILY – Rhinocerotidae:</b>			
5	One-horned Indian Rhinoceros	2000	375
<b>FAMILY – Cervidae:</b>			
6	Brow antlered deer	1500	125
7	Hangul	1500	125
8	Swamp deer	1500	125
<b>FAMILY – Bovidae:</b>			
9	Wild buffalo	1500	200
10	Indian bison	1500	200
11	Bharal, Goral, Wild sheep and Serow	350	75

**FAMILY – Equidae:**

12 Wild Ass	1500	200
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**FAMILY – Ursidae:**

13 All types of Indian bears	1000	100
------------------------------	------	-----

**FAMILY – Canidae:**

14 Jackal, Wolf & Wild dog	400	50
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**FAMILY – Procyonidae:**

15 Red Panda	300	30
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**FAMILY – Cercopithecidae:**

16 Monkeys and langurs	500	20
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- Note:*
1. The dimensions have been given only in respect of the species, which are commonly displayed in zoos.
  2. No dimensions for outdoor enclosures have been prescribed for Chinkara and Chowsingha because of the problem of infighting injuries. These animals may be kept in battery type enclosures of the dimensions suggested by the Central Zoo Authority.
  3. The designs of enclosures for Sch. I species, not covered by this Appendix, should be finalized only after approval of the Central Zoo Authority.]

(S.C SHARMA)

Addl. DGF (Wildlife) and Director, Wildlife Preservation

[F. No. 7-4/ 99 (8A)]

**NUMBER OF ZOOS AND CAPTIVE WILDLIFE FACILITIES IN  
STATES AND UNION TERRITORIES OF INDIA**

STATE/ Uts.	ZOOS/ NATURE' PARKS	DEER PARKS	SAFARI AQUARIUMS PARKS	SNAKE TOTAL EDUCATION BREEDING CENTRES
Andaman and Nicobar				
Islands	1	0	0	0
Andhra Pradesh	3	14	3	0
Arunachal Pradesh	3	0	0	0
Assam	1	0	0	0
Bihar	5	1	0	0
Delhi	1	1	0	0
Goa	1	0	0	0
Dadra and Nagar				
Haveli(UT)	1	2	0	0
Gujarat	8	4	0	0
Haryana	5	2	0	0
Himachal Pradesh	4	1	2	0
Jammu & Kashmir	2	1	0	0
Karnataka	19	3	4	1
Kerala	3	1	1	1
Madhya Pradesh	5	0	0	0
Maharastra	10	1	1	2
Manipur	1	0	0	0
Meghalaya	2	0	0	0
Mizoram	1	0	0	0
Nagaland	1	0	0	0

Orissa	2	7	3	0	1	0	13
Pondicherry	1	0	0	0	0	0	1
Punjab	5	3	1	0	0	0	9
Rajasthan	6	1	0	0	1	0	8
Tamil Nadu	8	1	0	1	1	2	13
Tripura	1	0	0	0	0	0	1
Sikkim	1	1	0	0	0	0	2
Uttar Pradesh	3	7	0	0	6	0	16
West Bengal	3	0	1	1	0	1	6
<b>TOTAL</b>	<b>107</b>	<b>*51</b>	<b>16</b>	<b>6</b>	<b>25</b>	<b>8</b>	<b>213</b>

*\* The actual number could be much more but State-wise details are not available.*

## **CHAPTER – 2 IMPORT-EXPORT POLICY (APRIL 1992- MARCH 1997)**

**Extracts from the Export & Import Policy (1<sup>st</sup> April 1992-  
31<sup>st</sup> March 1997)  
As application from 01.04.94 to 31.03.96**

### **Chapter III**

#### **Para 7. Definitions**

- (2) “Act” means the Foreign trade (Development & Regulation) Act 1992 (No. 22 of 1992).
- (24) “Manufacture” means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new produce having a distinctive name, character or use and shall include process such as refrigeration, repacking, polishing, labelling and segregation. Manufacture for the purpose of this policy, shall also include agriculture, aquaculture, animal husbandry, floriculture, pisciculture, poultry and sericulture.

- (31) “Policy” means the Export & Import Policy 1992-97 as amended from time to time.

## **Chapter IV**

### **Para 8. Exports & Imports free unless regulated**

Exports and Imports may be done freely, except to the extent they are regulated by the provisions of this Policy or any other law for the time being in force.

### **Para 9. Form of Regulation**

The Central Government may, in public interest, regulate the import or export of goods by means of a Negative list of Imports or a Negative list of Exports, as the case may be.

### **Para 10. Negative Lists**

The Negative lists may consist of goods that Import or Export of which is prohibited, restricted through licensing or otherwise, or canalised. The Negative lists of Exports and the Negative lists of Imports shall be as contained in this Policy.

### **Para 11. Prohibited goods**

Prohibited goods shall not be imported or exported.

### **Para 16. Procedure**

The Director General of Foreign Trade may, in any case or class of cases, specify the procedure to be followed by an exporter or importer or by any licensing, competent or the authority for the purpose of implementing the provisions of the Act, the Rules and Orders made thereunder this Policy. Such procedures shall be included in the Handbook of Procedures and published by means of a Public Notice. Such procedures may, in like manner, be amended from time to time.



**Chapter XV**  
**NEGATIVE LISTS OF IMPORTS**

**155 PROHIBITED ITEMS**

3. Wild animals including their parts and products and ivory.

**156 RESTRICTED ITEMS**

**D. SEEDS, PLANTS AND ANIMALS**

1. Animals, Birds & Reptiles (including their parts & products) Import permitted against a licence to zoos and zoological parks, recognised scientific/ research institutions, circus companies, private individuals, on the recommendation of Chief Wildlife Warden of a State Government subject to the provisions of the Convention on International Trade in Endangered Species of Wild Fauna & Flora (CITES)

**4. Plants, Fruits & Seeds**

- (a) Import of seeds of wheat, paddy coarse cereals, pulses, oilseeds and fodder for sowing is permitted without a licence subject to fulfilment of the provisions of the New Policy on Seed Development 1988 and in accordance with a permit for import granted under the Plants, Fruits and Seeds. (Regulation of Import into India) Order 1989.
- (b) Import of seeds of vegetable flowers, fruits and plants, tubers and bulbs of flowers, cutting, sapling, budwood, etc. of flowers and fruits for sowing or planting is permitted without a licence I accordance with a permit for import granted under the Plants, Fruits and Seeds. (Regulation of Import into India) Order 1989.

- (c) Import of Seeds, Fruits and Plants for consumption or other purposes is permitted against a licence or in accordance with a Public Notice in this behalf.
- (d) Import of plants, their products and derivatives shall also be subject to the provisions of the Convention of International Trade in Endangered Species of Wild fauna & Flora (CITES).

## **Chapter XVI**

### **NEGATIVE LIST OF EXPORTS**

#### **PART I**

#### **158 PROHIBITED ITEMS**

1. All forms of wild animals including their parts and products except Peacock tails including handicrafts made thereof and manufactured Articles and Shavings of Shed Antlers or Chital and Shambhar subject to condition as specified in Annexure to Public Notice No. 15-ETC (N)/ 92-97 date 31<sup>st</sup> March, 1993 issued by the Director General of Foreign Trade and reproduced in the Handbook of Procedures (Vol. 1)
2. Exotic Birds.
3. All items of plants included in Appendix I of the Convention of International Trade in Endangered Species (CITES), wild orchids as well as plants as specified in Public Notice No. 47 (PN)/ 92-97 dated 30<sup>th</sup> March, 1994 issued by the Director General of Foreign Trade and reproduced in the Handbook of Procedures (Vol. 1)
7. Wood and wood products in the form of logs, timber, stumps, roots, barks, chips, powder, flakes, dust, pulp

and charcoal except sawn timber made exclusively out of imported teak, logs/ timber subject to conditions as specified in Annexure to Public Notice No. 15-ETC (PN)/ 92-97 date 31<sup>st</sup> March, 1993 issued by the Director General of Foreign Trade and reproduced in the Handbook of Procedures (Vol. 1)

9. Sandalwood.
10. Red Sanders wood in any form whether raw, processed or unprocessed as well as any product made thereof.

## **PART II**

### **159 RESTRICTED ITEMS**

(EXPORTS PERMITTED UNDER LICENCE)

- 8 Fur of domestic animals, excluding lamb fur skin.
10. Hides and skins namely:
  - (i) Cutting and fleshing of hides and skins used as raw materials for manufacture of animal glue gelatine.
  - (ii) Raw hides and skins, all types excluding lamb fur skin.
  - (iii) All categories of semi-processed hides and skins including E.I. tanned and wet blue hides and skins and crust leather.
  - (iv) Clothing leather fur suede/ hair, hair-on suede/ shearing suede leathers.
  - (v) Fur leathers.
20. Seeds and planting materials namely:

Castor seeds, cotton seeds except such cotton seeds are of variety hybrids of other countries, grown under custom production; cashew seeds and plants; Egyptian clover (Barseem); Trifloium alatum seeds, Fodder crop seeds; Green manure seeds other than Dhanincha; Guar seeds (Whole); Jute seeds; Linseeds; Lucerne (alfalfa) medicago sativa; Mesta seeds; Nux vomica seeds/ bark/ leaves/ roots and powder thereof; Onion seeds; seeds of Ornamental plants (Wild variety); Paddy seeds (Wild variety); pepper cuttings or rooted cutting of pepper; Persian clover (Snaftel trifolium – resupinatum) seeds; Red sanders seeds (Pterocarpus santalinus); Rubber seeds; Russa grass seeds and tufts; seeds of all forestry species; seeds of all oilseeds and pulses; soyabean seeds; sandalwood seeds (Santalum album); Saffron seeds of corns (planting material for saffron); Wheat seeds (Wild variety).

21. Sea shells, excluding polished sea shells and handicrafts made out of sea shells of all species except those of the under mentioned species the export of which shall not be allowed in any form:
  - (i) *Trochus niloticos*
  - (ii) *Trubo species*
  - (iii) *Lambis species*
  - (iv) *Tridacna gigas*
  - (V) *Zancus pyr*
22. Sea weeds of all types including *G.edulis* but excluding brown sea weeds and agarophytes of Tamil Nadu coast originally processed form.

## PROHIBITION OF EXPORT OF PLANTS

### APPENDIX – XLIII-H

GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE  
PUBLIC NOTICE No. 47 (PN) / 92 – 97  
NEW DELHI: DATED 30<sup>TH</sup> MARCH, 1994

Note: Please see Para 158 Part I (3) of the policy.

1. Attention is invited to item no. 3, Part I Para 158 (Prohibited Items) of Chapter XVI Negative List of Exports, of the Export and Import Policy, 1992-97 (revised edition: March 1994).
2. The Director General of Foreign Trade hereby prohibits the export of plants, plant portions and their derivatives and extracts obtained from the wild as under:

1. *Aconitum species*
2. *Atropa species*
3. *Aristolochia species*
4. *Angiopteris species*
5. *Arundinaria jaunsarensia*
6. *Balanophora species*
7. *Colchisum luteum (Hirantutya)*
8. *Commiphora whightii*
9. *Coptis species*
10. *Drosera species*
11. *Gentiana Kurroo (Kuru, Kutki)*
12. *Gloriasa superba*
13. *Gnetum species*
14. *Iphignia indica*
15. *Meconopsis betonicifolia*

16. *Nardostachys species (Jatamansi)*
17. *Osmunda species*
18. *Rhododendron species*
19. *Physochlaina praealta (Bajarbang)*
20. *Praltia serpumlia*
21. *Rheum emodi (Dolu)*
22. *Berberis aristata (Indian barberry; Rasvat)*
23. *Acorus species*
24. *Artemisia species*
25. *Cosciniun fenestratum (Calumba wood)*
26. *Costus speciousas (Kew, Kust)*
27. *Didymocarpus pedicellata*
28. *Dolomiaea pedicellata*
29. *Ephedra species*
30. *Gynocardia odorata (Chaulmogri)*
31. *Hydnocarpus species*
32. *Hyoscymus niger (Broseword)*
33. *Strychnos potatorum (Nirmali)*
34. *Swertia chirata (Charayatah)*
35. *Urginea species*
36. *Beddomes cycad (Cycas beddomei)*
37. *Blue vanda (Vandaeoerulea)*
38. *Kuth (Saussurea lappa)*
39. *Ladies slipper orchid (Paphiopedilium species)*
40. *Pitcher plant (Nepenthes khasiana)*
41. *Red vanda (Renanthera imschootiana)*
42. *Rauvolifia serpentina (Sarpagandha)*
43. *Ceropegia species*
44. *Frerea indica (Shindal mankundi)*
45. *Araucaria araucana (Monkey-puzzle tree)*
46. *Podophyllum hexandrum emodi (Indian podophyllum)*
47. *Cactacea species (Cactus)*
48. *Cyatheaceae species (Tree ferns)*
49. *Cycadaceae species (Cycads)*
50. *Dioscorea deltoidea (Elephant's foot)*

51. *Euphorbia species (Euphorbias)*
  52. *Aloe species (Aloes)*
  53. *Orchidaceae species (Orchids)*
  54. *Pterocarpus santalinus (Red sanders)*
  55. *Taxus wallichiana (Common yew of birmi leaves)*
  56. *Aquilaria malaccensis (Agarwood)*
3. Plants and plant portions, derivatives and extracts (including value added herbal formulations) of the cultivated varieties of the species above (excluding serial no. 54) will be allowed for export subject to production of a certificate of cultivation from Regional deputy Director (Wildlife) or Chief Conservator of Forests or Divisional Forest Officers of the State concerned from where these plants and plant portions have been procured. However in respect of cultivated varieties of species covered by Appendix I (Sl. No. 36 to 41 of Paragraph 2 above) and Appendix II (Sl. No. 42 to 56 of Paragraph 2 above) of CITES, a CITES Permit for export will also be required.
  4. Exports allowed only through six major ports viz. Mumbai, Kolkata, Cochin, Delhi, Chennai and Tuticorin.
  5. This issue in public interest.

Sd/ -  
(Dr. P.L. Sanjeev Reddy)  
Director General of Foreign Tr

**THE WILD LIFE (PROTECTION) AMENDMENT  
ACT, 2006  
(ACT No. 39 OF 2006)**

AN ACT further to amend the Wild Life (Protection) Act, 1972. BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

- 1) This Act may be called the Wild Life (Protection) Amendment Act, 2006.
  - (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- 2.—After Chapter IVA of the Wild Life (Protection) Act, 1972 (53

of 1972) (hereinafter referred to as the principal Act), the following Chapters shall be inserted, namely:—

**CHAPTER IVB**  
**NATIONAL TIGER CONSERVATION AUTHORITY 38K.**

In this Chapter,—

- (a) “National Tiger Conservation Authority” means the Tiger Conservation Authority constituted under section 38L;
  - (b) “Steering Committee” means the Committee constituted under section 38U;
  - (c) “Tiger Conservation Foundation” means the foundation established under section 38X;
  - (d) “Tiger Reserve State” means a state having tiger reserve;
  - (e) “Tiger Reserve” means the area notified as such under section 38V. 38L.
- (1) The Central Government shall constitute a body to be known as the National Tiger Conservation Authority (hereinafter in this Chapter referred to as the Tiger Conservation Authority), to exercise the powers conferred on, and to perform the functions assigned to it under this Act.
- (2) The Tiger Conservation Authority shall consist of the following members, namely:—
- (a) the Minister in charge of the Ministry of Environment and Forests—Chairperson;
  - (b) the Minister of State in the Ministry of Environment and Forests—Vice Chairperson;
  - (c) three members of Parliament of whom two shall be elected by the House of the People and one by the Council of States;
  - (d) Eight experts or professionals having prescribed qualifications and experience in conservation of wild life and welfare of people living in tiger reserve out of



which at least two shall be from the field of tribal development;

- (e) Secretary, Ministry of Environment and Forests;
  - (f) Director General of Forests and Special Secretary, Ministry of Environment and Forests;
  - (g) Director, Wild Life Preservation, Ministry of Environment and Forests;
  - (h) six Chief Wild Life Wardens from the tiger reserve States in rotation for three years;
  - (i) an officer not below the rank of Joint Secretary and Legislative Counsel from the Ministry of Law and Justice;
  - (j) Secretary, Ministry of Tribal Affairs;
  - (k) Secretary, Ministry of Social Justice and Empowerment;
  - (l) Chairperson, National Commission for the Scheduled Tribes; (m) Chairperson, National Commission for the Scheduled Castes;
  - (n) Secretary, Ministry of Panchayati Raj;
  - (o) Inspector General of Forests or an officer of the equivalent rank having at least ten years experience in a tiger reserve or wildlife management, who shall be the Member-Secretary, to be notified by the Central Government, in the Official Gazette.
- (3) It is hereby declared that the office of member of the Tiger Conservation Authority shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.
- 38M.**—(1) A member nominated under clause (d) of sub-section (2) of section 38L shall hold office for such period not exceeding three years: Provided that a member may, by writing under his hand addressed to the Central Government, resign from his office.

- (2) The Central Government shall remove a member referred to in clause (d) of sub-section (2) of section 38L, from office if he—
- (a) is, or at any time has been, adjudicated as insolvent;
  - (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;
  - (c) is of unsound mind and stands so declared by a competent court;
  - (d) refuses to act or becomes incapable of acting;
  - (e) is, without obtaining leave of absence from the Tiger Conservation Authority, absent from three consecutive meetings of the said Authority; or
  - (f) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest: Provided that no member shall be removed under this sub-section unless he has been given a reasonable opportunity of being heard in the matter.
- (3) Any vacancy in the office of a member shall be filled by fresh appointment and such member shall continue for the remainder of the term of the member in whose place he is appointed.
- (4) The salaries and allowances and other conditions of appointment of the members of the Tiger Conservation Authority shall be such as may be prescribed.
- (5) No act or proceeding of the Tiger Conservation Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Tiger Conservation Authority.
- 38N. —(1)** The Tiger Conservation Authority may, with the previous sanction of the Central Government, appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act: Provided

that the officers and employees holding office under the Directorate of Project Tiger and dealing with Project Tiger immediately before the date of constitution of the Tiger Conservation Authority shall continue to hold office in the said Authority by the same tenure and upon the same terms and conditions of service or until the expiry of the period of six months from that date if such employee opts not to be employee of that Authority.

(2) The terms and conditions of service of the officers and other employees of the Tiger Conservation Authority shall be such as may be prescribed.

**380.** (1) The Tiger Conservation Authority shall have the following powers and perform the following functions, namely:—

- (a) to approve the Tiger Conservation Plan prepared by the State Government under sub-section (3) of section 38V of this Act; (b) evaluate and assess various aspects of sustainable ecology and disallow any ecologically unsustainable land use such as, mining, industry and other projects within the tiger reserves;
- (c) lay down normative standards for tourism activities and guidelines for project tiger from time to time for tiger conservation in the buffer and core area of tiger reserves and ensure their due compliance;
- (d) provide for management focus and measures for addressing conflicts of men and wild animals and to emphasise on co-existence in forest areas outside the National Parks, sanctuaries or tiger reserve, in the working plan code;
- (e) provide information on protection measures including future conservation plan, estimation of population of tiger and its natural prey species, status of habitats, disease surveillance, mortality survey, patrolling, reports on untoward happenings and such other management aspects

- as it may deem fit including future plan conservation;
- (f) approve, co-ordinate research and monitoring on tiger, co-predators, prey, habitat, related ecological and socio-economic parameters and their evaluation;
  - (g) ensure that the tiger reserves and areas linking one protected area or tiger reserve with another protected area or tiger reserve are not diverted for ecologically unsustainable uses, except in public interest and with the approval of the National Board for Wild Life and on the advice of the Tiger Conservation Authority;
  - (h) facilitate and support the tiger reserve management in the State for biodiversity conservation initiatives through eco-development and people's participation as per approved management plans and to support similar initiatives in adjoining areas consistent with the Central and State laws;
  - (i) ensure critical support including scientific, information technology and legal support for better implementation of the tiger conservation plan;
  - (j) facilitate ongoing capacity building programme for skill development of officers and staff of tiger reserves; and (k) perform such other functions as may be necessary to carry out the purposes of this Act with regard to conservation of tigers and their habitat.
- (2) The Tiger Conservation Authority may, in the exercise of its powers and performance of its functions under this Chapter, issue directions in writing to any person, officer or authority for the protection of tiger or tiger reserves and such person, officer or authority shall be bound to comply with the directions: Provided that no such direction shall interfere with or affect the rights of local people particularly the Scheduled Tribes.
- 38P.** (1) The Tiger Conservation Authority shall meet at such time and at such place as the Chairperson may think fit.

- (2) The Chairperson or in his absence the Vice-Chairperson shall preside over the meetings of the Tiger Conservation Authority
- (3) The Tiger Conservation Authority shall regulate its own procedure.
- (4) All orders and decisions of the Tiger conservation Authority shall be authenticated by the Member-Secretary or any other officer of the said authority duly authorised by the Member-Secretary in this behalf.

**38Q.** (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Tiger Conservation Authority grants and loans of such sums of money as that Government may consider necessary.

(2) There shall be constituted a fund to be called the Tiger Conservation Authority Fund and there shall be credited thereto—

- (i) any grants and loans made to the Tiger Conservation Authority by the Central Government;
- (ii) all fees and charges received by the Tiger Conservation Authority under this Act; and (iii) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(3) The fund referred to in sub-section (2) shall be applied for meeting salary, allowances and other remuneration of the members, officers and other employees of the Tiger Conservation Authority and the expenses of the Tiger Conservation Authority incurred in the discharge of its functions under this Chapter.

**38R.** (1) The Tiger Conservation Authority shall maintain proper accounts and other relevant record sand prepare an annual statement of accounts in such form as may be prescribed by

the Central Government in consultation with the Comptroller and Auditor-General of India.

- (2) The accounts of the Tiger Conservation Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Tiger Conservation Authority to the Comptroller and Auditor-General of India.
- (3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Tiger Conservation Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Tiger Conservation Authority.
- (4) The Accounts of the Tiger Conservation Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the Central Government by the Tiger Conservation Authority.

**38S.**—The Tiger conservation Authority shall prepare in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

**38T.**—The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to

the Central Government, and the reasons for the nonacceptance, if any, of any of such recommendations, and the audit report to be laid, as soon as may be after the reports are received, before each House of Parliament.

**38U.**—(1) The state Government may constitute a Steering Committee for ensuring co-ordination, monitoring, protection and conservation of tiger, copredators and prey animals within the tiger range States.

(2) The Steering Committee shall consists of—

- (a) the Chief Minister—Chairperson;
- (b) the Minister in-charge of Wild Life—Vice-chairperson;
- (c) Such number of official members not exceeding five including at least two Field Directors of tiger reserve or Director of National Park and one from the State Government's Departments dealing with tribal affairs;
- (d) three experts or professionals having qualifications and experience in conservation of wild life of which at least one shall be from the field of tribal development;
- (e) two members from the State's Tribal Advisory Council;
- (f) one representative each from State Government's Departments dealing with Panchayati Raj and Social Justice and Empowerment;
- (g) Chief Wild Life Warden of the State shall be the Member- Secretary, to be notified by the State Government, in the Official Gazette.

**38V.** (1) The State Government shall, on the recommendation of the Tiger Conservation Authority, notify an area as a tiger reserve.

- (2) The provisions of sub-section (2) of section 18, sub-sections (2), (3) and (4) of section 27, sections 30, 32 and clauses (b) and (c) of section 33 of this Act shall, as far as may be, apply in relation to a tiger reserve as they apply in relation to a sanctuary.
- (3) The State Government shall prepare a Tiger Conservation Plan including staff development and deployment plan for the proper management of each area referred to in sub-section (1), so as to ensure—
  - (a) protection of tiger reserve and providing site specific habitat inputs for a viable population of tigers co-predators and prey animals without distorting the natural prey-predator ecological cycle in the habitat;
  - (b) ecologically compatible land uses in the tiger reserves and areas linking one protected area or tiger reserve with another for addressing the livelihood concerns of local people, so as to provide dispersal habitats and corridor for spill over population of wild animals from the designated core areas of tiger reserves or from tiger breeding habitats within other protected areas;
  - (c) the forestry operations of regular forest divisions and those adjoining tiger reserves are not incompatible with the needs of tiger conservation.
- (4) Subject to the provisions contained in this Act, the State Government shall while preparing a Tiger Conservation Plan, ensure the agricultural, livelihood, developmental and other interests of the people living in tiger bearing forests or a tiger reserve.

Explanation.—For the purposes of this Section, the expression “tiger reserve” includes—

- (i) core or critical tiger habitat areas of National Parks and sanctuaries, where it has been established, on the basis of scientific and objective criteria, that such areas are



required to be kept as inviolate for the purposes of tiger conservation, without affecting the rights of the Scheduled Tribes or such other forest dwellers, and notified as such by the State Government in consultation with an Expert Committee constituted for the purpose;

- (ii) buffer or peripheral area consisting of the area peripheral to critical tiger habitat or core area, identified and established in accordance with the provisions contained in Explanation (i) above, where a lesser degree of habitat protection is required to ensure the integrity of the critical tiger habitat with adequate dispersal for tiger species, and which aim at promoting co-existence between wildlife and human activity with due recognition of the livelihood, developmental, social and cultural rights of the local people, wherein the limits of such areas are determined on the basis of scientific and objective criteria in consultation with the concerned Gram Sabha and an Expert Committee constituted for the purpose.
- (5) Save as for voluntary relocation on mutually agreed terms and conditions, provided that such terms and conditions satisfy the requirements laid down in this sub-section, no Scheduled Tribes or other forest dwellers shall be resettled or have their rights adversely affected for the purpose of creating inviolate areas for tiger conservation unless—
- (i) the process of recognition and determination of rights and acquisition of land or forest rights of the Scheduled Tribes and such other forest dwelling persons is complete;
  - (ii) the concerned agencies of the State Government, in exercise of their powers under this Act, establishes with the consent of the Scheduled Tribes and such other forest dwellers in the area, and in consultation with an ecological and social scientist familiar with the area, that the activities of the Scheduled Tribes and other forest dwellers or the impact of their presence upon wild animals is sufficient to

cause irreversible damage and shall threaten the existence of tigers and their habitat;

- (iii) the State Government, after obtaining the consent of the Scheduled Tribes and other forest dwellers inhabiting the area, and in consultation with an independent ecological and social scientist familiar with the area, has come to a conclusion that other reasonable options of co-existence, are not available;
- (iv) resettlement or alternative package has been prepared providing for livelihood for the affected individuals and communities and fulfils the requirements given in the National Relief and Rehabilitation Policy;
- (v) the informed consent of the Gram Sabha concerned, and of the persons affected, to the resettlement programme has been obtained; and (vi) the facilities and land allocation at the resettlement location are provided under the said programme, otherwise their existing rights shall not be interfered with.

**38W.** (1) No alteration in the boundaries of a tiger reserve shall be made except on recommendation of the Tiger Conservation authority and the approval of the National Board for Wild Life.

- (2) No State Government shall de-notify a tiger reserve, except in public interest with the approval of the Tiger Conservation Authority and the National Board for Wild Life.

**38X.**(1) The State Government shall establish a Tiger Conservation Foundation for tiger reserves within the State in order to facilitate and support their management for conservation of tiger and biodiversity and, to take initiatives in eco-development by involvement of people in such development process.

- (2) The Tiger Conservation Foundation shall, inter alia have the following objective:—
- (a) to facilitate ecological, economic, social and cultural development in the tiger reserves;
  - (b) to promote eco-tourism with the involvement of local stakeholder communities and provide support to safeguard the natural environment in the tiger reserves;
  - (c) to facilitate the creation of, and or maintenance of, such assets as may be necessary for fulfilling the above said objectives;
  - (d) to solicit technical, financial, social, legal and other support required for the activities of the Foundation for achieving the above said objectives;
  - (e) to augment and mobilise financial resources including recycling of entry and such other fees received in a tiger reserve, to foster stake-holder development and eco-tourism;
  - (f) to support research, environmental education and training in the above related fields.
- CHAPTER IVC  
TIGER AND OTHER ENDANGERED SPECIES  
CRIME CONTROL BUREAU

- 38Y.** The Central Government may, for the purposes of this Act, by order published in the Official Gazette, constitute a Tiger and other Endangered Species Crime Control Bureau to be known as the Wildlife Crime Control Bureau consisting of—
- (a) the Director of Wildlife Preservation—Director ex-officio;
  - (b) the Inspector General of Police—Additional Director;
  - (c) the Deputy Inspector-General of Police—Joint Director;
  - (d) the Deputy Inspector-General of Forest—Joint Director;
  - (e) the Additional Commissioner (Customs and Central Excise)—Joint Director and;

- (f) Such other officers as may be appointed from amongst the officers covered under sections 3 and 4 of this Act.

**38Z.** (1) Subject to the provisions of this Act, the Wildlife Crime Control Bureau shall take measures with respect to—

- (i) collect and collate intelligence related to organized wildlife crime activities and to disseminate the same to State and other enforcement agencies for immediate action so as to apprehend the criminals and to establish a centralised wildlife crime data bank;
  - (ii) co-ordination of actions by various officers, State Governments and other authorities in connection with the enforcement of the provisions of this Act, either directly or through regional and border units set up by the Bureau;
  - (iii) implementation of obligations under the various international Conventions and protocols that are in force at present or which may be ratified or acceded to by India in future;
  - (iv) assistance to concerned authorities in foreign countries and concerned international organisations to facilitate co-ordination and universal action for wildlife crime control;
  - (v) develop infrastructure and capacity building for scientific and professional investigation into wildlife crimes and assist State Governments to ensure success in prosecutions related to wildlife crimes;
  - (vi) advise the Government of India on issues relating to wildlife crimes having national and international ramifications, and suggest changes required in relevant policy and laws from time to time.
- (2) The Wildlife Crime Control Bureau shall exercise—
- (i) such powers as may be delegated to it under sub-section (1) of section 5; sub-sections (1) and (8) of section 50 and section 55 of this Act; and

(ii) Such other powers as may be prescribed.”.

3.—In section 51 of the principal Act, after subsection(1B), the following sub-sections shall be inserted, namely:—“(IC) Any person, who commits an offence in relation to the core area of a tiger reserve or where the offence relate to hunting in the tiger reserve or altering the boundaries of the tiger reserve, such offence shall be punishable on first conviction with imprisonment for a term which shall not be less than three years but may extend to seven years, and also with fine which shall not be less than fifty thousand rupees but may extend to two lakh rupees; and in the event of a second or subsequent conviction with imprisonment for a term of not less than seven years and also with fine which shall not be less than five lakh rupees but may extend to fifty lakh rupees.

(ID) Whoever, abets any offence punishable under sub-section (IC) shall, if the act abetted is committed in consequence of the abetment, be punishable with the punishment provided for that offence.”.

4. In section 55 of the principal Act, after clause (aa), the following clauses shall be inserted, namely:—“(ab) Member-Secretary, Tiger Conservation Authority; or (ac) Director of the concerned tiger reserve; or”.

5. In section 59 of the principal Act, after the word, figures and letter “Chapter IVA”, the word, figures and letter “Chapter IVB” shall be inserted.

6. In section 60 of the principal Act, in subsection (3), after the word, figures and letter “Chapter IVA”, the word, figures and letter “Chapter IVB” shall be inserted;

7. In section 63 of the principal Act, in subsection (1), after clause (g), the following clauses shall be inserted, namely:—

“(gi) qualification and experience of experts or professionals under clause (d) of sub-section (2) of section 38-I;

(gii) the salaries and allowances and other conditions of

- appointment of the members under sub-section (4) of section 38M;
- (giii) the terms and conditions of service of the officers and other employees of the tiger Conservation Authority under sub-section (2) of section 38N;
  - (giv) the form in which the annual statement of accounts of Tiger Conservation Authority shall be prepared under sub-section(1) of section 38R; (gv) the form in which and the time at which the annual report of Tiger Conservation Authority shall be prepared under section 38S;
  - (gvi) other powers of the Wildlife Crime Control Bureau under clause (ii) of sub-section (2) of section 38Z.”.

K.N CHATURVEDI  
Secy to the Govt of India

**The West Bengal Trees (Protection and Conservation in  
Non-Forest Areas) Act, 2006**

**THE WEST BENGAL TREES (PROTECTION AND  
CONSERVATION IN  
NON- FOREST AREAS) ACT, 2006**

[ *Passed by the West Bengal Legislature* ]

[ *Assent of the Governor was first published in the Kolkata  
Gazette,*

*Extraordinary, of the 12th April, 2006* ]

*An Act to encourage and promote plantation of trees, and  
to protect and conserve trees, particularly those looked upon as  
scared groves, or identified as belonging to an endangered species  
or given the status of heritage, bearing in mind that trees have  
great environmental value and are a renewable resource.*

WHEREAS it is expedient, in the public interest, to prevent  
the felling of trees in Non-Forest Areas and to encourage and  
promote plantation of trees, and to protect and conserve trees,  
particularly those looked upon as scared groves, or identified as  
belonging to an endangered species or given the status of heritage,  
bearing in mind that trees have great environmental value and are a  
renewable resource:

AND WHEREAS it is considered expedient to make  
provisions for protection and improvement of environment as  
envisaged under article 48A of the Constitution of India :

It is hereby enacted in the fifty-seventh Year of the Republic  
of India, by the Legislature of West Bengal, as follows :—

**SHORT TITLE, EXTENT AND COMMENCEMENT**

1. (1) This Act may be called the West Bengal Trees (Protection  
and Conservation in Non-Forest Areas) Act, 2006.

- (2) It extends to the whole of West Bengal.
- (3) It shall come into force at once.

#### **APPLICATION**

2. This act shall apply to tree in non-forest areas viz. the areas other than forest and the areas declared as community reserve under the Wildlife (Protection) Act, 1972

*Explanation*— For the purpose of this section, the word 'forest' has the same meaning as is assigned in the West Bengal Private Forest Act, 1948.

#### **DEFINITIONS**

3. In this Act, unless the context otherwise requires,—
  - (1) “appellate authority” means an appellate authority appointed under sub-section (1) of section 7;
  - (2) “competent authority” means an authority appointed by the State Government, by notification, to perform the duties and exercise the powers conferred upon a competent authority under this Act;
  - (3) “felling of tree” means cutting, girdling, pollarding, uprooting or damaging a tree in any manner but shall not include lopping off of a limb of tree for such purposes as may be prescribed;
  - (4) “notification” means a notification published in the *Official Gazette*;
  - (5) “person” shall include any company or association or body of individuals, where incorporated or not
  - (6) “*raiyat*” shall have the same meaning as in the West Bengal Land Reforms Act, 1955;
  - (7) “Schedule” means a Schedule to this Act;



- (8) “State Government” means the State Government of West Bengal;
- (9) “tree” has the same meaning as the Indian Forest Act, 1927, and includes any woody plant whose branches spring from an area supported upon a trunk or body and whose trunk or body is not less than ten centimetres in diameter at breast height from the ground level  
*Explanation—* For the purpose of this clause 'breast height' means the standard height for measuring girth, diameter and basal area of standing trees which is taken as 4 feet 6 inches (1·37 meter) above ground level and on slopes breast height is taken on the up-hill side.
- (10) “prescribed” means prescribed by rules made under this Act;
- (11) Other expressions used in this Act, but not defined, shall have the same meanings as defined in the Indian Forest Act, 1927.

#### **RESTRICTION ON FELLING OF TREES**

- 4. Except as provided in this Act or the rules made thereunder, no person shall—
  - (a) fell any tree in the Non-Forest Areas; and
  - (b) cut, remove or otherwise dispose of any tree other than a tree which has felled without the aid of human agency.

#### **PERMISSION TO FELL TREES**

- 5. (1) A competent authority may, on receipt of an application from a person to fell a tree or otherwise dispose of any tree, for such purposes as may be prescribed, and on being satisfied with regard to the legality of documents towards the proof of ownership or lease of the land on

which such tree stands and after making an inquiry, in such manner as may be prescribed, grant permission, in writing, to fell tree;

Provided that no such permission shall be granted, if it is found on inquiry that the nature or character of the land may change or the mode of use of the land may alter, unless the person concerned produces the conversion certificate obtained from the collector concerned under the provisions of section 4C of the West Bengal Land Reforms Act, 1955;

Provided further that in the Sadar sub-division, Kalimpong sub-division and Kurseong sub-division of the district of Darjeeling, no such permission shall be required, if a *raiyat* obtains permission under provisions of section 4A of the West Bengal Land Reforms Act, 1955, read with rule 474 of the West Bengal Land and Land Reforms Manual, 1991;

Provided also that the competent authority shall, within three days from the date of receipt of application, give permission of felling of trees, if it constitute such immediate danger, as may be prescribed to any person or property.

- (2) Notwithstanding anything contained in sub-section (1), no permission shall be required if felling of trees is undertaken for not more than three trees at a time in rural areas:

Provided that felling of trees shall not be undertaken in a particular plot of land more than once in a year.

*Explanation I.*— For the purposes of this section, “rural area” shall include all areas under *Gram Panchayet* and exclude the

areas under Municipality, Notified Area Authority or Municipal Corporation.

*Explanation II.*— For the purposes of this section 'Municipality' and 'Notified Area Authority' shall have the same meaning as defined in the West Bengal Municipal Act, 1993.

### **PROCEDURE FOR OBTAINING PERMISSION TO FELL TREES**

6. (1) Every application under section 5 shall be in writing giving particulars of the tree, the details of the plot of land on which the tree is located and the reasons for felling the tree and shall be accompanied with such fee, as may be prescribed.
- (2) The competent authority shall, on receipt of an application in respect of any tree, issue and acknowledgement to the applicant, and after making inquiry, shall dispose of the application, within forty-five days of the receipt of such application, either giving permission to fell such tree or rejecting the application giving reasons therefor.
- (3) Every permission to fell tree shall, granted under this Act, be in such form and subject to such conditions, including taking of security for undertaking plantation for trees, as may be prescribed;

Provided that in the case of tea garden such permission shall be subject to the condition that the sale proceeds be utilized strictly for the purpose of welfare of the labourers of tea garden on the basis of a specific scheme framed under the provisions of the Plantations Labour Act, 1951.

## **APPEAL**

7. (1) Subject to the provisions of sub-section (2), an appeal shall lie from every order of the competent authority under this Act to the appellate authority, to be appointed by the State Government;
- (2) Every such appeal shall be preferred within thirty days from the date of communication of the order;
- Provided that the appellate authority may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing it in time.
- (3) On receipt of any such appeal, the appellate authority shall, after giving the appellant reasonable opportunity of being heard and after making such inquiry as it deems proper, dispose of the appeal for reasons to be recorded in writing.
- (4) The proceedings before the appellate authority shall be completed within a period of one month from the date of preferring appeal under sub-section (2).

## **OBLIGATION TO PLANT TREES**

8. Every person, who fells any tree, shall undertake plantation of such number of trees as may be prescribed, in place of every tree felled, in the same plot of land and tend such plantation for trees in accordance with the directions of the competent authority;
- Provided that the competent authority may, for such reasons, as may be prescribed, to be recorded in writing, permit a lesser number of plantation for trees to be undertaken in a different plot or plots, or exempt any person from the

obligation of such plantation.

Provided further that any person, unable to undertake plantations of trees, may deposit such amount of money, as may be prescribed considering the importance of trees, to the competent authority, facilitating the designated agency of the State Government to undertake plantation of trees for the trees felled.

*Note.*— 'designated agency of the State Government' for the purpose of this section means a designated agency of the State Government, as may be specified by the State Government, by order.

#### **COMPULSORY PLANTATION FOR TREES IN CERTAIN CASES**

9. (1) Every person or development agency or the benevolent active st or the entrepreneur or the promoter (hereinafter in this section called 'developer') shall, as the case may be, intending to carry out development in the form of erection of highrise multi-unit building or otherwise construction for the purposes of residential or commercial or industrial or institutional uses, as the case may be, on any plot or plots of land, undertake plantation for trees, in the prescribed manner and to the prescribed extent having regard to the total area of such plot or plots of land, in the same plot or plots of land as subject to such development.

*Explanation I.*— For the purpose of this sub-section, 'development agency' includes any of the Government Department or any other body created under any statute for the purpose of carrying out development works.

*Explanation II.*— For the purposes of this sub-section,

'promoter' means a person who constructs or erects or causes to be constructed or erected a building or otherwise construction on a plot or plots or land for the purpose of transfer of such building by sale or gift or otherwise to any other person or to a company, co-operative society or association of person and includes his assignee.

- (2) The development, under sub-section (1), shall subject to sub-section (5), be carried out after obtaining the certificate of clearance, on an application in the prescribed form and the prescribed manner accompanied by such fee as may be prescribed, from the competent authority;

Provided that the plantation shall be implemented within such period as may be specified in the certificate of clearance, before the development project is initiated.

- (3) The application, under sub-section (2), shall be accompanied by such plan (in quadruplicate) (hereinafter called the "plantation plan") drawn on the prescribed scale as showing the proposed plantation in the prescribed manner and to the prescribed extent as well as the location of the proposed plantation within the area of the proposed building or otherwise construction on the same plot or plots of land.
- (4) The competent authority may, after being satisfied on proper scrutiny of the plantation plan and completing the field inquiry, if necessary, that the proposed plantation of trees as shown in the plantation plan is in accordance with the provisions of this Act and the rules made thereunder, approve the plantation plan (in quadruplicate) under his signature with proper stamp and

seal and shall issue the certificate of clearance in the prescribed Form.

Provided that the competent authority shall, before issuing the certificate of clearance under this subsection, obtain the concurrence of the West Bengal Pollution Control Board.

- (5) The authority, sanctioning the building or otherwise construction plan under the relevant Act, shall, before approving such plan, require the developer to produce before him both the certificate of clearance as issued and the plantation plan as approved under this Act and verify whether the proposed plantation as shown in the plantation plan is properly incorporated in the building or otherwise construction plan as submitted before him for approval. After being satisfied on verification, the sanctioning authority shall certify under his signature with stamp and seal on each copy of building or otherwise construction plan as approved by him under the relevant Act, stating that this plan is compatible with the plantation plan so far as the proposed plantation is concerned.
- (6) No building or otherwise construction plan, even if sanctioned under the relevant Act, shall be treated as valid if the same is not found compatible with the said plantation plan.

#### **IMPLEMENTATION OF DIRECTIONS**

10. Every person who is to undertake plantation for trees under section 8, shall start preparatory work for plantation within sixty days from the date of permission or the date of receipt of direction, as the case may be, and shall undertake plantation for trees, in accordance with directions.

#### **PENALTY FOR FELLING OF TREES**

11. (1) Whoever fells or causes to be felled any tree or cuts, uproots or otherwise disposes of any fallen tree, in contravention of the provisions of section 4, or contravenes any condition of any permission granted under this Act, shall be punished with imprisonment which may extend to one year or with fine which may extend to five thousand rupees or with both and until the plantation of requisite number of trees are undertaken, shall be fined for each day of default of fifty rupees.

(2) If any person, or development agency or the benevolent activist, or the entrepreneur of the promoter, as the case may be, fails to implement the plantation plan as approved under sub-section (4) of section 9, shall be punished with imprisonment which may extend to two years or with fine which may extend to ten thousand rupees or with both.

#### **PREVIOUS SANCTION OF THE STATE GOVERNMENT NECESSARY**

12. No prosecution shall be instituted against any person in respect of any offence under this Act without the previous sanction of the State Government or such officer or authority as may be authorized by the State Government by order in writing in this behalf.

#### **OFFENCE BY FIRM, COMPANY, INSTITUTION, ETC.**

13. If the person committing an offence under this Act is a firm, a company, an institution or an association or body of individuals, the firm, the company, the institution or the association or the body of individuals as well as every person



in charge of, and responsible to the firm, the company, the institution or the association or the body of individuals for the conduct of its business at the time of the commission of such offence shall be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this section shall render such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

#### **FORFEITURE OF TIMBER ETC.**

14. (1) Where any person has been convicted of committing an offence of felling a tree, the timber of tree, and implements used for felling such tree, may be ordered by the Court to be forfeited to the State Government:

Provided that if the timber is found to have been disposed of, the Court may order an additional penalty of not exceeding five thousand rupees.

- (2) Unless the Court otherwise directs, any timber or implements forfeited under sub-section (1), shall be disposed of by the competent authority in such manner as may be prescribed.
- (3) Such forfeiture may be in addition to any other punishment specified in this Act for such offence.

#### **POWER OF SEIZURE**

15. (1) When there is reason to believe that any tree has been felled, cut or removed in contravention of the provisions of this Act, the wood of such trees, together with the boat, vehicle, carrier or cattle, if any, used for felling, cutting or

removing of such tree, may be seized by any Forest Officer not below the rank of a Forest Ranger or any Police Officer not below the rank of a Sub-inspector or any other officer empowered in this behalf by the State Government.

- (2) Every seizure made under sub-section(1) shall be reported to the Magistrate having jurisdiction to try the offence on account of which such seizure has been made and the wood of such trees, together with boat, vehicle, carrier or cattle shall, subject to the order of such Magistrate, be disposed of in such manner as may be prescribed.

#### **COMPOUNDING OF OFFENCE**

16. (1) Any offence, which has been committed and is punishable under this Act, may either before or after institution of the prosecution, be compounded by such officer, and for such amount not exceeding ten thousand rupees, as the State Government may by notification in the *Official Gazette*, specify:

Provided that such net present value of timber, as may be prescribed by rules considering the importance of timber, may also be recovered from the offender.

- (2) Where an offence has been compounded under sub-section(1), the offender, if in custody, shall be discharged and no further proceeding shall be taken against him in respect of such offence and the property seized under this Act shall be released.
- (3) The compounding of an offence under sub-section(1) shall be allowed only in respect of the first offence committed by any person and no such compounding

shall be made for any subsequent offence committed by the same person.

**POWER TO PREVENT COMMISSION OF OFFENCE**

17. (1) It shall be the duty of every Forest Officer, Gram Panchayet Secretary, Gram Panchayet Karma Sahayak, Krishi Prajukti Sahayak, Gram Sevak, Revenue Inspector, Officer dealing with environmental protection or Police personnel to make efforts to prevent any contravention of section 4 and section 9 and to report to his superior officer, in such manner as may be prescribed, of such contravention or preparation to commit such contravention.
- (2) The superior officer so informed shall inform the competent authority of such commission or probable commission of offence.
- (3) The competent authority shall take all reasonable measures in his power to prevent such contravention which he has reason to believe that it is likely to be committed.

**OFFICERS TO BE PUBLIC SERVANT.**

18. The Officers, exercising any powers, or discharging any duties or functions, under this Act, shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860.

**EXECUTION OF ORDER FOR PAYMENT**

19. The amount of composition of an offence, the payment of which has been directed to made by any person under this Act shall, without prejudice to any other mode of recovery under any law for the time being in force, be recoverable from him as an arrear of land revenue.

### **BARON PROCEEDINGS**

20. No suit, prosecution or other legal proceedings shall lie against the State Government or against Officer or against any designated agency of the State Government empowered to exercise power or to perform duties or to discharge functions under this Act, for anything which is in good faith done or intended to be done under this Act.

### **EXEMPTION**

21. (1) Subject to such conditions, if any, as may be imposed, the State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any area or any species of tree or a specified number of trees of any species from all or any of the provisions of this Act.
- (2) Notwithstanding anything contained in sub-section(1), permission of competent authority shall be obtained for felling of trees specified in the Schedule.

### **PROVISION OF THIS ACT TO BE IN ADDITION TO OTHER LAW**

22. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force prohibiting or regulating the felling of trees.

### **POWER OF STATE GOVERNMENT FOR PRESERVATION OF TREES**

23. (1) The State Government may, in the interest of public, declare by notification, that any class or classes of tree shall not be felled for such period as is specified in that notification.
- (2) The management of such trees shall be regulated in such manner as may be prescribed.

#### **POWER TO MAKE RULES**

24. (1) The State Government may, by notification, make rules for carrying out the purpose of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters—
  - (a) the Form in which and the authority to whom an application for felling tree shall be made;
  - (b) the Form in which the permission, if any, shall be granted to the applicant;
  - (c) any other matter necessary for proper implementation and enforcement of this Act.
- (3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

#### **OVERRIDING EFFECT**

25. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law.

#### **POWER TO AMEND SCHEDULE**

26. (1) The State Government may, by notification, amend the Schedule.
- (2) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before the State Legislature.

**SCHEDULE**  
**Permission Mandatory for Felling**  
**( See section 21 )**

1. *Acacia catechu* (Khair)
2. *Bombax ceiba* (Simul)
3. *Dalbergia sissoo* (Sishu)
4. *Diospyros melanoxylon* (Kend/Kendu/Tendu)
5. *Gmelina arborea* (Gamar)
6. *Madhuka indica* (Mahua)
7. *Michelia champaka* (Champ)
8. *Shorea robusta* (Sal)
9. *Swietenia mahogony* (Mahogony)
10. *Tectona grandis* (Teak/Segun)
11. *Mangrove trees*

By order of the Governor

**SHYMAL KANTI CHAKRABORTY**

*Secy. To the Govt. of West Bengal*  
*Law and Judicial Department*

**4. The West Bengal Trees (Protection and Conservation in  
Non-Forest Areas) Rules, 2007**

GOVERNMENT OF WEST BENGAL  
LAW DEPARTMENT  
Writers' Building, Kolkata – 700 001

**NOTIFICATION**

No. 517-For. Dt. The 9<sup>th</sup> February, 2007-In exercise of the power

conferred by sub-section (1) of section 24 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, (West Ben Act X of 2006), the Governor is pleased to make the following rules, namely :

### **RULES**

#### **Short title & commencement:**

- 1 (1) This rules may be called the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Rules, 2007.
- (2) They shall come into force on the date of their publication in the Official Gazette.

#### **Definition:**

- 2 (1) In these rules, unless the context otherwise requires—
  - (a) “the Act” means the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006 (West Ben Act X of 2006)
  - (b) “form” means a form appended to these rules;
  - (c) “section” means a section of the Act;
  - (d) “rule” means a rule of these rules.
- (2) Any expression used in these rules, but not defined, shall have the same meaning as defined in the Act.

#### **Purpose for which felling of trees shall not include lopping off a limb of tree :**

3. Lopping off a limb of tree for the following purposes shall not constitute “felling of tree” as defined under sub-section(3) of section 3—
  - (a) maintenance of electric lines, roads and other works of public utility : provided that such lopping does not pose any threat to the survival of the tree,
  - (b) maintenance and beautification of the Parks and Garden :
  - (c) when the limb of a tree causes serious inconvenience to

the local residents, or poses threat to human life, or a building, or property or disrupts public services (transportation system).

**Permission to fell trees :**

- 4 (1) Permission for felling or otherwise disposing of any tree under the provisions of sub-section(1) of section 5 shall be granted only for the following purposes :
- (a) if it causes serious inconvenience to the local resident; or poses threat to human life, or a building, or property; or disrupt public services (transportation system);
  - (b) if it attains natural death due to any disease, or natural calamities like storm, lightning;
  - (c) if a tree was raised with the purpose of Social Forestry or Farm Forestry and has since attained maturity for harvesting;
  - (d) if the tree is sought to be removed for facilitating re-forestation or the land for the purpose of Social Forestry or Farm Forestry;
  - (e) if the owner intends to carry out the felling of trees to meet expenses for family obligations, such as medical treatment, marriage, education or to meet requirement of timber for construction or repair of his own house;
  - (f) if it becomes absolutely necessary to fell the trees for disposing of land or settling up of the land dispute;
  - (g) if in a tea garden, proviso to sub-section (3) of section 6 shall be complied with.
- (2) (a) A person other than a developer, seeking permission for felling or otherwise disposing of any tree under the provision of sub-section(1) of Section 5 shall submit an application to the competent authority in



Form I(A): Provided, however, that a developer shall submit application to the competent authority in the Form I(B).

- (b) The competent authority shall issue an acknowledgement to the applicant in an appropriate manner under his official seal.
- (3) An inquiry for the purpose of giving permission to fell or dispose of any tree as referred to in sub-section (1) of Section 5 of the Act may be conducted in the following manner :
- (a) the competent authority either himself conduct field enquiry or will depute a suitable official from amongst his subordinates for the purpose;
  - (b) the enquiry will be completed within thirty days from the date of receipt of the application or within two days in case of application seeking immediate permission to fell such trees which constitute immediate danger as specified in sub-rule(4) of this rule;
  - (c) the enquiry officer shall intimate the applicant regarding the date and time of field enquiry and the applicant will be present during the enquiry in person or through a duly authorized representative;
  - (d) the enquiry officer may also invite some local prominent persons to be present during the enquiry;
  - (e) the enquiry officer will also consult and consider the report from the Gram Panchayet or Municipality or Municipal Corporation or Notified Area Authority or the industrial township as the case may be, in Form I(c);
  - (f) The enquiry officer will submit his report to the competent authority in Form-II.
- (4) For the purpose of the three provisions to sub-section1) of section 5, the competent authority shall within three

days from the date of receipt of application, give permission of felling of trees if it constitute immediate dangers of the following nature to any person or property:

- (a) imminent threat to human life, or property of any person or institution or organization;
- (b) serious disruption to maintenance of public services (transportation system).

**Procedure for obtaining permission to fell tree:**

- 5 (1) For the purposes of obtaining permission to fell tree or otherwise disposing of any tree under sub-section (1) of section 6, the applicant shall pay the following fee to the competent authority at the time of submitting application :
  - (i) developer— Rs. 1,000.00 (One thousand rupees);
  - (ii) a person other than a developer— Rs. 25.00 (Twenty five rupees) (in rural areas)] and Rs. 100.00 (One hundred rupees) (other than rural areas);
  - (iii) Emergency Application Fee: If the application is required to be submitted for immediate permission under sub-rule (4) of rule 4: Rs. 200.00 (Two hundred rupees for all areas).
- (2) For the purpose of sub-section 3 of section 6, the competent authority shall grant permission to fell tree to an applicant in Form III: provided that no permission to fell tree, if there is a tree, will be given to a developer unless he has obtained a certificate of clearance from the competent authority, under sub-section(4) of section 9 and sanction of the building or otherwise construction plan from the appropriate authority under sub-section (5) of section 9.
- (3) The permission under sub-rule (2) shall be granted only after the applicant, other than a developer, has paid security for undertaking plantation for trees to the competent authority at the rate of twenty rupees per tree

in rural areas and thirty rupees per tree in areas other than rural areas for each tree to be planted: Provided that no security shall be payable by an applicant who is unable to undertake plantation of trees and has deposited the prescribed amount of money to the competent authority as prescribed under sub-rule (3) of rule 6.

- (4) The security under sub-rule (3) shall be paid either in cash or through National Saving Certificates duly placed in favour of the competent authority.
- (5) The security shall be refunded in full to the applicant but not before two years from the date of grant of felling permission after the competent authority has satisfied himself that at least eighty percent of the trees planted by the applicant under the provision of rule 6 are surviving in good condition: Provided that the security shall be refunded to the applicant on pro-rata basis if the total number of trees survived are less than eighty percent of the total number of trees planted: Provided further that the security may be forfeited by the competent authority if the total number of trees survived are less than thirty percent of the total number of trees planted.
- (6) The non-refunded portion of the security shall be transferred by the competent authority to the designated agency for undertaking plantation of trees.

**Obligation to plant trees:**

- 6 (1) As provided under section 8 every person who after obtaining permission by the competent authority, fells any tree, shall undertake plantation two trees in place of every tree felled, in the same plot of land and tend such plantation for trees in accordance with the direction of the competent authority : Provided that a developer shall undertake plantation of trees as prescribed in sub-rule (1) of rule 7.
- (2) Under the provision of the first proviso to section 8, the

competent authority may in writing permit a lesser number of plantation for trees to be undertaken in a different plot or plots or exempt any person, other than a developer, from the obligation of such plantation for the following reasons :

- (a) if the felling of trees for erecting of house for self accommodation;
  - (b) if the existing plot, on which the tree is felled, does not provide space for any further plantation;
  - (c) if no other plot of land is available with the owner of the tree;
  - (d) if the total number of trees to be felled is less than ten.
- (3) Any person, other than a developer, unable to undertake plantation of trees as prescribed under sub-rule (1) shall deposit an amount of twenty rupees per tree in rural areas and thirty rupees per tree in areas other than rural areas to the competent authority, who shall transfer the said amount to the designated agency of the State Government to undertake plantation of trees for the trees felled : Provided that the amount to be deposited shall be forty rupees per trees in rural areas and sixty rupees per tree in areas other than rural areas if the trees to be felled belong to any of the species included in the Schedule of the Act.

**Compulsory plantation of trees :**

- 7 (1) For the purpose of sub-section (1) of section 9, a developer shall undertake plantation of trees over at least twenty percent of the total area in the same plot or plots of land as subject to such development in accordance with a plantation plan approved by the competent authority under sub-section (4) of section 9: Provided that the total number of trees to be planted shall be at least five times the number of trees to be felled, if any : Provided further that the competent authority may

fix up norms for plantation of trees in a particular area regarding choice of species, proportion of different species, spacing, maintenance.

- (2) The developer shall, under sub-section (2) of section 9 submit application to the competent authority in Form I(B), which shall be accompanied with a fee prescribed under sub-rule (1) of rule 5.
- (3) The developer, while applying for the certificate of clearance to the competent authority shall submit a proposed plantation plan (in quadruplicate) drawn on 1:100 scale showing the location of plantation over the extent as prescribed under sub-rule (1) along with the following details :
  - (a) species to be planted;
  - (b) advance soil work;
  - (c) source of seeds and seedlings for plantation;
  - (d) spacing and planting pattern; and
  - (e) time schedule for plantation and maintenance.
- (4) Before issuing the certificate of clearance to the developer, the competent authority shall cause an enquiry in the manner prescribed in sub-rule (3) of rule 4.
- (5) The competent authority shall under sub-section (4) of section 9 issue the certificate of clearance to the developer in the Form IV.

**Forfeiture of Timber etc.:**

8. Any timber or implements forfeited under sub-section (1) of section 14, shall be disposed of by the competent authority through auction or open tender following the relevant government orders in this respect.

**Power of Seizure :**

9. Wood of trees together with boat, vehicle, carrier or cattle seized under the provisions of sub-section(1) of section 15 shall be handed over the competent authority who shall

dispose them of through auction or open tender following the relevant government orders in this respect.

**Compounding of offence :**

10. The net present value of timber, as referred to in the proviso to sub-section(1) of section 16 shall be calculated on the basis of “Scheduled of Rate” prescribed for the nearby Forest Division by the concerned Conservator of Forests.

**Power to prevent commission of offence:**

11. The Report, as referred in sub-section (1) of section 17 be submitted to the superior officer with the following details in respect of the offence committed or likely to be committed:
  - (a) detailed location;
  - (b) date and time;
  - (c) nature of offence;
  - (d) name and address of the offender or the offending agency; and
  - (e) any other relevant notification.

**Power of State Government for preservation of trees :**

- (1) The competent authority shall not issue permission for felling of any class or classes of trees notified by the State Government under sub-section (1) of section 23 for such period as is specified in that notification.
- (2) The competent authority shall prepare an inventory of trees referred to in sub-rule (1); carry out inspection from time to time; and issue suitable directions to the owners of such trees for their protection and upkeep.
- (3) The owner of trees, as referred to in the sub-rule (1), shall take all necessary precautions for protection and upkeep of such trees; carry out the directions issued by the competent authority under sub-rule (2) and submit a report regarding any loss or damage to such trees to the competent authority without any undue delay.

**Form-I (A)**  
**Application for Felling or Disposing of Trees in Non-Forest**  
**Areas in respect of a Person**  
 ( Other than a developer )  
 [ See rule 4(2)(a) ]

1. Name of the Applicant (in Capitals):
2. Full Postal Address:
3. Land Details:
  - (a) Block / Panchayet / Municipality / Corporation / Others:
  - (b) Mouza / Ward:
  - (c) J.L. No. / Part No. / Plot No. :
  - (d) Area of the Land :
  - (e) Plan of Land / Map of Land :
  - (f) Total No. of trees present in the Land (Species and Number):p
4. Details of Trees to be felled / disposed of:

No of Tree	Plote No.	Spices	DBH (cm)	Approx Height (Metre)	Nature or Planted	Approx Age	Physical Condition

5. Purpose of Felling : (To be authenticated by supporting documents in original)

6. Particulars of previous felling of trees : (On the same plot of land, if any)

Plote No.	Date	Spices	Number of trees	Reference of permission from competent Authority

7. [ Only for applicant seeking emergency permission ]

I, hereby declare that the aforesaid trees constitute immediate danger in view of .....

..... (Give reason) and permission for their immediate felling is solicited in terms of sub-rule (4) or rule 4.

(Photographic evidence to be submitted)

8. I do hereby, certify that the felling of trees for which permission is sought for, shall not change the nature or character of land or the mode of use of the land;

Or

A copy of the conversion certificate obtained from the Collector under section 4C of the West Bengal Land Reforms Act, 1955 is attached;

9. [ Only in case of Tea Gardens ]

I, do hereby declare that the sale proceeds from the felling of trees in question will be utilized strictly for the purpose of welfare of the labourers of the tea garden on the basis of the specific scheme framed under the provisions of the Plantations Labour Act, 1951 (A copy enclosed)

10. I do, hereby, undertake to plant ..... trees (A minimum of two trees against each tree to be felled) at the same plot/at .....



Police Station.....District ..... and  
maintain the same for a period of 5 (five) years.

I, am willing to deposit the security money as prescribed  
under sub-rule (3) of rule 5.

Or

I do, hereby, undertake to deposit the required  
sum of money as prescribed under sub-rule (3) of rule 6 in-lieu  
of plantation to the competent authority.

Or

I, may kindly be exempted from the obligation of  
planting trees / permitted to plant lesser no of trees / permitted  
to plant trees on a different plot on the following grounds :

- (i)
- (ii)
- (iii)

11. I am enclosing an amount of Rs. .... as  
application fee by Cash /Draft No..... at Bank  
..... Dated .....

Place :

Signature of the Applicant

Date :

\* Strike off which is not applicable.

### **Form-I(B)**

#### **Application for Felling or Disposing of Trees in Non-Forest Areas / Certificate of**

Clearance in respect of a Developer

[ See rule 4(a)(2) and 7(2) ]

1. Name of the Person / Agency / Department:
2. Full Postal Address:
3. Nature of proposed development work:
4. Land Details:
  - (a) Block/Panchayet/Municipality/Corporation/Others:

- (b) Mouza/Ward:
- (c) J.L. No./Part No./Plot No. :
- (d) Area of the Land :
- (e) Plan of Land/Map of Land:
- (f) Total No. of trees present in the Land (Species and Number) :

5. Details of trees to be felled/ disposed of:

No of tree	Plote No.	Spices	DBH (cm)	Approx Height (Metre)	Nature or Planted	Approx Age	Physical Condition

- 6. Purpose of Felling : (To be authenticated with detailed project report including financial outlay)
- 7. Plantation Plan (On 1:100 scale showing location, species, timeframe, financial outlay, maintenance etc. to be submitted in quadruplicate)
- 8. Particulars of previous felling of trees: (On the same plot of land, if any)

Plote No.	Date	Spices	Number of trees	Reference of permission from competent Authority

9. A copy of the conversion certificate obtained from the Collector under section 4C of the West Bengal Land Reforms Act, 1955 is attached.

10. [Only in case of Tea Gardens]

I do, hereby, declare that the sale proceeds from the felling of trees in question will be utilized strictly for the purpose of welfare of the labourers of the tea garden on the basis of the specific scheme framed under the provisions of the Plantations Labour Act, 1951 (A copy enclosed)

11. I do, hereby, undertake, to plant trees over ..... ha (20% of the total area to be developed subject to a minimum of 5 trees against each tree to be felled.) at the same plot/ at ..... Police Station ..... District..... and maintain the same for a period of five years. Plantation Plan (in quadruplicate) is enclosed.

12. I, am enclosing an amount of Rs. .... as application fee by Cash /Draft No.....at Bank ..... Dated .....

Place

*Signature of the Applicant*

Date :

Name .....

Official Seal

\* Strike off which is not applicable.:

**Form-I(C)**  
**\*\*Certificate in connection with Felling / Disposing of**  
**Tree(s) in Non-Forest Areas by Panchayet / Municipality /**  
**Municipal Corporation / Others**  
[ See rule 4(3)(e) ]

1. This is to certify that Shri / Smt/ Ms. / Organisation /  
.....  
..... Village / Road /  
Street / Ward No. .... Police Station  
..... District ..... Pin  
..... has applied to the competent authority to fell /  
dispose of ..... No. of tree(s) from his / her / their  
own / leased land bearing plot No. .... J.L. No.  
..... Mouza / Ward No. .... Police  
Station ..... Panchayet / Block / Municipality /  
Municipal Corporation / Others ..... District  
.....
2. The above application is recommended.\*
3. The above application is not recommended for the following  
reasons.\*\*
- (i)
  - (ii)
  - (iii)

Signature .....

Name in Full .....

Designation .....

Seal .....

Place :

Date :

\* Strike off which is not applicable.

\*\* The Certificate may be issued by the Pradhan, Chairman,  
Municipal Commissioner of concerned Grampanchayet,  
Municipality, Municipal Corporation or by the concerned

authority of notified area authority, Industrial Township etc. respectively.

**Form-II**  
**Inquiry Report / Inquiry for Certificate of Clearance for**  
**Felling of Trees in Non-Forest Areas**

[ See Rules 4(3)(f) and 7(4) ]

1. Date of Receipt of the Application in Form I(A) / Form I(B) :
2. Enquiry conducted on :
3. Enquiry conducted at :
4. Enquiry conducted in presence of :

Name	Identity	Signature with date
	Application	
	Local prominent person	

5. Findings :

**[ General ]**

- (a) Land verification;
- (b) Tree verification (Annexure Enclosed);
- (c) Verification of ownership;
- (d) Verification of purpose of felling;
- (e) Comments on ecological / historical Signature of the trees (if any)
- (f) Whether nature of land may change due to proposed felling.

**[ Development Agency ]**

- (a) Comments on Plantation plan.
- (b) Whether the said project can be carried out by felling lesser no. of trees.



**ABSTRACT**

Species Trees	Total No. of
A. ....	.....
B. ....	.....
C. ....	.....
D. ....	.....
E. ....	.....
Grand Total	.....
( Signature of the Competent Authority )	
Name	.....
Designation	.....
Official Seal	.....

Place :

Date :

**Form III**

Form for Permission for Felling / Disposing of Trees in Non-Forest Areas  
[ See Rule 5(2) ]

Permit No. .... Dated : .....

Whereas the applicant, Sri/Smt./Messers.....Address  
..... has submitted an  
application with the prescribed fee on .....  
for permission for felling/ disposing of trees for the purpose of  
..... at the following site :

(a) Location :

(b) Details of Plot(s) of Land:.....

.....  
.....  
.....  
.....  
.....

AND Whereas the undersigned is satisfied with regard to the legality of documents towards the proof of ownership or lease of the land on which such tree stands;

AND Whereas the purpose for which the trees are required to be felled is in conformity with rule 4(1) of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Rules, 2006 :

AND Whereas an inquiry in the prescribed manner has been carried out on ..... and the undersigned has examined the inquiry report with due care;

AND Whereas the land in question belongs to the ..... Tea Garden and the applicant has produced a specific scheme framed under the provisions of the Plantations Labour Act, 1951 for utilizing the sale proceeds strictly for the purpose of welfare of the labourers;

AND Whereas the applicant is a developer who has already obtained a Certificate of Clearance No. .... dated ..... issued by undersigned and sanction of the building/construction plan by the sanctioning authority, viz.

.....  
Vide his letter No. .... dated.



AND Whereas it is found on inquiry that the proposed felling will not alter nature or character or mode of use of the land.

Or

The Applicant has produced the requisite permission under section 4C of the West Bengal Land Reforms Act, 1955.

AND Whereas the applicant has deposited the prescribed security amount for plantation of trees to the undersigned;

Or

The applicant has been exempted by the undersigned from the obligation of plantation of trees under sub-rule(2) of the rule 6 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Rules, 2006;

Or

The applicant has expressed his inability to undertake the plantation of trees by himself and has deposited to the undersigned the amount for the designated agency as prescribed under sub-rule (3) of rule 6 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas), Rules 2007.

Or

The applicant is a developer and not required to deposit the security amount.

\* Strike off if not applicable.

\*\* Strike off the option which is not applicable.

Now, therefore, in pursuance to the power conferred under sub-section (1) of section 5 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, the undersigned permits the applicant to undertake the felling of the trees as included in the Annexure.

The undersigned also permit the applicant (not a developer) under the first proviso to section 8 of the West Bengal Trees (Protection and Conservation on Non-Forest Areas) Act, 2006, to

plant only \_\_\_\_ number of trees instead of the number prescribed under sub-rule(1) of rule 6 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Rules, 2007.

Or

Permits the applicant to plant -----number of trees over different plot(s) of land (as indicated in Condition No. 3 below) because (give reasons) ....., which is in conformity with sub-rule (2) of rule 6 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Rules, 2007;

The permission as given above is subject to the following conditions:

This permit is non-transferable and valid only up to .....

1. The applicant (if a developer) shall take up plantation of trees in accordance with the approved plantation plan and the Certificate of Clearance within \_\_\_\_\_ month(s) from the date of sanction of the building/construction plan by the sanctioning authority;
2. The applicant (if not a developer) shall take up plantation of ..... number of trees ..... over the Plot(s) No. .... within ..... months from the date of issue of this permit;
3. As provided in section 10 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, the applicant (if not a developer) shall start preparatory work for plantation within sixty days from the date for permit or the date of receipt of directions from the undersigned, as the case may be, and shall undertake plantation for trees in accordance with such directions;
4. The applicant shall inform the undersigned in writing

immediately on completion of the plantation of trees;

5. The applicant shall, within a week of carrying out felling of trees, submit a report to the undersigned indicating the total number of logs and firewood produced against each species;
6. Stamps of the felled trees shall be retained for at least one month from the date of felling;
7. The felling and carriage of trees shall not be carried out after the sun-set and before the sun-rise.
8. This permission is subject to the provisions of the West Bengal Forest (Establishment and Regulation of Saw Mills and Other Wood-based Industries) Rules, 1982 and the West Bengal Forest Produce Transit Rules, 1959.
9. This permit should be produced for inspection on demand to the undersigned or any of the authorities specified in sections 15 and 17 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006.

(Signature of the Competent Authority)

Name .....

Designation .....

Official Seal .....

Place :

Date :

\* Strike off if not applicable.



**Form IV**  
**Form for Certificate of Clearance for Developers**  
[ See Rule 7(5) ]

Certificate No.. ..... Dated : .....  
Whereas the developer, Sri/ Smt. /Messrs .....  
Address .....  
has submitted an application with the prescribed fee on  
..... for Certificate of Clearance for the  
following developmental project :  
(a) Nature of Project .....  
(b) Location .....  
(c) Details of Plot(s) of Land .....  
(d) Total Area (in ha.) .....

AND Whereas the aforesaid developer has also submitted a  
plantation plan in the prescribed format;

AND Whereas the undersigned has approved the said plantation  
plan after satisfying himself on proper scrutiny of the plan and  
completing the field inquiry that the proposed plantation of trees as  
shown in the plantation plan is in accordance the provisions of the  
West Bengal Trees (Protection and Conservation in Non-Forest  
Areas) Act, 2006 and the rules made thereunder;

AND Whereas the concurrence of the West Bengal Pollution  
Control Board has been obtained vide there letter No.  
..... dated .....

Now, therefore, the undersigned issues this Certificate of  
Clearance in favour of the aforesaid developer in accordance with  
sub-section (4) of section 9 of the West Bengal Trees (Protection  
Conservation in Non-Forest Areas) Act, 2006, subject to the  
following conditions:

1. This Certificate is non-transferable;
2. The developer shall take up plantation of trees over ..... ha (subject to a minimum of 5 times the trees, if any, to be felled) in the same plot(s) of the land being developed in accordance with the approved plantation plan and complete the same within .....month(s) from the date of sanction of the building/construction plan by the sanctioning authority;
3. As provided in the proviso to sub-section (2) of section 9 of the West Bengal Trees (Protection Conservation in Non-Forest Areas) Act, 2006 the plantation has to be implemented before the development project is initiated;
4. Formal permission for selling of trees on the land being developed, if necessary, will be granted only after the sanction of the building/construction plan;
5. This Certificate shall cease to be valid if the building/construction plan is rejected by the sanctioning authority or if the plantation work is not completed within the period as specified in the Condition No. 2 above.

( Signature of the Competent Authority )

Name .....  
 Designation .....

Place :

Date :

Official Seal.....

By order of the Governor,

Sd/—

Smt. Shila Nag

Joint Secretary to the Govt. of West Bengal

**5. Appointment of competent authorities for the purposes of the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006**

Government of West Bengal  
FOREST DEPARTMENT  
Writers' Buildings, Kolkata – 700 001

**NOTIFICATION**

No. 901-For dt. The 1<sup>st</sup> March, 2007. In exercise of the power conferred by clause (2) of section 3 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, (West Bengal Act X of 2006) (hereinafter referred to as the said Act), the Governor is pleased hereby to appoint the competent authority under column (1), to perform the duties and exercise the powers conferred under the said Act within the jurisdiction as described under column (2), of the Schedule given below—

**SCHEDULE**

<b>Name of competent authority</b>	<b>Jurisdiction</b>
(1)	(2)
1. Forest Range officer	Rural areas under the jurisdiction of the Forest Range Officer.
2. Divisional Forest Officer (Utilisation Division)	Kolkata Municipal Corporation areas.
3. Divisional Forest Officer	All other 'Rural Areas', not covered by the jurisdiction of the Forest Range Officer, and Municipalities/ Corporation/Notified Area Authorities within his jurisdiction, except Kolkata Municipal Corporation area.

By Order of the Governor,  
Sd/  
(S. Nag)

Joint Secretary to the Govt. of the West Bengal

**6. Appointment of appellate authorities for the purposes of the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006**

Government of West Bengal  
FOREST DEPARTMENT  
Writers' Buildings, Kolkata – 700 001

**NOTIFICATION**

No. 902-For dt. The 1<sup>st</sup> March, 2007. In exercise of the power conferred by sub-section (1) of section 7 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, (West Bengal Act X of 2006) (hereinafter referred to as the said Act), the Governor, for the purpose of the said Act, is pleased hereby to appoint the appellate authority under column (1), with their respective jurisdiction as described under column (2), of the Schedule given below—

**SCHEDULE**

<b>Name of competent authority</b>	<b>Jurisdiction</b>
(1)	(2)
1. Divisional Forest officer	Rural areas under the jurisdiction of the Forest Range Officer of his division;
2. Conservator of Forest, Marketing	Kolkata Municipal Corporation areas.
3. Conservator of Forests	All other 'Rural Areas', not covered by the jurisdiction of the Forest Range Officer, and Municipalities/Corporation/Notified Area Authorities within his jurisdiction, except Kolkata Municipal Corporation area.

By Order of the Governor,

Sd/

(S. Nag)

Joint Secretary to the Govt. of the West Bengal



**7. Appointment of designated agencies for the purposes of the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006**

Government of West Bengal  
FOREST DEPARTMENT  
Writers' Buildings, Kolkata – 700 001

**ORDER**

No. 903-For dt. The 1<sup>st</sup> March, 2007. In pursuance of the power conferred under section 8 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, (West Bengal Act X of 2006), the Governor, for the purposes of the said section, is pleased hereby to specify the designated agency of the State Government under column (1), with their respective jurisdiction as described under column (2), of the Schedule given below—

**SCHEDULE**

<b>Name of competent authority</b>	<b>Jurisdiction</b>
(1)	(2)
1. Divisional Forest officer	Concerned Division of the Divisional Forest Officer ;
2. Deputy Conservator of, Forest, Urban and Recreational Foresty	Kolkata Municipal Corporation areas.

By Order of the Governor,  
Sd/  
(S. Nag)  
Joint Secretary to the Govt. of the West Bengal

**8. Authorisation of officers to accord sanction required under section 12 of the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006**

Government of West Bengal  
FOREST DEPARTMENT  
Writers' Buildings, Kolkata – 700 001

**NOTIFICATION**

No. 3125-For dt. the 5<sup>th</sup> June, 2007—In pursuance of the power conferred by section 12 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, (West Bengal Act X of 2006) (hereinafter referred to as the said Act), the Governor is pleased hereby to authorise the following officers under column (1), to accord sanction as required under section 12 of the said Act within their respective jurisdiction as indicated in column (2) of the Schedule given below—

**SCHEDULE**

<b>Name of competent authority</b>	<b>Jurisdiction</b>
(1)	(2)
1. Divisional Forest officer	Rural areas under the jurisdiction of the Forest Range Officer of his division;
2. Conservator of Forests	All other 'Rural Areas', not covered by the jurisdiction of the Forest Range Officer, and Municipalities, Corporation, Notified Area Authorities within his jurisdiction, except Kolkata Municipal Corporation area.
3. Conservator of Forest, Marketing	Kolkata Municipal Corporation areas.

By Order of the Governor,  
Sd/  
(S. Nag)

Joint Secretary to the Govt. of the West Bengal

**9. Appointment of compounding authorities for the purposes of the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006**

Government of West Bengal  
FOREST DEPARTMENT  
Writers' Buildings, Kolkata – 700 001

**ORDER**

No. 3126-For dt. the 5<sup>th</sup> June, 2007— In exercise of the power conferred by sub-section (1) of section 16 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, (West Bengal Act X of 2006) (hereinafter referred to as the said Act), the Governor is pleased hereby to specify the following officers under column (1), to be the compounding authority within the jurisdiction as described under column (2), to compound the offences punishable under the said Act for the amount indicated in column (3), of the Schedule given below—

**SCHEDULE**

<b>Name of competent Authority (1)</b>	<b>Jurisdiction (2)</b>	<b>Amount of Compensation (3)</b>
1. Forest Range Officer	Rural areas under the jurisdiction of the Forest Range Officer of his division;	Authority to accept compensation of an amount not exceeding ten thousand rupees considering to the gravity of offence.
2. Divisional Forest Officer	All other 'Rural Areas', not covered by the jurisdiction of the Forest Range Officer, and Municipalities, Corporation, Notified Area Authorities within his jurisdiction, except Kolkata Municipal Corporation area.	Authorised to accept compensation of an amount not exceeding ten thousand rupees considering the gravity of offence;
3. Divisional Forest, Officer (Utilisation Division)	Kolkata Municipal Corporation. areas	Authorised to accept compensation of an amount not exceeding ten thousand rupees considering the gravity of offences.

By Order of the Governor,  
Sd/  
(S. Nag)

Joint Secretary to the Govt. of the West Bengal

## **10. The West Bengal Forest Produce Transit Rules, 1959**

GOVERNMENT OF WEST BENGAL  
Department of Forests  
Forests

### **NOTIFICATION**

No. 770 For—19<sup>th</sup> October 1959.--- In exercise of the powers conferred by sections 41, 42 and 76 of the Indian Forest Act, 1927 (16 of 1927), and in supersession of the West Bengal Forest Produce Transit Rules, 1955, the Governor is pleased to make the following rules to regulate the transit by land or water of timber and other forest produce into, from and within the districts of Jalpaiguri, Cooch Behar, Birbhum, Bankura, Burdwan, Midnapore, Malda, Darjeeling [including the territory since transferred from Bihar under section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956 (40 of 1956)], West Dinajpur [including the territory since transferred from Bihar under section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956 (40 of 1956)], Murshidabad, Nadia, Hooghly, Purulia and 24–Parganas (excluding the areas of the 24-Parganas Forest Division and Sunderbans Tiger Reserve to which the Forest Produce Transit rules for 24 Parganas Forest Division apply) and Calcutta and Howrah (in respect of timber imported from abroad under Open General Licence), namely:-

The West Bengal Forest-Produce Transit Rules, 1959

1. These rules may be called the West Bengal Forest-Produce Transit Rules, 1959
2. In these rules, “forest-produce” has the same meaning as in the Indian Forest Act, 1927 (16 of 1927).
3. These rules shall apply to timber and other forest-produce from any source within the districts of Jalpaiguri, Cooch

Behar, Birbhum, Bankura, Burdwan, Midnapore, Malda, Darjeeling (including the territory since transferred from Bihar), West Dinajpur (including the territory since transferred from Bihar), Murshidabad, Purulia, Nadia, Hooghly and 24-Parganas (excluding the areas of the 24-Parganas Forest Division and Sunderbans Tiger Reserve to which the forest Produce Transit Rules for 24-Parganas Forest Division apply) and also to timber imported to and transported out of Calcutta and Howrah under Open General Licence which are moved by any of the routes within the boundaries of these districts.

4. (1) Within the limits of the areas specified in rule 3, no person shall conceal any timber.
- (2) No timber or other forest-produce shall be moved into, from or within the districts referred to in rule 3, except under cover of a transit pass in the form prescribed in Appendix I hereto annexed from an officer of the Forest Directorate not below the rank of a Forester duly authorised by the Divisional Forest Officer to issue the same or otherwise than in accordance with the conditions of such pass.
- (3) All timber, in respect of which a transit pass has been issued by the officers of the Forest Directorate, shall bear a Government hammer mark the facsimile of which shall be imprinted on the connected pass.
- (4) In respect of timber and other forest-produce from Khasmahal forests transit pass shall be issued by the Divisional Forest Officer or any officer duly authorised in this behalf on the production of a certificate of origin issued by the Khasmahal officer.
- (5) Movement of timber and other forest produce may be prohibited by an order of the Circle Conservator

during the period from 18.00 hrs. to 6.00 hrs. of the following day.

- (6) In respect of timber and other forest- produce grown under Social Forestry Project on private lands, a tree-card in the form prescribed in Appendix-II shall be maintained by each owner of such land. The tree-card shall be in triplicate and shall be issued by the territorial Divisional Forest Officer. One copy of the tree - card shall be retained by the owner of the land and the other copies by the Beat Officer and the Divisional Forest Officer.
  - (7) The transit pass in respect of timber and other forest produce mentioned in sub-rule (6) shall be issued by the Beat Officer authorised by the territorial Divisional Forest Officer in this regard. The rotation, the number of trees issued against a transit pass and the balance left for harvesting shall be noted on the reverse page of the tree-card. The number of the transit pass should be recorded on the reverse page each time the transit pass is issued.
  - (8) The tree-card may be renewed or a duplicate issued in the event of loss, defacement or otherwise.
  - (9) The Beat Officer shall use the departmental passing hammer for marking the trees mentioned in the transit pass. No property mark shall be necessary in any such case.
5. Fees for transit passes in respect of different items of forest-produce moved from the districts specified in rule 3 may be levied in accordance with rates as may be prescribed by the Conservator of Forests from time to time. It shall be within the competence of the Conservator of Forests subject to the approval of Government to regulate the movement of certain

kinds of forest produce in short supply from the limits of the areas specified in rule 3.

6. Any person importing, exporting or moving timber or other forest produce into, from or within the areas specified in rule 3 or any persons in possession or charge of timber or other forest-produce in transit, shall produce the pass referred to in rule 4 on demand by any Forest officer or Police Officer.
7.
  - (1) All timber and other forest-produce to which these rules apply, and any cart, vehicle, boat, or other vessel suspected of carrying the same, shall be liable to stoppage by any Forest Officer within the limits of the area specified in rule 3 for the purpose of examination and check.
  - (2) Any sum due and payable to the Forest Directorate, Government of west Bengal, on such timber or other forest-produce shall be realised at the nearest forest office.
  - (3) Any timber or other forest-produce not covered by a transit pass referred to in sub-rules (2) and (3) of rule 4 together with boats, carts, vehicles or cattle suspected to be carrying the same or any timber which is cancelled in contravention of sub-rule (1) of rule 4, shall be liable to seizure and dealt with further under the provisions contained in Chapter IX of the Indian Forest act, 1927 (16 of 1927), and any cattle seized in this connection shall be liable to be impounded.
- 8.(1) Any Forest Officer who has seized any forest-produce under rule 7 shall—
  - (a) Immediately issue a written notice to the owner of

such forest-produce, or if the owner is unknown, to the person in charge or possession of such forest-produce at the time of seizure, calling upon him to produce proof of the origin of the forest-produce and his title thereto within thirty days from the date of issue of such written notice, a copy of which shall be posted on a Notice Board at nearest forest office, and

- (b) Submit a seizure report in the prescribed form without delay to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.
  - (2) The seized forest-produce shall be released or confiscated under the provisions contained in Chapter IX of the Indian Forest Act, 1927 (16 of 1927).
9. (1) Any person dealing in timber fashioned or unfashioned shall register with the Divisional Forest Officer concerned a property mark which, after approval of fees prescribed by the Conservator of Forests concerned, shall be registered in the Divisional Forest Office:

Provided that the Divisional Forest Officer may, at his discretion and at any time, require the return of such registered property mark and replacement of the same by a fresh property mark duly approved by him.

- (2) All timber imported, exported or moved into, from or within the limits of the area specified in rule 3 shall be marked with a registered property mark in addition to a Government hammer mark as required under rule 4 (3); timber found without a registered property mark and a government hammer mark shall be liable to detention and seizure for enquiry under the provisions of rule 8.



- (3) The Divisional Forest Officer may at his discretion permit any one person to register more than one property mark, provided that no two such marks shall have identical design.
  - (4) A certificate of registration showing the design approved by the Divisional Forest officer and duly registered shall be furnished to the owner of a property mark. Certificates must be returned annually to the Divisional Forest Officer for the purpose of renewal.
  - (5) It shall be within the competence of the Divisional forest Officer to waive the registration of a property mark in cases where small quantities of timber are to be moved within, from or into the area specified in rule 3. Application shall in all such cases be made to the nearest Forest Officer for the issue of a transit pass and the marking of such timber with a Government hammer.
  - (6) The Divisional Forest Officer may, in consultation with the Collector concerned, provide for the establishment and regulation of Check Posts or Depots at which timber or other forest-produce shall be stopped for examination or for the payment of dues therefor or in order that Government hammer marks may be affixed to the same
- 10.(1) There shall be no closing or obstructing of any river, stream or channel or the bank of any river, stream or channel used or capable of being used for the transit of forest-produce; nor shall there be any stoppage of navigation on such rivers, streams and channels for such transit
- (2) The Collector of the district may order any person who by any act negligence, has caused such closure, obstruction or stoppage to remove the same within a time to be specified in writing and on the expiry of such period, may cause the obstruction to be removed at the cost of the person to whom such notice has been issued.

11. (1) Any person contravening any of the provisions of these rules shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.
- (2) Penalties which are double of those mentioned in sub-rule (1) may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of an offence.

**11. Forest Produce Transit Rules for the 24-Parganas Division**

No. 2821 For.— The 8<sup>th</sup> November 1906.— In exercise of the powers conferred by sections 31(a) and 41(b) of the Indian Forest Act, 1878 (VII of 1878), and with the previous sanction of the Governor-General in Council, the Lieutenant-Governor is pleased to make the revised rules hereinafter set with below for the control of the transit of timber and other forest-produce in the Sundarbans Forest Division.

The notifications, dated respectively the 12<sup>th</sup> October 1885, the 10<sup>th</sup> May 1887, the 6<sup>th</sup> September 1888, the 10<sup>th</sup> December 1889, are hereby cancelled.

- I. Prohibition against cutting or converting timber without pass : No person shall cut or convert any timber in any Reserved or Protected Forest in the Sundarbans of the 24-Parganas district without a pass or otherwise than in accordance with the conditions entered on such pass obtained as provided in rule IV.
- II. Prohibition of transit without pass : The transit of forest-produce in any forest described in Rule I or any waterway intersecting or skirting such forest or any land leased under the rules for the lease of waste lands in the

Sundarbans of the 24-Parganas district or through any part of the said forests without a pass or otherwise than in accordance with the conditions entered on such pass, obtained as prescribed in rule IV, is prohibited.

- III. Production of passes : Every person who cuts or converts any timber in any forest described in rule I or transports any forest-produce in any river or waterway, or in any forest described in rule II, shall immediately produce his pass when called upon by any Forest or Police Officer to do so, and permit the said officer to examine the produce, by measurement if necessary.
- IV. Form and issue of passes: Every pass referred to in rule I and II shall be in the form either of a permit or of a right-of-way pass or of a certificate in accordance with the forms hereto appended, and shall be obtained from an Officer in charge of a Forest Revenue or a Checking Station authorized by the Conservator of Forests concerned to issue such passes. The names of the Forest Revenue or Checking Stations, the officer in charge of which so authorized are to issue, permits, right of way passes or certificates, shall be placed in a prominent position in each Forest Revenue or Checking Station and in the Divisional Forest and District Offices.
- V. Rights under permit : The pass issued shall be in the form of a permit when the applicant wishes to cut or remove forest-produce in or from the said Reserved or Protected Forests or leased lands. A permit shall only authorize the cutting and removal of the forest produce specified from the locality described therein and its transit to the depot specified on the pass for its examination, where the permit shall be surrendered on or before the date on expiry entered therein.
- VI. Rights under right-of-way pass : The pass issued shall

be in the later of right-of-way pass when the applicant wishes to transport forest-produce from outside the said Received or Protected Forest or leased lands and waterways described in rule II. A right-of-way pass shall only authorize the transit of the forest-produce specified in the depot mentioned therein for its examination.

VII. Certificates on surrender of permit or right-of-way pass : A pass in one or other of the appended forms for a certificate shall be issued in exchange for a permit or a right-of-way pass when the latter has been surrendered and the forest-produce collected under it has been examined in the appointed depot.

VIII. Conditions precedent to issue of permits, right-of-way passes and certificates : No permit shall be issued till the estimated value of the forest-produce which the permit-holder is authorized to cut, collect and transport, calculated at the rate in force for the time being, has been paid in full and no right-of-way pass shall be issued till the fee due in accordance with the schedule of right-of-way pass fees ordered by the Conservator of Forests has been paid :

Provided that this fee shall in no case exceed a rate of two pies per man ?? of boat capacity. No certificate shall be issued till any balance of the price of fee due for produce in respect of which the certificate is acquitted has been paid in full.

IX. Registration of Boats : No forest produce shall be brought to, or removed fro, any depot in the Sundarbans Forest Division except in boat which has been registered by an officer in charge of a Forest Revenue or Checking Station described in rule IV, or under any Rules of Act for the time being in force and which bears it registered number and marks on a conspicuous place on its laws.

- X. Depots : For the purpose of rules V, VI, VII and IX all Forest Revenue or Checking Stations in the Sundarbans Division shall be deemed to the depots.

The Conservator of Forests may, by notification in the 'Calcutta Gazette' establish within the Sundarbans Forest Division such Forest Revenue and Checking Stations, as depots under clause (e) of section 41 of the Indian Forest Act, 1878, as he may deem necessary, and may, from time to time, by a similar notification, alter the situation of or abolish any such Revenue and Checking Station.

*Note* : The following Revenue and Checking Stations have been notified by the Conservator of Forests in supersession of previous lists :

<b>Notification</b>	<b>Name</b>	<b>Situation</b>
No. 882-for dated 13 <sup>th</sup> 87 Talpukur Road, Beliaghata. February, 1932	Narkeldanga <sup>2</sup>	
	Shikarpur	At the junction of the Shikarpur Khal and the Baratala River or Channel Creek or the Muri Ganga River.
	Namkhana	At the junction of the Duar Agra Gang, the Hatalin Doania Khal and the Ghibati Ganga (Ghiapati Khal)

<sup>18</sup> Added by Notification No. 1060 For., dated the 2<sup>nd</sup> March 1912

<sup>19</sup> Replaced by clause (e) of section 41 of the Indian Forest Act, 1927

<sup>20</sup> Checking Station only

Nalgora (Nalkora) (as amended by G.O.No. 7143-For, dated 8 <sup>th</sup> August 1950).	At the junction of Thakuran River and Pukelham Khal in J. plot (leased land)
Kultali (Kultala) as amended by G.O. No. 7143-For dated 8th August, 1950).	Junction a Petkalchar Khal and Chitradi Khal in Herobhanga Compartment 9
Sajnakhali	At the junction of Satjalla and Sajnakhali.
Metla (as amended by C.F.S.C's order No. 7705-For, dated the 13 <sup>th</sup> September 1940 Rampur (Rampura)	In the Tuskhali Abad, at the junction of the Bara Kalagachi Gang (Bara Kalagachia Nadi) and the Jeliakhali Khal.
Bagna	On the forest boundary, at the junction of the Raimangi River with the Kormikhali Khal or the Bagna Khal and the River.
No. 3562-for, dated 30th Patharpratima April, 1943	in the Patharpratima Abad at the junction between Mural of Calchira Gang and Waish or Habilla Creek.

XI. Licenses for transport through water channels : Any person who desires to transport any forest produce from lands leased under the rules in force for the lease of waste lands in the Sundarbans through any of the water channels described in rule II shall hold a printed license, duly filled up in accordance with the sample form to be obtained from the Officer in charge of the 24-Parganas Forest Division at Alipore (district 24-Parganas) signed either by the lessee

himself or by an authorized and recognized agent of the lessee, whose signature and residence must be recorded in the office of the said official at Alipore. The printed license so filled up shall be produced by the holder for inspection when he is called upon to do so by any Forest or Police Officer.

- XII. Examination of produce transhipped or landed : Any person who moves forest produce from the boat to another or lands forest-produce from any boat in, or on the bank of any, river or waterway in the district of 24-Parganas, shall permit any Forest or Police Officer to examine such produce, and it so ordered by any Forest or Police Officer, shall desist from such moving or landing between sunset and sunrise.

*Note* : Except in Calcutta when an officer is kept for the purpose, powers should not be exercised under Rule XII except by the Divisional Forest Officer or his gazetted assistant or by subordinates especially empowered by him for a limited time in each case. The police should not ordinarily interfere unless an offence is reported to them or they are asked for help by a Forest Officer.

( Government order No. 3158 date the 6<sup>th</sup> December 1906. )

- XIII. Transport of *sundri* or *passur* timber : No person shall transport any piece of *sundri* or *passur* timber which does not bear the Forest departmental transit or sale-mark by river or by land in any part of ..... the 24-Parganas district, without the permission in writing of a Forest Officer employed in the 24-Parganas Forest Division not below the rank of Extra Assistant Conservator of Forests.

- XIV. Saving : The above rules shall not be held to apply to any trees or the produce of any trees or plants which do not grow in the Sundarbans or the 24-Parganas ..... district.

XV. Penalty for breach of rules: Any person who infringes any of these rules shall be punished with imprisonment for a term which may extend to six months, or with fine not exceeding Rs. 500, or with both.

**FORM OF RIGHT-OF-WAY PASS (PRESCRIBED IN  
RULE VI)  
FOREST DIRECTORATE, WEST BENGAL  
24-Parganas Forest Division**

Book No. .... Right of way Pass No.....  
 Name.....  
 Father's Name.....  
 Residenc....., Thana .....  
 District .....  
 is authorised to pass through the .....Forest,  
*via* ..... to .....  
 and to transport .....p..... in the boat  
 described below :

Register No.	Length	Breadth	Depth	Capacity Kilo gram	Rate Rs. P.

To the ..... Forest Revenue Station to the Officer in charge of which this pass must be surrendered, the above described boat and all timber or other forest-produce carried therein being at the same time presented for examination on or before the ..... 19.....

This pass only authorises the transport of one cargo, whatever the size of that cargo, may be, of the abovementioned forest-produce.



Amount paid Rs.....

Officer in Charge  
.....Revenue Station

West Bengal Form No. 1666.

(Government of West Bengal, Department of Agriculture, Forests and Fisheries, Forests Branch, notification No. 807-For., dated the 5<sup>th</sup> July 1947, published in the *Calcutta Gazette*, dated the 11<sup>th</sup> December 1947, Part I, Pages 426 to 428.)

**FORM OF PERMIT PRESCRIBED FOR IN RULES  
IV AND V  
FOREST DIRECTORATE, WEST BENGAL  
24-Parganas Forest Division**

Permit No..... Book No. ....,  
dated the ..... 19....., issued from  
..... Station/Coupe.

Name.....

Son of.....

Resident of.....

to cut and collect or collect in .....

the under mentioned timber and other forest-produce, namely :

Compartment No. or locality	Type of produce	Species	Dimensions Grith/Diamtr. at top butt/Middle length over/under bark	Quantity Kilograms/ per cubic meter	Rate	Price

and to transport the same in the boat described below : Total \_\_\_\_\_

Register	Length	Breadth	Depth	Capacity	Contents, if any (number and measurements of old jhools, empty jalas, tins, etc.,)
				Kilogram gram	

to the ..... Forest Checking Station, to the Officer-in Charge of which this permit must be surrendered, the above described boat and all timber or other forest-produce collected therein being at the same time presented for examine on the before the ..... 19.....

The permit is not transferable and only authorises the cutting, collection and transit of one cargo, whatever the size of the cargo may be, of the above-mentioned forest-produce in or slung from the above described boat. But only timber may be slung from any boat and timber may not be slung more than one deep in the water. The holder of this permit must not use or employ for the cutting, collection or transport of the said forest-produce any boat other than the boat described above or more than ..... workmen, namely :

.....  
 .....  
 .....

The permit-holder must proceed to the place where he is authorised to cut and collect or collect the above described produce by the following route, namely :

.....  
 ..... and he must proceed from such place to the Checking Station specified for the surrender of this permit by the following route, namely :

.....

*Classification* : The schedule of rate in force details the classification of pieces of wood into “timber” and “fuel”.

Total price received in advance (in words, both in English and Bengali) ..... vide Revenue Register item No. ...., dated ..... 19.....p.....

*Officer in-Charge*

..... *Revenue Station / Coupe.*

Date and hour of surrender of permit .....

*Officer in-Charge*

..... *Checking Station*

( *To be filled in Coupe* )

#### Details of produce given free

Compartment No. or locality	Type of produce	Species	Dimensions Grith/Diamtr. at top butt/Middle length over/under bark	Quantity Kilograms/ per cubic meter	Rate	Price
-----------------------------	-----------------	---------	--	---	------	-------

\_\_\_\_\_  
Total  
\_\_\_\_\_

p  
Rupees (in words, both in English and Bengali).....realised under Receipt/Certificate No. ...., dated ..... 19 ..... vide Revenue Register item No. .... of ..... 19 .....

*Officer- in-Charge,*

..... *Coupe.*

West Bengal Form No. 166  
 FORM OF CERTIFICATE PRESCRIBED FOR RULE VII TO  
 BE FILLED UP AND SUPPLIED IN EXCHANGE FOR A  
 PERMIT

FOREST DIRECTORATE, WEST BENGAL  
 24-Parganas Forest Division

Certificate No. .... Book No. .... dated the  
 .....19..... Against Permit No. ....Book  
 No.....dated .....19.....issued  
 from ..... Station/ Coupe.

Certified that I have examined the under mentioned forest-produce  
 collected by :

Name .....  
 Son of .....  
 Resident of .....

under the above permit, and found that he has collected the  
 following amount of ..... produce :

Compartment No. or locality	Type of produce	Species	Dimensions Grith/Diamtr. at top butt/Middle length over/under bark	Quantity Kilograms/ per cubic meter	Rate	Price
--------------------------------	--------------------	---------	--	---	------	-------

Total \_\_\_\_\_  
 Prepaid on permit \_\_\_\_\_  
 Balance due \_\_\_\_\_  
 Grand Total \_\_\_\_\_

Time Expiry free, if any, for .....days at,

Total dues realised by me (in words, both in English and Bengali)  
 ..... vide Revenue Register item No. ....  
 dated ..... . The above  
 named has now the permission to remove the said forest-produce to .....by  
 the following route, namely .....in the boat  
 described below :

Register No.	Length	Breadth	Depth entered in permit	as in	Actual depth	Capacity (Kilo gram) in permit	Actual capacity (Kilo gram)
--------------	--------	---------	-------------------------	-------	--------------	--------------------------------	-----------------------------

*Officer in-Charge*  
 .....*Checking Station*

**12. Rules for the measurement and registration of boats used for the transit of timber or forest-produce in the 24-Parganas Forest Division**

No. 4851 For.—2<sup>nd</sup> August 1948.— In supersession of the Notification No. 1840 T.R., dated the 25<sup>th</sup> August 1906, and in exercise of the powers conferred by clause (d) of section 76 of the Indian Forest Act, 1927 (XVI of 1927), the Governor is pleased to make the following rules for the measurement and registration of boats in the 24-Parganas Forest Division :

I. Method of calculation of carrying capacity : The carrying capacity of every boat shall be calculated according to the following formula :

$$\text{Capacity} = 0.356 \times L \times B \times D.$$

Where—

L= The length along the water line when under full load.

B= The breadth.

D= the vertical distances between the water line when under full load and the inner surface of the bottom of the boat.

II. How measurements are to be taken :

- (a) The length shall be measured along the water line under full load, between the bow and stern posts (*dara*). The points at which the measurement shall be taken being marked by hammer impression, fractions of a foot being neglected.
- (b) The breadth and depth shall be measured at the broadest and the deepest parts respectively, and shall be recorded in feet and quarters of foot, fractions of less than quarter of a foot being neglected. Breadth shall be measured between the outer extremity of the hull.

III. Allowance of fraction in capacity: Fractions as below shall be ignored :

<b>Capacity of boats</b>	<b>Allowance</b>
1,000 maunds and over	-1. Up to a maximum of 99 maunds to bring the capacity to the nearest lower complete 100 maunds.
Over 500 maunds but under 1,000 maunds.	-2. Up to maximum of 49 bring the capacity to the nearest lower complete 50 maunds.
Over 100 maunds but under 500 maunds.	3. Up to maximum of 24 maunds to bring the capacity to the nearest lower complete 25 maunds.

Provided that for boats measuring up to 100 maunds capacity, the following approximation shall be used :

- (a)  $87\frac{1}{2}$  maunds and over shall be regarded as 100 maunds.

- (b) 62½ maunds and to 87 maunds shall be regarded as 75 maunds.
  - (c) 37½ maunds to 62 maunds shall be regarded as 50 maunds.
  - (d) 37 maunds and under shall be regarded as 25 maunds.
- IV. Fees for registration : For the registration of any boat, the following fees shall be paid in advance to the Revenue or Checking Station Officer who is asked to registered, namely :

	Rs.	as
For each boat of 52 maunds capacity or less.	0	3
For each boat over 25 maunds but not over 50 maunds capacity.	0	6
For each boat over 50 maunds but not over 100 maunds capacity.	0	8
For each boat over 100 maunds but not over 300 maunds capacity.	0	12
For each boat over 300 maunds but not over 500 maunds capacity.	1	0
For each boat over 500 maunds but not over 1,000 maunds capacity.	1	8
For each boat over 1,000 maunds capacity.	2	0

- V. Certificate of registration : On payment of such fee the applicant shall be entitled to receive a certificate of registration in the form appended and to have the registration number and marks of his boat painted thereon.
- VI. Duration of registration : Each registration shall hold good for the period of one year from the date of registration.

**FORM OF CERTIFICATE OF REGISTRATION**

Book No. .... Certificate No .....

Certified that ....., son of  
.....  
..... caste  
....., inhabitant of  
..... in the  
....., thana of  
..... district, has  
this day registered boat No. .... of  
which the length is .....feet, of which the breadth  
is ..... feet  
..... inches, of which the depth is  
..... feet.....inches.  
Maud capacity is ..... maunds.  
Station from which is issued  
.....  
..... Date of issue  
.....  
Date up to which registration will hold good  
..... 19.....

Registration number and marpks

Registration depot letter .....

Registration number .....

Year mark .....

Officer in-Charge  
of ..... Station



### **13. The West Bengal Forest (Establishment and Regulation of Sawmills and other Wood-Based Industries) Rules, 1982**

#### **Short title, extent and commencement**

1. (1) These rules may be called the West Bengal Forest (Establishment and Regulation of Saw Mills and other Wood-Based Industries) Rules, 1982.
- (2) These rules extend to the whole of the State of West Bengal.
- (3) They shall come into force on such date as the State Government may, by notification in the official Gazette, appoint and different dates may be appointed for different provisions of these rules and for different districts and any reference in any such provision to the commencement of these rules shall be construed as a reference to the coming into force of that provision in relation to such district to which these rules have been brought into force<sup>21,22</sup>.

#### **Definitions**

2. (1) In these rules, unless there is anything repugnant in the subject or context,—
  - (a) “the Act” means the Indian Forest Act, 1927 (16 of 1927);
  - (b) “Authorised Officer” means a Forest Officer not below the rank of an Additional Divisional Forest Officer whom the State Government or any officer empowered by the State Government in this behalf may, by notification in the Official Gazette, authorize to carry out the provisions of all or any of the purposes of these rules and may assign him

such local limits as may be specified in the notification<sup>23</sup>

- (c) “document” includes a valid record in the form of a pass or permit or receipt indicating the transaction of forest produce;
- (d) “factory” means any premises including the precincts thereof—
  - (i) wherein ten or more worker are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or
  - (ii) wherein twenty or more workers are working or were working on any day of preceding twelve months and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on but does not include a mine subject to the operation of the Mines Act, 1952 (35 of 1952) or a railway running shed;
- (e) “Form” means a Form appended to these rules ;
- (f) “Licence” means a licence granted under the rules;
- (g) “Permit” means a written permission for carrying out any of the acts or operations covered by these rules;
- (h) “Person” includes a body, a company or a society duly registered for the purpose of carrying on a business;

- (i) “Saw-mill” means a mill for sawing timber or logs into logs or beams or scantlings or planks or battens and includes hand saws whether in a fixed structure or enclosure or not;
  - (j) “Section” means a section of the Act;
  - (k) “Unit” means an establishment for manufacturing or processing or preparing and having a distinctive existence, which may or may not be the part of a whole.
- (2) Any expression used in these rules but not defined and defined in the Act, shall have the same meaning as in the Act.

**Circumstances prohibiting establishment of sawmills, etc. and grant of licence**

3. (1) No person shall establish a saw-mill and other units including factories of the categories mentioned in section 51A.—
- (a) within a straight distance of two kilometres from the nearest Government forest boundary; and
  - (b) without obtaining a licence in Form I issued by an Authorized Officer.

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<sup>21</sup>Vide Notification No.3173-For dated 30.06.1982, published in the Calcutta Gazette.

<sup>22</sup>Amended vide Notification No.2730-For dated 16.08.2004, published in the Calcutta Gazette.

<sup>23</sup>Vide Notification and subsequent amendment by Notification No.2080-For dated 22.06.2004.

- (2) (a) All persons carrying on business in saw-mills and other units including factories immediately before the commencement of these rules shall also obtain licence from the Authorised Officer.
- (b) for the purpose of clause (a) such persons shall apply in Form II within a period of 5 (five) months<sup>24, 25,</sup> from the date of commencement of these rules and may carry on the said business or occupation until a licence is granted under these rules or is informed in writing about the refusal thereof.

**Applicatpion for licence**

4. (1) Every person intending to carry on business or occupation covered by these rules shall apply to the Authorised Officer in Form II for a licence mentioned in Rule 3 together with the clearance certificate of ST/IT, Panchayat Samity/Municipality/Municipal Corporation/WBSEB/CESC and District Industries Centre with location details, viz PS, sheet No., Mouza, JLNo. and PlotNo.<sup>26</sup>
- (2) On receipt of an application for licence, the Authorised Officer shall after making such inquiry as he may think fit and within a period of sixty days from the date of receipt of such application either grant or refuse to grant the licence. Provided that no licence shall be granted unless the Authorised Officer is satisfied about the location, availability of raw material, financial capacity and past records in business of such person. Where the Authorised Officer refuses to grant such licence, he shall record the reasons for so doing and such reasons shall be communicated to the person in writing.

- (3) For the purpose of inquiry under sub-rule (2) the Authorised Officer may exercise the following powers :
    - (a) enter into or upon any land, survey and demarcate the same, make a map thereof and authorize any other officer to do so;
    - (b) call for such documents as he deems necessary for ascertaining the merit of the application.
  - (4) In disposing of the applications for licence, the Authorized Officer shall consult the Ban-O-Bhumi Sanskar Sthayee Samiti of the Zilla Parishad as constituted under the West Bengal Panchayat Act, 1973, (West Ben. Act XLI of 1973). A representative of the Department of Cottage and Small-Scale Industries of the concerned district shall be associated in such consultation. In the case of Calcutta, a Committee shall be constituted by the State Government with such members as it may consider necessary for such consultation by the Authorized Officer.<sup>27</sup>
4. (A) (1) Change of ownership may be permitted by the Authorized Officer. However, in case of transfer of ownership through inheritance due to the death of the owner, legal-heir certificate by the next of kin, together with no objection certificate by the other heirs shall have to be produced. In cases of transfer of ownership by sale, a copy of the 'sale-deed' together with ST/IT clearance certificate of the new owner shall have to be produced.
- (2) If the owner desires to change the name of the unit, the owner has to apply, stating reasons for doing so and by depositing a fee of Rs.100/- to the Authorised Officer, along with relevant papers

including Income Tax/Sales Tax clearance certificate<sup>28</sup>.

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<sup>24</sup> Amended vide Notification No.6466-For dated 01.10.1982.

<sup>25</sup> Substituted by “in Form IIA within the 31st December, 1986”, vide notification No. 3627-For/F.P/8P-II/82 Pt. I dated 08.09.1986.

<sup>26</sup> Amended vide Notification No.2730-For dated 16.08.2004.

<sup>27</sup> Inserted vide Notificatin No. 3637-For/FP/8P-11/82 Pt. I date 08.09.1986.

<sup>28</sup> Inserted vide Notification No. 3086-For/FR/O/FP/6M-49/2002 Pt. II dated 12.07.2005.

#### **Category of Licence<sup>29</sup>**

4. (B) Licence for sawmills and other wood based industries would be issued under three categories as—
- 1) Licence for wood based industries of general category.
  - 2) Licence for secondary units of wood based industries.
  - 3) Licence for units of wood based industries dependent completely on imported timber.

#### **Terms and conditions for issue of licence under various categories**

4. (C)

##### **I. General:**

- i) All provisions of the West Bengal Forests (Establishment and Regulation of Saw Mills and other Wood Based Industries) Rules, 1982 and its amendments made time to time would be applicable.

- ii) Units having licence under this category would be free to use raw material procured from any source, e.g. local timber, timber sold by FD through auction, timber imported from other states, timber imported through Open General Licence, etc.
- iii) Such units would be free to install machinery of any category subject to prior clearance of the Authorised Officer and also subject to restriction to already specified annual installed capacity.
- iv) New licence under this category will be issued only if it is found by the competent authority that there is surplus timber available from all source qua capacity of existing licensed units.

**II. Secondary Units:**

All provisions of the West Bengal Forests (Establishment and Regulation of Saw Mills and other Wood Based Industries) Rules, 1982 and its amendments made time to time would be applicable. Besides this, the following specific regulations would also be applicable—

- (i) The secondary units of saw mills and wood-based industries would be categorized on the basis of the machinery installed.
- (ii) These units will have vertical band saw, for cutting of Blocks of timber (sawn timber) into smaller pieces. No machinery for sawing of round logs (e.g. horizontal saw and trolley) or peeling/slicing of timber for plywood would be permitted.
- (iii) These units will also include ply board pasting

units (without peeling/slicing machines), furniture manufacturing units, handicrafts, toys making units and other ancillary units which use/process sawn timber.

- (iv) Such units would not be eligible to carry out sawing of round logs. If the unit is found to have used round timber, whether from legal source or otherwise, its licence will be liable to be cancelled in addition to other penalties as applicable.
- (v) Units having licence under this category would have to procure raw material from those converted by the primary licensed units under General Category.
- (vi) Sawn timber can be brought to the unit only with a valid transit permit. Record of all such TPs will be maintained and made available during the course of inspection/ surprise visit by the authorities.
- (vii) The annual installed capacity of the unit cannot be enhanced.
- (viii) Conversion of licence from this category to any other category of wood based units will not be permissible. New licence under this category may be issued by the competent authority without linking it with timber availability qua capacity of existing licensed units.

### **III. Units running exclusively on imported timber.**

Wood based industries licence for units dependent completely on imported timber will be issued for units located in identified zone as per Annexure. All provisions of

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<sup>29</sup> Inserted vide Notification No. 3086-For/FR/O/FP/6M-49/2002 Pt.II dt. 12.07.2005



the West Bengal Forests (Establishment and Regulation of Saw Mills and other Wood Based Industries) Rules, 1982 and its amendments made time to time would be applicable. Besides, the following regulations would be applicable:

- (i) The unit will exclusively use only imported timber and under no circumstance it will use any other timber in its units.
- (ii) If at any point of time, during inspection/surprise check or by other means, the unit is found to have utilized any timber other than the imported timber brought under cover of a valid transit permit, the licence of such unit shall be cancelled in addition to other applicable penalties/action.
- (iii) The units will maintain complete and authenticated documents regarding the details of the imported timber and submit a periodical report to the Authorised Officer in the prescribed form. In addition, copies of agreement with importer, timber utilized, balance timber, import-export license, transit permits and other relevant documents will be kept at the factory premises by the licensee and make them available during inspection/surprise checks by the authority.
- (iv) Timber will be brought to the factory only under the cover of a valid transit permit. Record of all such TPs should be maintained and made available during the course of inspection/surprise visit by authorities.
- (v) The annual installed capacity of such units will not be enhanced.

Special licence fee may be prescribed by the State Government for this category, to be notified from time to time in Official Gazette.

**Application for renewal of licence**

5. (1) An application for renewal of a licence shall be made in Form III along with the declaration in form-VII (Proposed hereinafter) once in a year<sup>30</sup> and with the fee specified in Sub-rule (I) of Rule 6 before the expiry of the previous licence.

A fine of Rs.10/- per day shall have to be paid if the application for renewal of licence reaches the office of the Authorised Officer after the expiry of the licence but within three months from the date of such expiry beyond which such unit shall be treated as unauthorized.<sup>31</sup>

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<sup>30</sup>Inserted vide notification No. 2730-For dated 16.08.2004.

<sup>31</sup>Inserted vide notification No. 2730-For dated 16.08.2004.

- (2) The Authorised Officer shall deal with the application for renewal of licence in the manner provided in Sub-rule (2) of Rule 4 and shall renew or refuse the license within 30 days from the date of receipt of the application<sup>32</sup>.
- (3) No application for renewal of a licence shall be rejected unless the holder of such licence has been given an opportunity of presenting his case and unless the Authorised Officer is satisfied that—
- (i) the application for such renewal has been made after the expiry of the period specified therefor, or
  - (ii) any statement made by the person making application for the grant or renewal of the licence

- was incorrect or materially false, or
- (iii) Such person has contravened any of the terms of conditions of the licence or any provision of the Act or these rules, or
  - (iv) Such person does not fulfil the terms and conditions for such licence.
- (4) Up to six months the power to renew the license or refuse the renewal shall vest with the concerned Conservator of Forests, subject to payment of Rs.1000/- lump sum and further subject to the conditions laid down in paras (ii), (iii) & (iv) of sub-rule (3) of Rule 5. The Conservator of Forests shall remain empowered up to 6 months of expiry of the license after which such unit shall be treated as unauthorized and will be liable for closure and the license will automatically be treated as cancelled<sup>33</sup>.

**Procedure for making application for licence or renewal of licence**

6. (1) Every application referred to in Clause (b) of Sub-rule (2) of Rule 3, Sub-rule (1) of Rule 4 and Sub-rule (1) of Rule 5 shall be accompanied by a challan as a token of deposit in the Government treasury or the State Bank of India or the Reserve Bank of India, Calcutta, of a non-refundable application fee of Rs. 300/- (Rupees three hundred) only<sup>34</sup>.
- (2) The licence referred to in Sub-rule (2) of Rule 4 shall be issued on payment of a licence fee of—
- (a) For small industries Rs. 1500/- (Rupees One thousand and five hundred) only.
  - (b) For medium industries Rs. 3000/- (Rupees Three thousand) only.

- (c) For large industries Rs. 5000/- (Rupees Five thousand) only<sup>35</sup>.
6. (2) (I) <sup>36</sup>Licence for units under the category of units dependent completely on imported timber shall be issued on payment of such licence fee to be prescribed by the State Government by issuing notification from time to time in the Official Gazette.
6. (2) (II) a) Every unit based on imported timber, during the time of issue of licence, shall have to pay a one time processing fee of Rs. 75,000/- only for saw mills and Rs. 1.5 lakh only for veneer/plywood mill.
- b) Every unit under General category, during the time of issue of licence shall have to pay a one time processing of Rs. 25,000/- only, irrespective of its area of operation.
- c) Every unit under the secondary unit category, during the time of issue of licence shall have to pay a one time processing fee of Rs. 5,000/- only, irrespective of its area of operation: provided that secondary units dealing with ply board pasting shall have to pay a one time processing fee of Rs. 25,000/-

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<sup>32</sup>Inserted vide notification No. 2730-For dated 16.08.2004.

<sup>33</sup>Inserted vide Notification No. 2730-For dated 16.08.2004.

<sup>34</sup>Modified and inserted vide Notification No. 2730-For dated 16.08.2004.

<sup>35</sup>Modified and inserted vide Notification No. 2730-For dated 16.08.2004.

<sup>36</sup>Inserted vide Notification No. 3086-For/FR/O//FP/6M-49/2002 Pt. II dated 12.07.2005..

6. (2) (III) Units issued licences under all categories will have the category mentioned clearly on the body of the licence and will be issued in different coloured papers and it will be incumbent upon all licensed units to display the licence in original in the office of the unit. The colour of licence for general units will be white, for secondary units pink and for units based on imported timber green.

- (3) Licence granted under these rules—
- (a) shall be valid for one year from the date it is granted,
  - (b) shall not be transferable, and
  - (c) shall be renewable for a period not exceeding one year at a time on payment of renewal fee of—
    - (i) for small industries Rs. 500/- (Rupees Five hundred) only
    - (ii) for medium industries Rs. 1000/- (Rupees One thousand) only
    - (iii) for large industries Rs. 2000/- (Rupees Two thousand) only and such renewal shall be in Form IV for each unit.

Note: For the purpose of Sub-rule 2 and 3 of Rule 6, small industries will mean industries having installed capacity below 300 cum per year, medium industries will mean industries having installed capacity more than 300 cum but less than 1500 cum per year and large industries will mean industries having installed capacity above 1500 cum per year<sup>37</sup>.

**Shifting<sup>38</sup>**

6. (A) If the owner desires to shift his saw mill/unit from one place to another but within the jurisdiction of the same Authorised Officer, he will apply to the Authorised Officer stating the reasons thereof. The Authorised Officer after making such enquiry as he deems fit, in terms of sub-Rule (2) of Rule 4, but within 30 days of receipt of the application, may grant the prayer, provided the nature of the business

remains the same or he may refuse it and record the reasons(s) of refusal in writing.

However, if the application is made to shift the unit outside the jurisdiction of the present Authorised Officer, the Authorised Officer shall forward the application along with all relevant papers/documents together with a report after proper enquiry on the good conduct or otherwise of the unit to the second Authorised Officer in whose jurisdiction the unit is requested to be shifted. The second Authorised Officer shall deal with the matter in the same manner as mentioned hereinbefore and within 30 days of the receipt of the documents from the first Authorised Officer, shall grant the application or refuse the same after recording the reasons in writing.

Provided that the shifting of wood based industries falling in the general category and the special category of the secondary wood-based units from one place to another would be allowed and shifting of industries from one place to another place, for units falling under imported timber based category, will not be permissible.

#### **Suspension or Cancellation of Licence**

7. Authorised Officer within whose jurisdiction the unit lies may for reasons to be recorded by him in writing, suspend or cancel any licence granted or renewed under these rules.

Provided that no such suspension or cancellation shall be made except after giving the holder of the licence an opportunity of being heard<sup>39</sup>.

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<sup>37</sup>Modified vide Notification no. 2730 dated 16.08.2004.

<sup>38</sup>Inserted vide Notification No.3086-For/FR/O//FP/6M-49/2002 Pt.II dated 12.07.2005.

<sup>39</sup>Modified vide Notification no. 2730 dated 16.08.2004.

8. (1) An appeal from an order refusing to grant or to renew a licence under sub-rule (2) of Rule 4 or sub-rule (2) of Rule 5 as the case may be, or an order suspending or cancelling a licence under rule 7, shall lie—
- (a) if the order is made by the Authorised Officer, with the Conservator of Forests of the Circle concerned, or
  - (b) if the order is made by the Conservator of Forests of the Circle concerned, with the Chief Conservator of Forests, West Bengal.
- (2) An appeal under this rule shall be preferred within 30 days from the date of communication of the order appealed against and shall be registered in a book to be called the Register of appeal which shall be maintained by the appellate authority in Form V :
- Provided that the appellate authority may admit any appeal preferred after the expiry of the period as aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.
- (3) Every order passed in appeal under these rules shall be final.

**Maintenance of register and submission of declaration to the Authorised Officer**

9. (1) A licensee under these Rules shall maintain register in Form VI & Form VII<sup>40</sup>.
- (2) Deleted<sup>41</sup>.

**Inspection and verification of records**

10. (1) The Conservator of Forests of the Circle concerned or the Authorised Officer or any Inspector not below the rank of a Deputy Ranger / Forester duly appointed, may inspect and verify during working hours without notice

the following within the premises of the saw-mills and other units including factories of a licensee—

- (a) records required to be maintained under sub-rule (1) of rule 9;
  - (b) stock of raw materials present; and
  - (c) stock of sawn timber or manufactured products or processed products.
- (2) During such inspection and verification, the licensee or his authorized agent, employees and workers shall be lawfully required to extend all possible assistance and produce all documents and records as may be required during such inspection and verification.

**Production of licence, permit etc for inspection and verification**

11. For the purpose of rule 10, the licensee shall when required to do so, produce immediately for inspection and verification-
- (1) any licence, permit or other documents granted to him or required to be kept by him under the provisions of these rules;
  - (2) any forest produce or raw material or manufactured or processed product or any product in the process of manufacture in his control, custody or possession whether located in the premises or not.

**Transit pass for Forest Produce**

12. All forest produce entering or leaving a saw-mill and other units including factories shall be covered by a transit pass duly issued under the provisions of the West Bengal Forest Produce Transit Rules, 1959.

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<sup>40</sup>Modified vide Notification no. 2730 dated 16.08.2004.

<sup>41</sup>Modified vide Notification no. 2730 dated 16.08.2004.



### **Appointment of Forest Officer as Inspector**

13. As soon as may be after the commencement of these rules in any district, the Conservator of Forests of the Circle concerned may, for the purpose of these rules, appoint one or more Forest Officer not below the rank of a Deputy Ranger / Forester as Inspector or Inspectors for an area to be specifically mentioned in the order.

### **Penalties**

14. Any person contravening any of the provisions of these rules shall be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.<sup>42</sup>
14. (A)<sup>43</sup>
  - (i) For violation of any provisions as prescribed above, a notice for closure of such mill would be issued by the Authorised Officer.
  - (ii) The owner of the licence would be given an opportunity of being heard for the violation of rule and for the first time, a penalty in the form of fine may be imposed by the Authorised Officer along with suitable compensation for causing harm to the nature and environment.
  - (iii) For second violation, the Authorised Officer will be at his liberty to issue an order for suspension of licence for a period up to six months along with suitable fine and compensation.
  - (iv) For subsequent violation, the Authorised Officer will be at his liberty to issue an order for the closure of the unit.
  - (v) In such cases, the licensee would be free to appeal to the respective Conservator of Forests and

Appellate Authority, against the order of the closure within 30 (thirty) days from the date of receipt of the said order. The decision of the Conservator of Forests (CF), in this regard will be final.

- (vi) If the CF finds it appropriate, he may refer the case to a committee comprising three members which would be constituted by the Principal Chief Conservator of Forests, in consultation with the Department of Forests.
- (vii) A defaulting unit will not be given any license in future for any other wood based industries.
- (viii) These provisions will be applicable to licensed units of all categories.
- (ix) For units having licence under secondary unit category, if at any point of time, during checking, they are found to have used round timber, whether from legal sources or otherwise, their licence will be cancelled immediately by the Authorised Officer.
- (x) For units having licence under the category of imported timber based units, if at any point of time during the course of checking, they are found to have used indigenous timber, whether from legal source or otherwise, their licence will be cancelled immediately by the Authorised Officer.
- (xi) The rates of compensation would be prescribed by the State Government from time to time, by issuing Government Order through notification.

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<sup>42</sup>Modified vide Notification no. 2730 dated 16.06.2004.

<sup>43</sup>Inserted vide Notification No. 3086-For/FR/O//FP/6M-49/2002 Pt. II dated 12.07.2005.

**FORM I**

[ See rule 3(1)(b).

Form of Licence

Licence No. \_\_\_\_\_ dated  
the \_\_\_\_\_ day of  
\_\_\_\_\_ (month

Subject to the provisions of Chapter VIIIA of the Indian Forest,  
1927 (16 of 1927) and the rules made thereunder  
\_\_\_\_\_ (Name /names), inhabitants (s) of  
\_\_\_\_\_ (address to be given in details) in  
the Police Station \_\_\_\_\_ District \_\_\_\_\_, by  
profession \_\_\_\_\_, is /are  
hereby permitted to set up / run the following  
\_\_\_\_\_ Mill / Factory / Unit using  
\_\_\_\_\_ as raw materials for a period of one year  
commencing on the \_\_\_\_\_ day of  
\_\_\_\_\_ and ending with the \_\_\_\_\_  
day of \_\_\_\_\_

- 1 Name of the Mill/Factory/Unit :
2. Location :
3. Installed capacity :  
Capital value of the Mill/Factory :
4. Unit  
Employment—
5. (i) No. of regular employees :  
(ii) No. of daily workers :
6. Licence fee paid :

Place :

Date :

Signature of Issuing Authority  
(Seal)

**FORM II**  
**[ See rules 3(2)(b) and 4(1) ]**  
**Form of application for licence for setting up to**  
**manufacture/for existing unit/**  
**Manufacturing products based on forest produce.**

To  
 The Conservator of Forests (or the Authorised Officer)  
 \_\_\_\_\_ Circle, West Bengal

Sir,  
 I/We \_\_\_\_\_, inhabitant(s) of  
 \_\_\_\_\_  
 \_\_\_\_\_ (block letters)  
 \_\_\_\_\_ in the Police Station \_\_\_\_\_, District  
 (address to be given in details)

\_\_\_\_\_, by profession \_\_\_\_\_  
 apply for a licence fore setting up of Factory/Mill/Unit (to  
 manufacture) / manufacturing \_\_\_\_\_ for existing  
 Unit / Factory / Mill / and using \_\_\_\_\_ as raw materials.  
 The particulars of the Factory / Mill/Unit are given hereinbelow:

1	Name of the Mill/Factory/Unit		
2	Location		
3	Whether a Limited Company, a Partnership or a Proprietorship business and the relationship of the applicant(s) with such company or partnership or proprietorship business (documents to be attached).		
4	Capital value		
5	Rated capacity (volume of timber, etc. consumed per year)		
6	Expected source/sources of raw materials		
7	Labour strength of regular employees of strength of daily reted workers		
8	Source of capital investment		
9	Whether convicted of / penalized in any criminal/forest offence case		

10	Whether possessing more than one such Factory/Mill/Unit in the same circle		
11	Whether the licence fee is attached and if so, No. and date of challan/draf		

I have read Chapter VIII A of the Indian Forest Act, 1927 (16 of 1927) and the rules made thereunder and undertake to abide by the same.

Yours faithfully,

Date:

Place:

Signature of the Applicant(s)

### FORM III

[ See rule 5(1)

#### Form of Applications for Renewal of Licence.

To

The Conservator of Forests

\_\_\_\_\_ Circle

West Bengal

Sir,

I/We \_\_\_\_\_,  
inhabitant(s) of \_\_\_\_\_  
(in block letters)

\_\_\_\_\_ in the Police  
Station \_\_\_\_\_, District \_\_\_\_\_, by  
profession \_\_\_\_\_ apply for renewal of  
my/our licence No. \_\_\_\_\_, dated  
\_\_\_\_\_ the validity of which expired  
on \_\_\_\_\_. The renewal fee of Rs. \_\_\_\_\_  
only is enclosed as per challan/Bank Draft No. \_\_\_\_\_  
dated \_\_\_\_\_.

Yours faithfully,

Date:

Place:

Signature of the Applicant(s)

**FORM IV**  
[ See rule 6(3)(c) ]  
**Form of Renewal of Licence**

No. \_\_\_\_\_

Dated: \_\_\_\_\_

Dated \_\_\_\_\_

The licence is renewed and shall be valid up to \_\_\_\_\_.  
The licensee has paid the renewal fee of Rs. ....  
(Rupees .....)  
.....) only.

Date: \_\_\_\_\_

Signature of the Issuing Authority

Place: \_\_\_\_\_

( Seal )

**Form V**  
[See Rule 8(2)]

Appeal case no.	Name and address of the	Name and address of the respondent	Date of receipt	Date of the order appealed against	Grounds of the appeal in brief	Date of hearing	Order passed	Remarks
1	2	3	4	5	6	7	8	9

**Form VI**  
(DAILY STOCK)  
[see Rule 9(1)]

Date	Opening Balance		Received			
	Round cu.m or	Converted T.P/Challan units	Round cu.m or units	Reference T.P/Challan	Converted	Reference

TOTAL		DISPOSAL	REF	BALANCE	
Round	Converted cu.m or units	Converted cu.m.or units	T.P/Challan	Round	Converted cu.m or units

At the end of the month, an abstract showing totals of receipts and disposals should be prepared.

**Form VII**  
(ANNUAL RETURN)  
[see Rule 9(1)]

OPENING BALANCE		RECEIVED		DISPOSED		CLOSING BALANCE	
Round	Converted	Round	Converted	Round	Converted	Round	Converted

**ANNEXURE**

**Prescribed area for setting up of Saw Mills & other Wood Based Industries exclusively with imported timber**

District	Sub-division	Block/Municipality/Municipal Corporation
Purba Medinipore	Tamluk	All 7 Blocks & 1 Municipality
	Haldia	All 5 Blocks & 1 Municipality
Hooghly	1. Sadar	All 5 Blocks & 2 Municipality
	2. Chandannagar	All 3 Blocks & 3Municipalities & 1 Municipal Corporation
	3. Sreerampur	All 4 Blocks & 5Municipalities
	4. Arambag	All 6 Blocks & 1 Municipality
Howrah	1. Sadar	All 5 Blocks & 1 Municipality & 1 Municipal Corporation
	2. Uluberia	All 9 Blocks & 1 Municipality
North 24-Parganas	1. Bongaon	All 3 Blocks & 1 Municipality
	2. Barasat	All 7 Blocks & 6 Municipalities
	3. Barrackpore	All 2 Blocks & 16 Municipalities
	4. Salt Lake	Bidhannagar Municipalities
	5. Basirhat	All 10 Blocks & 3 Municipalities
Nadia	1. Ranaghat	All 4 Blocks & Municipalities
	2. Kalyani	All 2 Blocks & 3 Municipalities
Kolkata		Entire Area
South 24-Parganas	1. Sadar	Entire Area
	2. Diamond Harbour	Entire Area

#### **14. The West Bengal Protected Forests Rules**

(Government of West Bengal, Department of Agriculture, Animal Husbandry and Forests, Forests Branch, notification No 2396 For, dated the 2<sup>nd</sup> March 1956)

In exercise of the power conferred by section 32 of the Indian Forest Act, 1927 (XVI of 1927), the Governor is pleased to make the following rules for the protected forests in West Bengal, namely—

1. (1) These rules may be called the West Bengal Protected Forests Rules 1956.
  - (2) These rules shall apply to all forest-lands and waste-lands in West Bengal declared to be protected forests under section 29 of the Indian forest Act 1927 (XVI of 1927), from time to time.
  - (3) These rules shall come into force on and from the date of publication of this notification in the “*Calcutta Gazette*”.
2. In these rules, unless there is anything repugnant in the subject or context—
  - (a) “felling programme” means a predetermined sequence of fellings in a forest for successive years over any period approved by the Conservator of Forests ;
  - (b) “forest” means any forest-land or waste-land declared to be a protected forest under section 29 of the Act;
  - (c) “section” means a section of the Act; and
  - (d) “the Act” means the Indian Forest Act 1927 (XVI of 1927).
3. (1) Except as provided in these rules, no person shall cut, saw, convert or remove or cause to be cut, sawed, converted or removed, any tree or timber, or collect, manufacture or remove or cause to be collected, manufactured or removed, any forest produce, in or from a forest.



- (2) The cutting, sawing, conversion or removal of trees or timber or the collection, manufacture or removal of forest produce in or from a forest may be permitted under and in accordance with the terms and conditions of a license or permit issued in this behalf by a forest officer upon payment made at rates fixed by the Conservator of Forests Provided that the terms or conditions of such license or permit shall not be inconsistent with the provisions of the Act.
4. The holder of a license or permit authorising the removal of forest produce from a forest shall be bound to produce such license or permit for examination on demand by a forest officer or a police officer. Failure to produce such license or permit on such demand shall, for the purpose of clause (h) of sub-section (1) of section 33 , be deemed to be an infringement of this rule.
5. (1) A forest officer may, for the purpose of bulk disposal of the forest produce of a forest, cause trees in the forest to be marked, or areas therein to be demarcated in lots or sections in different localities according to a felling programme for the time being in force in such forest and dispose of such lots to the best advantage of the State either by tender or by public auction in annual coupes or leasehold, over a period, as may be considered by the Conservator of Forests to be convenient for particular areas.
- (2) If the Divisional Forest Officer is, at any time, of opinion that the supply of any kind of forest produce is sufficient only to meet local requirements, he may, by an order in writing, prohibit the removal of such forest produce beyond the limits of any locality specified therein and such forest produce shall not be removed beyond such limits.
6. Every forest produce passing out of a forest shall be marked and checked by a forest officer with reference to the relevant license or permit either in the forest or in transit.

7. (1) Except in the exercise of any right in or over a forest, no person shall, clear or break up any land therein.
  - (a) for the purpose of growing agricultural or horticultural crops, without the permission in writing of the Divisional Forest Officer, and
  - (b) for other purposes, without the permission in writing of the State Government.
- (2) Every permission granted by the Divisional Forest Officer under sub-rule (1) shall be under a properly executed agreement and for the purpose of clause (h) of subsection (1) of section 33 the violation of the terms or conditions of such agreement shall be deemed to be an infringement of this rule.
8. (1) No person shall kindle or carry fire in any forest nor shall fire be used in the collection of forest produce or for the improvement of pasture lands therein.
- (2) Any person living or occupying or using land in the vicinity of a forest and desirous of clearing by fire any other forest-land or grass-land nearby or in a locality from which such fire is likely to endanger the forest, shall observe the following conditions, namely—
  - (i) he shall give at least one week's notice of his intention to do so to the nearest forest office,
  - (ii) he shall clear a belt of land at least 20 feet broad on the side of the land he proposes to burn nearest to the forest,
  - (iii) he shall choose for such burning a day and time when high wind is not blowing, and
  - (iv). he shall light the fire in a direction contrary to that in which the wind is blowing.
9. (1) Cutting of grass or pasturing of cattle may be

permitted in a forest on payment made at rates fixed in this behalf by the Conservator of Forests. The Conservator of Forests may, if he thinks it fit to do so in the public interest, refuse permission to pasture cattle in any plantation or natural regeneration area of the forest for a continuous period of ten years or in any coppiced area of the forest for a continuous period of three years.

(2) No person shall cut grass or pasture cattle in a forest unless permitted to do so under sub-rule (1)

10. The rules issued with notifications No 2727 For. dated the 18th July 1901, No. 2819 For dated the 8th November 1906, No 622 T.R dated the 25th May 1917 and 5620 For dated the 15th June 1914 are hereby rescinded.

*Vide* notification No. 14569 For., dated the 10<sup>th</sup> December, 1958.

**15. The West Bengal Private Forests Act, 1948**

THE WEST BENGAL PRIVATE FORESTS ACT, 1948

( ACT NO. 14 OF 1948 )<sup>45</sup>

[ 23rd April, 1948 ]

*An Act to provide for the conservation of private forests and for the afforestation in certain cases of waste-lands in West Bengal*

Whereas it is expedient to provide for the conservation of forests and for the afforestation of waste-lands in West Bengal where such forests or lands are not the property of the Crown or where the Crown has no proprietary right over such forests or lands :

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<sup>45</sup>In terms of the provisions of sub-section (3) of Sec. 3 read with Sch. III of the West Bengal Transferred Territories (Assimilation of Laws) Act, 1968 (West Bengal Act 19 of 1958), this Act shall not extend to or come into force in the territories transferred from the State of Bihar to the State of West Bengal by Sec. 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956 (40 of 1956).

It is hereby enacted as follows—

## CHAPTER I

### **Preliminary**

1. Short title, extent and commencement.—(1) This Act may be called the West Bengal Private Forests Act, 1948<sup>46</sup>.

(2) It extends to the whole of West Bengal.

<sup>47</sup>(3) This section shall come into force at once and the remaining provisions of this Act, in whole or in part, shall come into force in such areas and on such dates as the <sup>48</sup>[State] Government may, by notification, specify and for this purpose different dates may be specified for different provisions of this Act and for different areas.

<sup>49</sup>[*Explanation*.—In this section, West Bengal shall, as from the date of the commencement of the Constitution of India, be deemed to include the areas in West Bengal which were partially excluded areas within the meaning of Sec. 91 of the Government of India Act, 1935 (26 Geo. V.C. 2) as in force immediately before such commencement.

2. Definition.—In this Act, unless there is anything repugnant in the subject or context.—

(1) “Appellate Committee” means a committee the procedure of which shall be as prescribed, appointed by the <sup>4</sup>[State] Government in respect of a notified area to hear appeals under this Act consisting of three members of whom the Chairman shall be a Revenue Officer not below the rank of a Collector, one member shall be a member of the Indian Forest Service or the West Bengal Forest Service not below the rank of a Deputy Conservator of Forests and the other member shall be an owner of a private forest who shall be selected in the prescribed manner from amongst the owners of private

forest in such notified area :

- (2) “cattle” includes elephants, camels, buffaloes, horses, mares, gelding, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.
- (3) “conservation”, used in reference to a forest, includes such measures as are necessary in the opinion of the Regional Forest Officer for the prevention or remedying of the erosion of the soil or any flood or landslide.
- (4) “Controlled forest” means a forest in respect of which a working plan has been approved under sub-section (1) of Sec. 4;
- (5) “forest” includes any land recorded as forest in a record of rights prepared under Chapter X of the Bengal Tenancy Act, 1885 (8 of 1885).
- (6) “forest offence” means an offence punishable under this Act or under any rule made thereunder;
- <sup>50</sup>(7) “Forest Officer” means any person whom the <sup>1</sup>[State] Government or any officer empowered by the [State] Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest Officer.

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<sup>46</sup> For the Statement of Objects and Reasons, see the Calcutta Gazette, Extraordinary, dated the 15th January, 1948, and for proceedings of the Assembly, see the West Bengal Legislative Assembly Proceedings, Vol. II No. 1, at pp. 197-210.

<sup>47</sup> Sections 2 of 64 of the Act were brought into force in the district of Midnapore except the Garbeta Police Station in the Sadar sub-division of the said district and also in the district of Bankura, on the 22nd April, 1948, vide Notification No. 2524. For, dated the 22nd April, 1948, published at p. 412 of the Calcutta Gazette, Extraordinary, of the 23rd April, 1948.

<sup>48</sup> Subs. By Adaptation of Laws Order, 1950, for the word “Provincial”.

<sup>49</sup> Added by West Bengal Act 17 of 1955.

<sup>50</sup> Subs. A.L.O. 1950 for the word “Provincial”.

- (8) “forest produce” includes—
- (a) the following whether found in, or brought from, a forest or not, that is to say—
    - (i) timber, charcoal, caoutehouc, catechu, woodoil, resin, nature varnish, bark, lac, *mahua* flowers, *mahua* seeds, *kuth* and myrabolams, and
    - (ii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and
  - (b) the following when found in, or brought from, a forest that is to say—
    - (i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, or trees.
    - (ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants, and
    - (iii) peat, surface soil, rock and minerals (including limestone, laterite, mineral oils, and all products or mines or quarries);
- (9) “Forest Settlement Officer” means an officer, who shall ordinarily be a Revenue Officer, appointed by the <sup>1</sup>[State] Government to perform the functions of a Forest Settlement Officer under this Act and includes a Board, the procedure of which shall be as prescribed, appointed by the <sup>1</sup>[State] Government to perform such functions, consisting of not more than three officers of whom at least two shall be Revenue Officers;
- (10) “notification” means a notification published in the *official Gazette*;
- (11) “notified area” means an area specified in a notification

- issued under sub-section(1) of Section 3;
- (12) “owner” includes any mortgagee in possession, lessee, common manager, receiver appointed by a competent Court and any person holding any property in trust and also includes in Court of Wards in respect of property under the superintendence or charge of such Court;
  - (13) “prescribed” means prescribed by rules made under this Act;
  - (14) “private forest” means a forest which is not the property of the <sup>51</sup>[Government] or over which the [Government] has no proprietary right;
  - (15) “Regional Forest Officer' means a Forest Officer appointed by the <sup>1</sup>[State] Government as such by a notification for a notified area;
  - (16) “river” includes any stream, canal, creek or other channel, natural or artificial;
  - (17) “timber includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not;
  - (18) “tree” includes palms, bamboos, stumps, brushwood and canes;
  - (19) “vested forest” means a forest of which the control has been vested in a Regional Forest Officer by a notification under sub-section (2) of Sec. 6 or under Sec. 7 or under Sec. 11 and includes any forest deemed to be, or managed as, a vested forest under this Act;
  - (20) “waste-land” means any waste-land which is not the property of the <sup>52</sup>[Government] or over which the [Government] has no proprietary right;

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<sup>51</sup> Subs. by *ibid* for the word “Crown”.

<sup>52</sup> Subs. by *ibid*, for the word “Crown”.

- 21) “working plan” means a written scheme for the management and treatment of a forest; and  
(22) “year” means a year beginning on the 1<sup>st</sup> day of April.

CHAPTER II  
**Conservation of Private Forests and  
Afforestation of Waste-lands**

3. Preparation of, and appeal and revision in respect of working plans for private forest.—
- (1) The<sup>53</sup>[State] Government may, by notification, direct that every owner of a private forest which is not a vested forest, but which is situated within such area as may be specified in the notification, shall prepare in the prescribed manner and submit within the period mentioned in the notification to the Regional Forest Officer a working plan for the conservation of such private forest.
- (2) On the expiry of the period mentioned in the notification under sub-section (1), the Regional Forest Officer shall, after considering each working plan submitted to him under that sub-section, and after consultation in the manner prescribed with the Conservator of Forests of the forest circle within which such forest is situated, by an order in writing, accept the working plan or modify in it such manner as he may consider necessary or substitute another working plan for it.
- (3) If any owner of such private forest does not submit a working plan within the period specified in the notification issued under sub-section (1), the Regional



Forest Officer, may, after consultation in the manner prescribed with the Conservator of Forests of the forests circle within which such forest is situated, prepare a working plan in respect of such forest.

- (4) When the Regional Forest Officer by an order in writing modifies any working plan under sub-section(2) or substitutes another working plan under that sub-section for the working plan submitted under sub-section (1), he shall cause a copy of such order to be served in the prescribed manner upon the owner of such private forest to which such working plan relates and such owner may, within sixty days of the date of service of such order, appeal against such order to the Appellate Committee and the Appellate Committee, may thereupon, after giving such owner an opportunity of being heard, by an order in writing, either accept the working plan with or without modifications or reject it and the decision of the Appellate Committee on every such appeal shall, subject to the provisions of sub-section (3), be final.
- (5) The Board of Revenue may, on application by an owner of a private forest for revision of an order of the Appellate Committee passed in appeal under sub-section(4), and if such application is made within thirty days for the date of the order, call for the record of the appeal in which the order was passed and on receipt of such record, after givingP such owner an opportunity of being heard, may if it does not see fit to reject the application, direct the Appellate Committee by an order in writing to make such modifications in the working plan accepted by the said Committee under

sub-section(4) as may be specified in such order in writing.

(6) The Board of Revenue shall, as soon as may be after an application for revision is disposed of under sub-section (5), communicate the order passed by it on such application to the Appellate Committee, and on receipt of such order the Appellate Committee shall, where the Board of Revenue has directed that modification be made in such working plan, modify it accordingly.

4. Approved working plans.—(1) When the Appellate Committee accepts any working plan with or without modification under sub-section(4) of Sec. 3 or modifies any working plan under sub-section(6) of the said section, or the Regional Forest Officer accepts, modifies or substitutes any working plan under the said section, or prepares any working plan under the said section, such Committee or officer shall by an order in writing approve such working plan or the working plan as modified by the Committee or such officer as the case may be, and every working plan so approved shall be deemed for the purposes of this Act to be an approved working plan :

Provided that the Regional Forest Officer shall not so approve any working plan that he has modified or substituted by an order under sub-section(2) of Sec. 3 if,—

- (a) appeal against the order has been made to the Appellate Committee; or
- (b) where no such appeal has been made, the time within which such appeal may be made has not expired.

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<sup>53</sup> Subs. By A.L.O. for the word “Crown”

Provided further that the Appellate Committee shall not so approve any working plan accepted by it with or without modification by an order under sub-section (4) of Sec. 3 if,—

- (a) where an application for revision of the order has been made to the Board of Revenue, the order of Board of Revenue on such application has not been received by such Committee; or
  - (b) where no such application for revision has been made, the time within which such application may be made has not expired.
- (2) A copy of every approved working plan shall be sent in the prescribed manner by the Regional Forest Office to the owner of the private forest to which it relates and the owner shall thereupon manage such forest in accordance with such plan and shall carry out all the terms and conditions thereof.
- (3) At any time after five years from the date of approval of working plan under sub-section(1), or with the previous sanction of the <sup>54</sup>[State] Government at any time within the said period of five years, a Regional Forest Officer may, after consultation in the manner prescribed with the Conservator of Forests of the forest circle within which the forest to which such working plan relates is situated, by an order in writing, modify the approved working plan in such manner as he considers necessary and the provisions of sub-sections (4), (5) and (6) of Sec. 3 and sub-sections (1) and (2) of this section shall apply to every plan so modified Provided that nothing in this section shall prevent the owner after the expiry of the said period of five years from applying in writing to the Regional Forest Officer for the

modification of the working plan in such manner as may be specified in the application and if the Regional Forest Officer, after giving the owner an opportunity of being heard, does not see it fit after such consultation as aforesaid so to modify the working plan, he shall record an order to that effect and the owner may within thirty days from the date of such order appeal against such order to the Appellate Committee and an application for revision shall also lie to the Board of Revenue from any order passed by the Appellate Committee on such appeal if presented within thirty days from the date of such order and the decision of the Appellate Committee on such appeal shall, subject to such revision by the Board of Revenue, be final.

5. Prohibition of leases and extension of terms of existing leases of private forests after issue of notification under Sec. 3(1).—After the publication of a notification under sub-section(1) of Sec. 3 no owner of a private forest in the notified area shall enter into any new lease or extend the term of any existing lease in respect of such forest until the working plan in respect of such forest has been approved under sub-section(1) of Sec. 4 except with the previous sanction of the <sup>55</sup>[State] Government and, after such working plan has been so approved, except in accordance with the terms and conditions of such plan and any lease entered into or any extension of the terms of any lease granted in contravention of the provisions of this section shall, notwithstanding anything contained in any other law

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<sup>54</sup> Subs. by A.L.O. for the word “Provincial”.

<sup>55</sup> Subs. by A.L.O. 1950 for the word “Provincial”.

for the time being in force, be void and have no effect.

- <sup>56</sup>[5.-A. Prohibition of felling or removal of trees of private forests after issue of notification under Sec. 3(1).—(1) After the publication of a notification under sub-section(1) of Sec. 3, no owner of a private forest in the notified area or other person shall fell or cause to be felled or remove or cause to be removed from such forest any tree or trees until the working plan in respect of such forest has been approved under sub-section(1) of Sec. 4 except after obtaining in writing, and in accordance with, the previous permission of the Regional Forest Officer in this behalf.
- (2) Any person contravening the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.
6. Penalty for the violation of working plan.—(1) If after an approved plan in respect of any private forest has been sent under sub-section(2) of Sec. 4 to the owner of such forest, such owner fails or neglects to carry out any of the terms and conditions of such plan, <sup>57</sup>[or fells or causes to be felled or removes or causes to be removed from such forest any tree or trees in contravention of any of such terms and conditions] he shall be punishable [with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both] he shall be punishable <sup>58</sup>[with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both] :
- Provided that <sup>59</sup>[except where the owner has felled or

caused to be felled or removed or caused to be removed from such forest any tree or trees in contravention of any of the terms and conditions of approved working plan] no prosecution shall be instituted under this sub-section unless the Regional Forest Officer has served in the prescribed manner a notice on such owner specifying the terms and conditions of the working plan which such owner has failed or neglected to carry out and requiring such owner to take such steps for carrying them out as are specified in the notice with thirty days from the date of service of such notice and unless such owner has failed to comply with such notice.

- (2) If the owner of a private forest is convicted a second or subsequent time under sub-section(1) for the failure or neglect to carry out any of the terms and conditions of the working plan in respect of such forest [or for felling or causing to be felled or removing or causing to be removed from such forest any tree or trees in contravention of any of such terms and conditions), the<sup>60</sup>[State] Government may, by a notification, direct that the control of such forest shall be vested in such Regional Forest Officer for such period as may be specified in such notification :  
Provided that no such notification shall be issued until such owner has been called upon by notice in writing by

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<sup>56</sup> Ins. by West Bengal Act No. 20 of 1954.

<sup>57</sup> Ins. by *ibid.*

<sup>58</sup> Subs. by *ibid.* for the words "with fine which may extend to five hundred rupee."

<sup>59</sup> Ins. by West Bengal Act. No. 20 of 1954.

<sup>60</sup> Subs. by A.L.O. 1950, for the word "Provincial".

the Regional Forest Officer within sixty days of such conviction to show cause before the Appellate Committee within such time as may be specified in the notice as to why such notification should not be issued and until the Appellate Committee, after considering the cause, if any, shown by him and any evidence which he may produce in support thereof, has recommended to the <sup>1</sup>[State] Government that such notification should be issued.

(3) Nothing in sub-section(1) shall render any owner, of any private forest liable to conviction for any deviation from any approved working plan if such deviation has been previously sanctioned by the Regional Forest Officer on application made by such owner in that behalf to such officer or by the Appellate Committee on an appeal from an order of the Regional Forest Officer refusing to sanction such deviation presented by the owner to such Committee within thirty days from the date of such order.

7. Vesting of forest in the Regional Forest Officer.— Notwithstanding anything contained in Secs. 3 and 4 or in sub-section (2) of Sec. 6, if the <sup>1</sup>[State] Government is satisfied that the conservation of any private forest in a notified area should not be left to the owner thereof, the <sup>1</sup>[State] Government may, by a notification specifying the reasons for so doing, direct that the control of such forest shall be vested in such Regional Forest Officer for such period as may be specified in the notification :

Provided that no such notification shall be issued until.—

(a) the Regional Forest Officer has, by notice in writing, called upon the owner of such forest to show cause

- before the Appellate Committee, within such period as may be specified in such notice, why the control of such forest should not be so vested, and
- (b) the Appellate Committee after considering the cause, if any, shown by the owner and any evidence which the owner may produce in support of the same has recommended that such notification should be issued.
8. Forest loans.—(1) Subject to rules made under this Act, loans may be granted on the recommendation of the Appellate Committee by such officer as may be empowered in this behalf by the <sup>61</sup>[State] Government to any owner of a controlled forest or of a vested forest who, in the opinion of the Appellate Committee, is likely to suffer unduly owing to any temporary reduction of his income resulting from any action taken under Sec. 4 or sub-section(2) of Sec. 6 or Sec. 7 or to any owner of a controlled forest to enable such owner to pay any compensation payable by him under sub-section (6) of Sec. 10 or sub-sec (2) of Sec. 25.
- (2) An application for such a loan shall be made in the prescribed manner to the Appellate Committee and shall state the following particulars, namely—
- (a) the amount of the loan required,
- (b) the reasons for which it is necessary, and
- (c) the period for which it is required.
- (3) After considering in the prescribed manner the application made under sub-section (2) and any evidence that may be produced in support thereof, the Appellate Committee shall state in writing its opinion as to whether or not a loan should be given, and, if it

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<sup>61</sup>Subs. by A.L.O. 1950, for the word “Provincial”.



recommends the grant of a loan, shall forward the application to the officer empowered under sub-section (1) with its opinion, stating the reasons for such recommendation and specifying the following particulars, namely—

- (a) the amount of the loan that should be granted and the rate of the interest that should be charged.
  - (b) the installments in which the loan should be advanced, and
  - (c) the period after which and the installments in which the loan should be repaid.
- (4) Subject to rules made under this Act all loans granted under sub-section (1), all interests, if any, chargeable thereon and costs, if any, incurred in granting such loans shall, when they become due, be recoverable by the Collector as if they were arrears of land revenue due in respect of the controlled forest or the vested forest of which the borrower was the owner at the time the loan was granted:

Provided that no proceeding in respect of any such forest under this sub-section shall effect any interest in that forest which existed before the date of the order granting the loan other than the interest of the borrower and of mortgagees or of persons having charges on the interest of the borrower.

9. Amalgamation of two or more vested forests under one working plan.—

- (1) If, after consultation in the prescribed manner with the Conservator of Forests of the forest circle within which the forests are situated, a Regional Forest Officer is of the opinion that it is impossible otherwise to secure the

conservation of two or more forests, belonging to different owners, of which the control has been vested in him by a notification under sub-section(2) of Sec. 6 or under Sec. 7, he may record an order that such forests shall be managed under one working plan as if they belonged to one owner, and shall cause a copy of such order to be served in the prescribed manner on the owner of each such forest.

- (2) The Regional Forest Officer may at any time, after consultation in the manner referred to in sub-section(1), by order in writing rescind or modify an order passed by him under that sub-section and a copy of every order passed under this sub-section shall be served in the prescribed manner on the owner of each such forest.
- (3) Any owner or other person interested in any such forests may, within thirty days from the date on which the copy of any order passed under sub-section (1) or sub-section (2) is served on him, appeal against such order to the Appellate Committee and the decision of the Appellate Committee on such appeal shall, subject to the provisions of the sub-section (4), be final.
- (4) The Board of Revenue may, on application made within thirty days from the date of any order of the Appellate Committee passed in appeal under sub-section(3), revise such order.

10. Afforestation of land adjoining a forest.—

- (1) The <sup>62</sup>[State] Government may, if it is satisfied on application made by the owner of a controlled forest, or by the Regional Forest Officer in whom the control of a private forest is vested under this Act, that any land adjoining such forest has not been cultivated during the

three years immediately preceding the year in which such application is made and that such land is suitable for afforestation, by notification, announce its intention to declare such land to be liable to be made over to the owner of such controlled forest or vested forest, as the case may be.

- (2) Every notification issued under sub-section (1) shall specify a period within which objections to the proposed declaration may be submitted by any person interested in such land to the Appellate Committee and a copy of every such notification shall be served in the prescribed manner on the person entitled to cultivate such land.
- (3) After the expiry of the period so specified in a notification issued under sub-section (1), the Appellate Committee shall hear the objections, if any, submitted by the person entitled to cultivate such land or any other person interested in such land and any evidence which any such person may produce in support of the same and forward the objections so submitted and its opinion thereon to the <sup>63</sup>[State] Government.
- (4) If, after considering the objection and the opinion of the Appellate Committee forwarded under sub-section(3), the [State] Government is of opinion that such land should be declared to be liable to be made over to the owner of the controlled or vested forest referred to in sub-section(1), the <sup>64</sup>[State] Government shall issue a

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<sup>62</sup> Subs. by A.L.O. 1950, for the word "Provincial".

<sup>63</sup> Subs. by A.L.O. 1950, for the word "Provincial".

<sup>64</sup> Subs. by A.L.O. 1950, for the word "Provincial".

notification—

- (a) declaring such land to be liable to be made over to the owner of such forest to be specified in the notification,
  - (b) specifying as nearly as possible the situation and limits of such land, and
  - (c) appointing a Forest Settlement Officer to determine, subject to any rules made under this Act, by an order in writing—
    - (i) what rights in or over such land shall be extinguished, and
    - (ii) what rent, if any, shall be payable by the owner of such forest to any landlord of such land.
- (5) When a notification has been issued under sub-section (4), the amount of the compensation payable under sub-section (6) to every person whose rights as specified by the Forest Settlement Officer under sub-clause (i) of Cl. (c) of sub-section (4) are to be extinguished shall be determined, subject to any rules made under this Act, in the manner and in accordance with the principle hereinafter set out, that is to say—
- (i) when the amount of compensation can be fixed by the Forest Settlement Officer appointed under Cl.(c) of sub-section (4) by agreement, it shall be paid in accordance with such agreement;
  - (ii) where no such agreement can be reached, the <sup>1</sup>[State] Government shall appoint as arbitrator a person who has exercised the powers of a District Judge in West Bengal or who possesses such

- qualifications as are normally required for appointment to the post of District Judge in West Bengal;
- (iii) at the commencement of the proceedings before the arbitrator, the owner of the forest, or the Regional Forest Officer by whom the compensation is payable, and the person to be compensated shall state what in their respective opinions is a fair amount of compensation;
  - (iv) the arbitrator, in making his award, shall have regard to the provisions of sub-section (1) of Sec. 23 of the Land Acquisition Act, 1894 (1 of 1894), so far as the same can be made applicable;
  - (v) an appeal shall lie to the High Court against an award of an arbitrator except in case where the amount thereof does not exceed an amount prescribed in this behalf;
  - (vi) save as provided in this sub-section and in any rules made under this Act, nothing in any law for the time being in force shall apply to arbitrators under this sub-section.
- (6) The amount of compensation determined under sub-section (5) shall be paid in the prescribed manner, in the case where the notification under sub-section(1) was issued on the application of the owner of a controlled forest, by such owner, and in case where such notification was issued on the application of a Regional Forest Officer, by such officer out of the profits of the vested forest adjoining such land, to the person entitled to such compensation and, on payment of such

compensation the land shall be made over by the Forest Settlement Officer appointed under Cl.(c) of sub-section (4) to the owner of the controlled or vested forest specified in the notification issued under that sub-section and shall thereupon vest in such owner and all rights in or over such land specified by the said officer under sub-clause(i) of the said clause shall, with effect from the date on which such land is so made over, be extinguished.

- (7) When any land is made over under sub-section (6) to the owner of a forest, it shall with effect from the date on which it is so made over, be deemed to be private forest.
- (8) When any such land is made over under sub-section (6) to the owner of vested forest which adjoins such land, the control of such land shall be vested in the Regional Forest Officer in whom the control of such forest is for the time being vested and the land shall, for the purpose of this Act, be deemed to be a vested forest.
- (9) When any such land is made over under sub-section (6) to the owner of a controlled forest which adjoins such land, the Regional Forest Officer may, after consultation in the prescribed manner with the Conservator of Forests of the forest circle within which such controlled forest is situated, by an order in writing, a copy of which shall be served on such owner in the prescribed manner, either direct that the approved working plan in respect of such controlled forest shall be deemed to be the working plan approved for such land under sub-section (1) of Sec. 4 or require such owner to prepare in the prescribed manner and submit

within the period to be mentioned in such order to such officer a working plan in respect of such land.

- (10) Where the owner of a controlled forest is required under sub-section (9) to prepare and submit a working plan in respect to the land made over to him under sub-section (6), the provisions of Secs. 3 and 4 shall apply to such working plan as if such owner has been required to prepare such working plan under sub-section (1) of Sec. 3.

11. Afforestation of other land.—

- (1) If it appears from the report of a Regional Forest Officer that any waste-land which is lying uncultivated for not less than three years is suitable for afforestation and that the owner of such land is unwilling or unable to cultivate it by growing therein agricultural crops, or to use it for the purposes of horticulture to the satisfaction of such officer or to afforest it, the <sup>65</sup>[State] Government may, by a notification, direct that the control of such land shall be vested in a Regional Forest Officer to be specified in the notification for the purpose of afforestation for such period as may be stated in the notification :

Provided that the <sup>66</sup>[State] Government shall not issue any notification under this sub-section without considering whether or not such land can more advantageously be used for the purposes of agriculture or horticulture than for the purpose of afforestation:

Provided further that no such notification shall be published until a notice has been issued by such Regional Forest Officer calling upon the owner of such land and any other person interested therein to show

cause before the Appellate Committee, within such period as may be specified in the notice, why the notification should not be published and until the cause, if any, is shown and any evidence that may have been produced in support of the same before the Appellate Committee and the opinion of the Appellate Committee thereon have been considered by the <sup>67</sup>[State] Government.

(2) Any land in respect of which a notification has been published under sub-section (1) shall be deemed to be a vested forest for the purposes of this Act.

(3) When all expenses incurred by the <sup>68</sup>[State] Government for the afforestation of any such land have been recouped, the profits resulting from such afforestation shall, during the period the control of such land remains vested in a Regional Forest Officer, be divided in equal shares between the [State] Government and the owner of the land.

12. Appointment of rents of forests held under a lease jointly with other lands and the division of the tenure holding comprising a forest. — (1) Notwithstanding anything contained in any other law for the time being in force, where a private forest or any waste-land is at the date of publication of a notification vesting control thereof in a Regional Forest Officer under sub-section (2) of Sec. 6 or under Sec. 7 under

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<sup>65</sup> Subs. by A.L.O. 1950, for the word "Provincial".

<sup>66</sup> Subs. by A.L.O. 1950, for the word "Provincial".

<sup>67</sup> Subs. by A.L.O. 1950, for the word "Provincial".

<sup>68</sup> Subs. by A.L.O. 1950, for the word "Provincial".

<sup>69</sup> Subs. by A.L.O. 1950, for the word "Provincial".



Sec. 11, as the case may be,—

- (a) held under a lease granted by the owner of such forest or land before the date of publication of such notification, and such lease comprises not only the areas included in such forest or land but also other areas, or
- (b) held by the owner of such forest or land as part of a tenure or holding jointly with other lands, the Collector of the district may, on application made in this behalf by such Regional Forest Officer,—
  - (i) in the case referred to in Cl.(a). by an order in writing, apportion, subject to rules made under this Act, the rent payable under the lease between the areas included within the vested forest and other areas comprised within the lease on the basis of their respective assets, and
  - (ii) in the case referred to in Cl.(b). by an order in writing direct the division of such tenure or holding in such manner that a separate tenure or holding is formed with the lands included within the vested forest and also direct such distribution of the rent payable in respect of such tenure or holding between the two separate tenures or holdings so formed as he deems fair and equitable:

Provided that no order shall be passed under this sub-section without giving, in the case of an order passed under Cl.(i) the lessor and the lessee of such forest or land, and in the case of an order passed under Cl.(ii), the owner of such forest or land and the landlord or landlords, or their common agent, if any, of the tenure or holding, a reasonable opportunity of being heard.

- (2) An appeal shall lie from every order passed under sub-section(1) to the Commissioner of the Division if it is presented within thirty days from the date of such order and

the decision of the Commissioner on such appeal shall be final and shall not be questioned in any Court.

*Explanation*—In this section, “lease”, “lessor” and “lessee” have the same meanings as in the Transfer of Property Act, 1882 (4 to 1882), and “tenure” and “holding” have the same meanings as in the Bengal Tenancy Act, 1884 (8 of 1885).

13. Rent to be a charge on the lease-hold interest in a vested forest.—Where a private forest or waste-land of which the control has been vested in a Regional Forest Officer by a notification under sub-section(2) of Sec. 6 or under Sec. 7 or under Sec. 11 is, at the date of publication of such notification, held either exclusively or jointly with other property under a lease granted by the owner of such forest or land before such date, the rent payable under the lease or under an order of appointment made under Cl.(i). of sub-section(1) of Sec. 12 in respect of such forest or land during the period such forest or land remains so vested in the Regional Forest Officer shall, subject to the prior payment of the land-revenue, if any, due to the Governor thereupon, be a first charge upon the leasehold interest in such forest created by such lease.
14. Power to order a vested forest to be formed into a separate estate.— The <sup>70</sup>[State] Government may, if it thinks it expedient, direct the Collector to partition off that part of an estate which comprises a vested forest into a separate estate; and the demand in respect of land-revenue and cess for which the original estate was liable shall on such partition be assessed upon and divided between the two separate estates so formed respectively in such manner as the <sup>1</sup>[State]

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<sup>70</sup>Subs. by A.L.O. 1950, for the word “Provincial”.

Government may direct.

15. Power to exempt an estate of which a vested forest forms part from sale for arrears of revenue.— The <sup>1</sup>[State] Government may, if it so considers expedient, by a notification, exempt any estate, and subject to the provisions of Sec. 14 of the Bengal Land Revenue Sales Act, 1859 (11 of 1859), every share or part of an estate for which a separate account has been opened under Sec. 10, or Sec. 11 of the said Act, or under Sec. 70 of the Land Registration Act, 1876 (Bengal Act, 7 of 1876), of which a vested forest forms part, from sale for arrears of Government revenue accruing during the period the control of such forest remains vested in a Regional Forest Officer under sub-section(2) of Sec. 6 or under Sec. 7 or during such part of such period as may be specified in such notification.

Provided that where any such estate, share or part is so exempted, all such arrears of revenue shall be the first charge upon the sale proceeds of such estate, share or part which may be sold otherwise than for such arrears of revenue.

16. Determination of cost of management of vested forest and distribution of net profit.—(1) The cost of any extra staff required for the management of a vested forest in each year shall be determined in the prescribed manner by the Regional Forest Officer and shall be recovered by him in that year, or in subsequent years, from the sale of the forest produce of such forest.
  - (2) The cost of the operations of any Forest Settlement Officer and such part of the cost of Regional Forest Officer and of his staff as is proportionate to the work done by them in connection with the management of a

vested forest shall be included in the cost of management.

- (3) Any amount due in respect of a loan made under Sec. 8 to the owner of a vested forest shall be included in the cost of management of such forest.
- (4) Any amount paid as compensation by the Regional Forest Officer under sub-section (6) of Sec. 10 out of the profits of a vested forest or paid as compensation by the Regional Forest Officer under sub-section (2) of Sec. 25, and to be recouped under that sub-section from the profit of a vested forest shall be included in the cost of management of such forest.
- (5) Until otherwise determined by a competent Court, the respective shares of the owners of a vested forest shall be determined by a Forest Settlement Officer in the prescribed manner, and thereafter, the net profit in respect of such forest, which shall be calculated in the prescribed manner, shall be distributed among the various owners thereof in proportion to their respective shares as so determined.
- (6) In each year the Regional Forest Officer shall record in the statement the cost of management with which each vested forest shall be charged and any amount which shall be paid in respect of the net profits calculated under sub-section (5) and shall cause a copy of such settlement to be served in the prescribed manner on the owner of such forest.

17. Imposition of cess.—(1) The <sup>71</sup>[State] Government may

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<sup>71</sup>Subs. by A.L.O. 1950, for the word “Provincial”.

impose in the prescribed manner on an acreage basis a cess on all private forests within a notified area with effect from such date, not being before the expiry of ten years from the date of publication of a notification under Sec. 3, as the said Government may appoint.

- (2) Such cess shall be so calculated as to yield a sum not greater than that which is sufficient to meet the cost of the Regional Forest Officer and his staff, including any expenses incurred in connection with their work to be determined in the prescribed manner.
- (3) If the Regional Forest Officer or his staff does any work in connection with a Government forest, a proportionate deduction shall be made from the cost of such Regional Forest Officer and of his staff before the cess is calculated under sub-section(2).
- (4) Every cess imposed under sub-section (1) shall be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913 (Bengal Act 3 of 1913).
- (5) The <sup>1</sup>[State] Government may, by general or special order exempt any private forest in a notified area from the payment of any cess imposed under sub-section(1) or of any portion of such cess for such period as may be specified in such order.

18. Release of vested forest to the owner.—(1) If the owner of a vested forest satisfies the Appellate Committee—

- (a) at any time after the expiry of fifteen years from the date of the notification by which the control of such forest has been vested in a Regional Forest Officer that—
  - (i) the control of such forest may be restored to him

without undue risk of detriment to its conservation, and

- (ii) the cost of its management as determined under the provisions of sub-section(1) of Sec. 16 has been recovered in full, or
- (b) at any time after the expiry of thirty years from the date of such notification, that the cost of management of such forest as determined under the provisions of that sub-section has been recovered, The Appellate Committee shall by order direct that with effect from a date, to be specified in such order, the control of such forest shall cease to be vested in the Regional Forest Officer.

Provided that no such order shall be made in the case of any forest, whether any working plan in respect of such forest has been previously approved under Sec. 4 or not, until—

- (a) the Appellate Committee has by an order called upon the owner of such forest to prepare in the prescribed manner and to submit within such period as may be specified in such order to the Regional Forest Officer a working plan in respect of such forest, and
- (b) a working plan has been approved in respect of such forest in accordance with the provisions referred to in sub-section(2) :

Provided further that no such order shall be passed regarding a forest in respect of which there subsists an order passed under sub-section (1) of Sec. 9 unless the owners of all the forests, in respect of which the order under the said sub-section was passed, have satisfied the Appellate Committee that there will be no undue risk of detriment to the

conservation of any of such forests if the control of the said forest ceases to be vested in the Regional Forest Officer.

- (2) When the owner of a forest has been required under the first proviso to sub-section(1) to prepare and submit a working plan in respect of such forest, the provisions of Secs. 3 and 4 shall apply to such working plan as if such owner has been required to prepare such working plan under sub-section(1) of Sec. 3.
- (3) The fact that the control of any forest has ceased to be vested in a Regional Forest Officer shall not operate to revive any right which may have been extinguished or modified by a proclamation under Sec. 28.

### CHAPTER III

#### **Rights in Forests**

19. Control and demarcation of vested forest.—When a notification has been published in respect of any forest under sub-section(2) of Sec. 6 or under Sec. 7 or under Sec. 11, the control of such forest shall be vested in the Regional Forest Officer, who shall forthwith proceed to demarcate it.
20. Appointment of Forest Settlement Officer.—(1) A Forest Settlement Officer shall be appointed by the [State] Government in respect of every forest of which the control is vested in a Regional Forest Officer by notification under sub-section (2) of Sec. 6 or under Sec. 7 or under Sec. 11 and may be appointed in respect of any controlled forest on the application made in this behalf to the<sup>72</sup>[State] Government by its owner.
  - (2) Such appointment shall be made by a notification specifying in such notification, as nearly as may be

possible, the situation and limits of such forest.

21. Bar of accrual of rights.—After the issue of a notification under Sec. 20, no right shall be acquired in or over the land comprised in such notification, except by succession or under grant or contract in writing made or entered into, with the previous sanction of the <sup>1</sup>[State] Government, by or on behalf of the owner or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose, and cutting, conversion or removal of timber or the collection, manufacture or removal or other forest produce, shall be made in such land except in accordance with such rules, if any, as may be made by the <sup>1</sup>[State] Government in this behalf.
22. Proclamation by Forest Settlement Officer.—(1) The Forest Settlement Officer shall publish in the neighbourhood of the forest in respect of which he has been appointed, a proclamation in Bengali and, if any other language has been prescribed in this behalf for the local area in which such forest is situated, also in such other language—
  - (a) specifying, as nearly as possible, the situation and limits of such forest.
  - (b) explaining the measures proposed for, and the consequences which will ensue on, the conservation of such forest; and
  - (c) requiring every person who claims any right, other than a right of ownership, over such forest or over any forest produce from such forest, to give to such Forest Settlement Officer, within a period of not less three months to be stated in the proclamation, particulars,



either in writing or by word of month, of such right and the amount and nature of the compensation, if any, claimed in respect thereof.

- (2) The Forest Settlement Officer shall take down in writing all statements made by word of mouth under Cl.(c) if sub-section (1).
23. Inquiry by Forest Settlement Officer.—(1) The Forest Settlement Officer shall at some convenient place inquire into the existence of any rights which are claimed under Cl.(c) of sub-section(1) of Sec. 22 or which may be ascertained by him from any other source.
- (2) The Forest Settlement Officer shall give a hearing to the Regional Forest Officer or an officer authorised by such Regional Forest Officer in writing, in this behalf, to satisfy himself as to the necessity of modifying or extinguishing any right in the interests of the conservation of the forest.
24. Powers of Forest Settlement Officer.—For the purpose of such inquiry, the Forest Settlement officer may exercise the following powers, that is to say—
- (a) powers to enter, by himself or by any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same, and
  - (b) the powers of a Civil Court in the trial of suits.
25. Specification and modification of rights.—(1) After completion of the inquiry under Sec. 23, the Forest Settlement Officer shall, by an order in writing—
- (a) record the nature of the rights existing at the time of the notification under Sec. 20, and
  - (b) direct the modification or extinction of any such right,

<sup>72</sup>Subs. by A.L.O. 1950, for the word “Provincial”.

other than a right of ownership, in the interests of the conservation of the forests.

- (2) When the Forest Settlement Officer directs under Cl.(b) of sub-section(1) the modification or extinction of any right, he shall, unless the person whose rights are affected has come to an agreement as to the amount of compensation payable to him, determine what compensation shall be awarded to such person, and the amount of any compensation payable under this sub-section to any such person shall be paid in the prescribed manner, in the case where the forest to which such right relates is a controlled forest, by the owners of such forest, and in the case where such forest is a vested forest, by the Regional Forest Officer in whom the control of such forest is vested under this Act and every payment so made by the Regional Forest Officer shall be recouped from the profits of the vested forest to which such right relates as part of the cost of management of such forest.

26. Appeals.—(1) An appeal may be prescribed against any order made under Sec. 25 within ninety days from the date of such order to the Commissioner of the Division by an owner of a forest or by a Regional Forest Officer or by any person who has given particulars of his claims under sub-section (1) of Sec. 22.

- (2) Every such appeal shall be made by a petition in writing and shall be heard in accordance with the procedure for the time being applicable to the hearing of appeals in matters relating to land-revenue.
- (3) The order of the Commissioner on such appeal shall, subject to the provisions of sub-section (4), be final,

- (4) An application for revision shall lie to the Board of Revenue from an order of the Commissioner passed in appeal under this section if it is presented within thirty days from the date of such order.
27. Pleaders.— The <sup>73</sup>[State] Government, or any person who has made a claim under this Act, may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement Officer, or any appellate or revisional authority in the course of any inquiry, appeal or revision under this Act or before any arbitrator appointed to determine any compensation payable under sub-section(5) of Sec. 10.
28. Extinction of rights.—(1) When the time within which appeals against orders under Sec. 25 may be made has expired and, when any such appeal has been made under Sec. 26, the time within which applications for revision of any order passed in such appeal may be made has also expired and all applications for revision under sub-section (4) of Sec. 26 have been disposed of, the Forest Settlement Officer shall issue another proclamation specifying the rights which may be exercised in respect of the forest regarding which any such order under Sec. 25 has been made and also specifying the date with effect from which all rights in respect of such forest which are not specified in such proclamation shall be extinguished.
- (2) A translation of such proclamation in Bengali and, if any other language has been prescribed in this behalf for the local area in which such forest is situated, also in such other language shall be published in the neighbourhood of such forest before the date so

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<sup>73</sup> Subs. by A.L.O. 1950, for the word “Provincial”.

- specified in such proclamation.
- (3) With effect from the date so specified in such proclamation all rights in respect of such forest not specified in such proclamations shall be extinguished.

#### CHAPTER IV

##### **Penalties and Procedure**

29. Penalties for breach of rules.—(1) Any person who,—
- (a) fells, girdles, lops, taps, or burns any tree in a controlled or vested forest or strips off the bark or leaves from or otherwise damages, any such tree.
  - (b) quarries any stone, or burns any lime or charcoal, or collects, subject to any manufacturing process, or removes any forest produce from a controlled or vested forest,
  - (c) breaks up or clears for cultivation or any other purpose any land in a controlled or vested forest,
  - (d) sets fire to a controlled or vested forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any portion of such forest, or
  - (e) permits cattle to damage any tree in a controlled or vested forest, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupee, or with both.
- (2) Any person contravening any rule made under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

30. Imposition of collective fine on the inhabitants in certain cases.—(1) If it is provided to the satisfaction of the District Magistrate that in any vested forest—
- (a) any cattle have been permitted to trespass,
  - (b) any trees have been felled, girdled, lopped, tapped, burnt, or otherwise damaged,
  - (c) any other forest produce has been burnt or removed, or
  - (d) any land has been broken up for any purpose, otherwise than in the exercise of any right in or over such forest with intent to cause detriment to the conservation of such forest, and the District Magistrate is satisfied after enquiry that the inhabitants of any local area are concerned in the commission of any such offences or are in any way assisting persons in committing such offences, the District Magistrate may, by order in writing in which shall be specified the reasons for making such order, impose on the inhabitants of such area a collective fine which may extend to five hundred rupees or three times the value estimated by him of any forest produce damaged, whichever is greater, and may, after such further enquiry, as he deems necessary, apportion such fine amongst such inhabitants and such apportionment shall be made according to the respective means of such inhabitants.
- (2) Every order imposing a collective fine under subsection (1) shall be forthwith published in the local area in such manner as the District Magistrate considers best calculated to bring the order to the notice of the

- inhabitants of the area concerned.
- (3) The District Magistrate may exempt any person or class or section of such habitants from liability to pay any portion of such fine.
  - (4) The portion of such fine payable by any person may be recovered from him as a fine or as a public demand under the Bengal Public Demands Recovery Act, 1913 (Bengal Act 3 of 1913).
  - (5) Every apportionment of collective fine made under sub-section (1) shall be subject to revision by the Commissioner of the Division on application made in that behalf to him by any person affected by such apportionment within thirty days from the date on which such apportionment is made and the decision of the Commissioner thereon shall be final.
31. Nothing in sub-section (1) Sec. 29 to prohibit acts done in certain cases.—No act shall be an offence for the purpose of sub-section (1) of Sec. 29 if it is done—
- (a) in the exercise of any right in or over such forest,
- or
- (b) in respect of a vested forest, with the permission in writing of a Forest Officer, or
  - (c) in respect of a controlled forest, with the permission in writing of the owner thereof or of his authorised agent, or
  - (d) in accordance with rules made under this Act.
32. Seizure of property liable to confiscation.—(1) When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce together with all tools, boats, motor vehicles, carts or cattle used in

committing any such offence may be seized by any Forest Officer or Police Officer.

(2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made :

Provided that, when the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

33. Power to release property seized under Sec. 32.—Any Forest Officer of a rank not inferior to that of a Ranger, or any Police Officer of a rank not inferior to that of a Sub-Inspector, who, or whose subordinate, has seized any tools, boats, motor vehicles, cars or cattle under Sec. 32, may release the same on the execution by the owner thereof of a bond for the production of the property so released if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.
34. Information to the Magistrate and procedure thereupon.—The Regional Forest Officer may cause information to be given to a Magistrate regarding any forest offence which he has reason to believe to have been committed in respect of any forest produce; and upon receipt of any such information, the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.
35. Notice to claimants of seized forest produce.—(1) If a

Regional Forest Officer has not caused information to be given to a Magistrate under Sec. 34 in respect of any forest produce seized under sub-section(1) of Sec. 32, he shall, if there is any doubt as to the person who is entitled to such produce, cause a notice to be published in such manner as may be prescribed containing a description of such produce and requiring any person who may claim the same to present a written statement of his claim to him within such period as may be specified in such notice.

- (2) If only one such statement of claim is presented in respect of any such forest produce, the Regional Forest Officer shall, after making such inquiry as he thinks fit and recording his reasons in writing, either reject the claim or deliver the produce to the claimant.
- (3) If more than one such statements of claim are presented, the Regional Forest Officer may, after making such inquiry as he thinks fit and after recording his reasons in writing either deliver the forest produce to such of the persons as he considers to be entitled thereto or refer the claimants to the Civil Court and retain such produce pending receipt of an order from the Civil Court for its disposal.
- (4) Any person whose claim has been rejected under this section may, within three months from the date of rejection of such claim, institute a suit to recover possession of the forest produce claimed by him; but no person shall be entitled to recover any compensation of costs against the <sup>75</sup>[State] Government, or against any Forest Officer on account of rejection of such claim, or on account of the detention or removal of any forest



produce, or the delivery thereof any other person under this section.

(5) No such forest produce shall be subject to any process of any Civil, Criminal or Revenue Court until it has been delivered, or a suit has been instituted as provided in this section.

36. Disposal of unclaimed forest produce.—If no statement of claim is presented in respect of any such forest produce after a notice has been published under sub-section(1) of Sec. 35, or a if a person whose claim has been rejected under that section omits to institute a suit under sub-section (4) thereof, the ownership of such forest produce shall vest in the <sup>74</sup>[State] Government free from all encumbrances, or, when such forest produce has been delivered to any person under sub-section (3) of that section, in such person free from all encumbrances not created by such person.

37. Disposal of seized property after information has been given under Sec. 34.—(1) Any forest produce in respect of which a forest offence has been committed and information has been given to a Magistrate under Sec. 34 shall, on the conclusion of the trial for such offence, be made over to the owner of the forest from which it was delivered or to any other person whom the Magistrate deems to be entitled to the same:

Provided that, if it is not known from which forest such produce was derived, such forest produce and all tools, boats, motor vehicles, carts and cattle used in committing such forest offence shall be liable to confiscation.

(2) Such confiscation may be in addition to any other punishment which may be awarded under this Act for such offence.

38. Disposal of confiscated property on conclusion of trial.—When the trial of any forest offence is concluded, any forest produce in respect of which such offence has been committed shall, if it has been confiscated, be taken charge of by a Forest Officer.
39. Procedure when offender cannot be found.—When the offender cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Regional Forest Officer, or to be made over to the person whom the Magistrate deems to be entitled to the same:
- Provided that no such order shall be made until the expiry of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.
40. Procedure as to perishable property seized under Sec. 32.—The Magistrate may, notwithstanding anything hereinafter contained, direct the sale of any property seized under Sec. 32 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.
41. Appeal from orders under Sec. 37 or Sec. 39.—The officer who made the seizure under Sec. 32 or any of his official superiors, or any person claiming to be interested in the

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<sup>74</sup>Subs. by A.L.O. 1950, for the word “Provincial”.

<sup>75</sup>Subs. by A.L.O. 1950, for the word “Provincial”.

property so seized, may, within one month from the date of any order passed by the Magistrate under Sec. 37 or Sec. 39, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

42. Property when to vest in Government.—When an order for the confiscation of any property has been passed under Sec. 37 or Sec. 39, as the case may be, and the period limited by Sec. 41 for an appeal from such order has expired, and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the <sup>1</sup>[State] Government free from all encumbrances.
43. Saving of power to release property seized.— Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the <sup>1</sup>[State] Government from directing at any time the immediate release of any property seized under Sec. 32.
44. Punishment for wrongful seizure.—Any Forest Officer or Police Officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupee, or with both.
45. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.—Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian

Penal Code (Act XLV of 1860)—

- (a) knowingly counterfeits upon any timber or standing tree in a controlled or vested forest a mark used by Forest Officers to indicate that such timber or tree is property of the Government or of some person, or that it may lawfully be cut or removed by some person, or
  - (b) alters, defaces or obliterates any such mark placed on a tree or on timber in a controlled or vested forest by or under the authority of a Forest Officer, or
  - (c) alters, moves, destroys or defaces any boundary mark of any forest or wasteland to which the provisions of this Act apply or are applied, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.
46. Power to arrest without warrant.—(1) Any forest Officer or Police Officer may without orders from Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been connected in any forest offence punishable with imprisonment for one month or upwards under this Act.
- (2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Act as to release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case or to the officer-in-charge of the nearest police station.
47. Power to release on a bond a person arrested.—Any Forest Officer of a rank not inferior to that of a Ranger, who or whose subordinate, has arrested any person under the

provisions of Sec. 46, may release such person on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case or before the officer-in-charge of the nearest police station.

48. Power to prevent commission of offence.—Every Forest Officer and Police Officer shall prevent, and may interfere for the purpose of preventing the commission of any forest offence.
49. Power to try offence summarily.—The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the <sup>76</sup> [State] Government may try summarily, under the Code of Criminal Procedure, 1898 (Act 5 of 1898)<sup>77</sup>, any forest offence punishable with imprisonment for a term not exceeding six months, or with fine not exceeding five hundred rupee, or with both.
50. Power of Court to order payment or reward out of fine.—Whenever a Court imposes a fine under this Act or confirms in appeal under this Act a sentence of fine or a sentence of which fine forms a part, for a forest offence other than an offence specified in sub-section(1) of Sec. 6 or Sec. 44, the Court may, when passing judgment, order any portion of the fine recovered to be paid to the person whose information led to the detection of the offence.
51. Power to compound offence.—(1) The <sup>79</sup> [State] Government may, by notification empower a Forest Officer—
  - (a) to accept from any person against whom reasonable suspicion exists that he has committed any forest offence, other than an offence specified in sub-section(1) of Sec. 6, Sec. 44 or Sec. 45, a sum of money, not exceeding fifty rupees, by way of compensation for the offence which such

- person is suspected to have committed; and
- (b) when any property of such person has been seized, to release the same.
- (2) On the payment of such sum of money to such officer, the suspected person, if in custody, shall be discharged, the property, if any, of such person seized shall be released, and no further proceedings shall be taken against such person or property.
- (3) If the forest offence has been committed in respect of a controlled forest, the amount of any compensation paid to a Forest Officer empowered under sub-section(1) to accept such compensation, or such part of such amount as the Forest Officer deems equitable in the circumstances, may, at the discretion of the Forest Officer, be paid to the owner of the controlled forest; but the amount of any compensation not so paid to the owner of a controlled forest and the amount of any compensation paid to such a Forest Officer if the forest offence has been committed in respect of a vested forest shall be paid into the revenue of the <sup>1</sup>[State].
- (4) A Forest Officer shall not be empowered under this section unless he is a Forest Officer of a rank not inferior to that of a Ranger.
52. Onus of proof.—Notwithstanding anything contained in any other Act, when in any area in respect of which the <sup>1</sup>[State] Government has made rules under Cl.(b) of sub-section (2) of Sec. 41 of the Indian Forest Act, 1927 (16 of 1927), any

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<sup>76</sup> Subs. by A.L.O. 1950 for the word “Provincial”.

<sup>77</sup> See now the Criminal Procedure Code, 1973 (20 of 1974)

<sup>78</sup> Subs. by A.L.O. 1950 for the word “Provincial”.

person is found to be moving forest produce without a pass from an officer duly authorised to issue the same, the burden of proof that such person has not committed an offence under this Act in respect of such forest produce shall lie on him.

## CHAPTER V

### **Regional Forest Officers**

53. State Government may invest Regional Forest Officers with certain powers.—(1) The <sup>1</sup>[State] Government may invest any Regional Forest Officer with all or any of the following powers that is to say—
- (a) power to enter upon any land, or to authorise any officer to enter thereon with servants and workmen, and to survey, demarcate and make a map of the same,
  - (b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects,
  - (c) power to issue a search-warrant under the Code of Criminal Procedure, 1898 (Act of 1898)<sup>79</sup>
  - (d) power to hold an enquiry into forest offences, and, in the course of such enquiry, to receive and record evidence.
- (2) Any evidence recorded under Cl.(d) of sub-section(1) shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.
54. Power of officers.—It shall be lawful for any officer authorised either generally or specially in this behalf by the Regional Forest Officer to enter with his subordinates and

servants and workmen at any time upon any part of a controlled forest for the purpose of ascertaining whether there has been any violation of an approved working plan and to do any other acts which are in his opinion necessary for carrying out the purposes of this Act.

55. Forest Officers deemed public servants.—All Forest Officers shall be deemed to be public servants within the meaning of Sec. 21 of the Indian Penal Code (Act 45 of 1860).
56. Indemnity for acts done in good faith.—No suit shall lie against any public servant for anything done by him in good faith under this Act.

## CHAPTER VI

### Rules

57. Power to make rules.—The [State] Government may make rule for carrying out the purposes of this Act.
  - (2) In particular and without prejudice to the generality of the foregoing power, the <sup>80</sup>[State] Government may make rules to provide for all or any of the following matters, namely—
    - (a) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest produce from controlled or vested forests in notified areas;
    - (b) the granting of licences to the inhabitants of towns and villages in the vicinity of controlled or vested forest to take trees, timber or other forest produce for their own use, and the production and return of

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<sup>79</sup> See now the Criminal Procedure Code, 1973 (20 of 1974)

<sup>80</sup> Subs. by A.L.O. 1950 for the word “Provincial”.



- such licences by such persons;
- (c) the granting of licences to persons for selling or removing trees or timber or other forest produce from controlled or vested forest for the purposes of trade, and the production and return to such licences by such persons;
  - (d) the payments, if any, to be made by the persons mentioned in Cls.(b) and (c) for permission to cut such trees, or to collect and remove such timber or other forest produce;
  - (e) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payment shall be made;
  - (f) the examination of forest produce passing out of controlled or vested forests in notified areas;
  - (g) the clearing and breaking up of land for cultivation or other purposes in controlled or vested forest in notified areas;
  - (h) the protection from fire of timber lying in controlled or vested forests in notified areas;
  - (i) the cutting of grass and pasturing of cattle in controlled or vested forests in notified areas;
  - (j) hunting, shooting, fishing, poisoning water and setting traps or snares in controlled or vested forests, and the killing or catching of elephants in such forests in areas in which the Elephants' Preservation Act, 1879 (6 of 1879), is not in force;
  - (k) the powers and duties of Forest Officers under this Act;
  - (l) the procedure of an Appellate Committee referred to in Cl.(1) of Sec. 2 and the manner in which an

owner of a private forest shall be selected as a member of such Appellate Committee;

- (m) the procedure of a Board appointed to perform the function of a Forest Settlement Officer referred to in Cl.(9) of Sec. 2;
- (n) the manner in which the working plan referred to in sub-section(1) of Sec. 3 shall be prepared, the consultation referred to in sub-section(2) and (3) of that section shall be made and the copy of the order referred to in sub-section (4) of the section shall be served;
- (o) the manner in which the approved working plan shall be sent under sub-section(2) of Sec. 4 and the consultation referred to in sub-section(3) of that section shall be made;
- (p) the grant of loans referred to in sub-section(1) of Sec. 8, the manner of making applications for such loans under sub-section (2) of that section, the manner in which such applications shall be considered and the recovery of such loans and the interest and costs in respect thereof under sub-section(4) of that section;
- (q) the manner in which the consultation referred to in sub-section (1) and (2) of Sec. 9 shall be made and copies of the orders passed under the said sub-sections shall be served;
- (r) the manner in which the copy of a notification issued under sub-section(1) of Sec. 10 shall be served under sub-section (2) of that section, the determination by the Forest Settlement Officer of the matters specified in Cl.(c) of sub-section(4) of

the section, the determination of compensation referred to in sub-section(5) of that section, the maximum amount of an award against which no appeal shall lie under Cl.(v) of that sub-section the manner of payment of compensation under sub-section (6) of that section, and the manner in which the consultation referred to in sub-section (9) of that section shall be made, a copy of the order referred to in that sub-section shall be served and the working plan referred to in that sub-section shall be prepared;

- (s) the appointment of rent referred to in Cl.(i) of Sec. (1) of Sec. 12;
- (t) the manner in which the cost of management referred to in sub-section (1) of Sec. 16 and the respective shares of the owners of a vested forest and the net profits in respect of such forest referred to in sub-section (5) of that section shall be determined or calculated and the copy of the statement referred to in sub-section (6) of that section shall be served;
- (u) the manner in which the cess referred to in sub-section (1) of Sec. 17 may be imposed and the costs and expenses referred to in sub-section (2) of that section shall be determined;
- (v) the manner in which the working plan referred to in Cl.(a) of the first proviso to sub-section(1) of Sec. 18 shall be prepared;
- (w) the clearing of land for cultivation or for any other purpose and the cutting, conversion and the removal of timber and the collection, manufacture

and removal of the forest produce referred to in Sec. 21;

- (x) the language other than Bengali referred to in sub-section (1) of Sec. 22 and in sub-section (2) of Sec. 28;
  - (y) the manner in which the compensation referred to in sub-section (2) of Sec. 25 shall be paid;
  - (z) the manner in which the notice referred to in sub-section (1) of Sec. 35 shall be published;
  - (zz) the manner in which the forest produce referred to in sub-section (3) of Sec. 60 shall be sold; and
  - (zzz) the manner of service of notices issued under this Act.
- (3) In making any rule under this section the <sup>81</sup>[State] Government may provide that a contravention thereof shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

58. Application of rules made under Sec. 41 and 42 of the Indian Forest Act, 1927 to transit of forest produce from private forests.—All rules made by the <sup>1</sup>[State] Government to regulate the transit of timber and other forest produce under Secs. 41 and 42 of the Indian Forest, 1927 (16 of 1927), for the time being in force, shall apply so far as may be to the transit of all timber and other forest produce from any private forest to which any of the provisions of this Act apply.

## CHAPTER VII

### Miscellaneous

59. Conservation of forest or afforestation of land at the request of owners.—Notwithstanding anything elsewhere contained

in this Act, the <sup>1</sup>[State] Government may on application made in this behalf in writing by the owner of any private forest or of any waste-land referred to in sub-section(1) of Sec. 11 or, if there be more than one owner thereof, by the owners of shares therein amounting in the aggregate to at least one-half thereof, to the Collector of the district in which such forest or land is situated, by a notification, make the provisions of this Act applicable to vested forests, subject to such restrictions or conditions as may have been determined by an agreement between the said Collector and such person or persons, to such forest or land and thereupon such forest or land shall be managed on behalf of such owner or owners as a vested forest in accordance with such provisions by a Regional Forest Officer specified in this behalf by the <sup>1</sup>[State] Government.

60. Recovery of money due to Regional Forest Officer and lien on forest produce for such money.—(1) All money payable to a Regional Forest Officer under this Act or under any rule made under this Act other than money payable in respect of the cost of management of a vested forest, and all money payable to such officer on account of the price of any forest produce or on account of expenses incurred in the execution of this Act in respect of such produce shall, if not paid when due, be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913 (Bengal Act 3 of 1913).
- (2) When any such money is payable for or in respect of any forest produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Regional Forest Officer until such amount has been paid.

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<sup>81</sup> Subs. by A.L.O. 1950 for the word "Provincial".

- (3) If such amount is not paid when due, the Regional Forest Officer may sell such produce in the prescribed manner, and after payment of the costs of the sale the proceeds thereof shall be applied first in discharging such amount.
  - (4) The surplus, if any, if not claimed within one year from the date of the sale by the person entitled thereto, shall be forfeited to the<sup>82</sup> [Government].
61. Land required under this Act to be deemed to be needed for public purpose under the Land Acquisition Act, 1894.—Whenever it appears to the<sup>83</sup> [State] Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of Sec. 4 of Land Acquisition Act, 1894 (1 of 1894).
62. Powers of the Regional Forest Officer.—Subject to the provisions of this Act and to any rules made thereunder, every Regional Forest Officer—
- (a) may do all such things requisite for the proper management of the forest the control of which has been vested in him under this Act as the owner of such forest might do for its management, and
  - (b) shall in the exercise of his powers and in the performance of his duties in relation to such forest be guided by such orders and instructions as may, from time to time, be issued in this behalf by the<sup>1</sup>[State] Government.
63. Repeal and Saving.—(1) Sections 35, 36, 37 and 38 of the Indian Forest Act, 1927 (16 of 1927), in their application to West Bengal are hereby repealed.
- (2) Such repeal shall not affect anything done or suffered or

any obligation or liability accrued or any penalty incurred or any proceedings commenced before the commencement of this Act.

- (3) Any private forest or waste-land held under the control of a Forest Officer under Sec. 36 of the Indian Forest Act, 1927, immediately before the commencement of this Act shall, on such commencement, notwithstanding the repeal the of the said section, continue to be so held under the control of a Regional Forest Officer under the provisions of this Act applicable to a vested forest and shall be deemed to be a vested forest for the purposes of this Act.
- (4) All lands which immediately before the commencement of this Act were being managed as a reserved or a protected forest under the provisions of Sec. 37 of the Indian Forest Act, 1927, shall, on such commencement, notwithstanding the repeal of the said section, continue to be managed under the provision of Sec. 59 of this Act as a vested forest subject to such terms as may have been mutually agreed upon between the owner or owners of such lands and the Collector, and the application made under sub-section (1) of the said Sec. 38 by the owner or owners of any such land shall be deemed to be an application made under the said Sec. 59.

64. Repeal of Bengal Act, (11 of 1945).—The Bengal Private Forests Act, 1945 (Bengal Act 11 of 1945), is hereby repealed.

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<sup>82</sup> Subs. by A.L.O., for the word “Crown”.

<sup>83</sup> Subs. by A.L.O., 1950 for the word “Provincial”.

## 16. The West Bengal Estates Acquisition Act, 1953<sup>84</sup>

[ 12 February 1954

( WEST BENGAL ACT I OF 1954 )

*An Act to provide for the State acquisition of estates, of rights of intermediaries therein and of certain rights of raiyats and under-raiyats [and of the rights of certain other persons in lands comprised in estates]..*

It is hereby enacted as follows :

### CHAPTER I

#### Preliminary

##### S. 1. Short title and extent.

- (1) This Act may be called the West Bengal Estates Acquisitions Act 1953.
- (2) It extends to the whole of West Bengal except the areas described in Schedule I of the Calcutta Municipal Act, 1951, as deemed to have been amended under section 594 of that Act.

##### S. 2. Definitions.

In this Act unless there is anything repugnant in the subject or context,—

- (a) “agricultural area” means the Bengali year commencing on the first day of *Baisakh* ;
- (b) “agricultural land” means land ordinarily use for purposes of agricultural or horticulture and includes such land, notwithstanding that it may be lying fallow for the time being;
- (c) “charitable purpose” includes the relief of the poor medical relief or the advancement of education or of any other object of general public utility;

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<sup>84</sup> For Statement of Objects and Reasons, see the Calcutta Gazette, Extraordinary, dated 5 May 1953.



- (d) “collector” means the collector of district or any other officer appointed by the State Government to discharge any of the functions of the collector under this Act;
- (f) “estate” or “tenure” includes part of an estate or part of a tenure;
- (g) “homestead” means a dwelling-house together with—any courtyard, compound, garden, out-house, place of worship, family graveyard, library, office, guest-house, tanks, wells, privies latrines, drains and boundary walls annexed to or appertaining to such to such dwelling-house;
- (h) “incumbrance” in relation to estates and rights of intermediaries therein does not include the rights of a *raiyat* or of an under *raiyat* or of a non-agricultural tenant by shall, except in the case of land allowed to be retained by an intermediary under the provisions of section 6, include all rights or interest or whatever nature, belonging to intermediaries or other persons, which relate to lands comprised in estates or to the produce thereof;
- (i) “intermediary” means a proprietor, tenure-holder, under-tenure-holder or any other intermediary above a *raiyat* or a non-agricultural tenant and includes a service tenure-holder and, in relation to mines and minerals, includes a lessee and a sub-lessee;
- (j) “non-agricultural land” means land other than agricultural land or other than land comprised in forest;
- (k) “non-agricultural tenant” means a tenant of non-agricultural land who holds under a proprietor, a tenure-holder a service tenure-holder or an under tenure-holder;
- (l) “notified area” means a district or part of a district in respect of which a notification has been duly published under section 4;

- (m) “prescribed” means prescribed by rules made under this Act;
- (n) “religious purpose” means a purpose connected with religious worship, teaching or service or any performance of religious rites;
- (o) “rent” means whatever is lawfully payable or deliverable in money or kind or both, by a tenant to his landlord, or account of the use or occupation of the land held by the tenant and include also money recoverable under any enactment for the time being in force as if its was rent;
- (p) expressions used in this Act and not otherwise defined have in relation to the areas to which the Bengal Tenancy Act, 1885, applies the same meaning as in that Act and in relation to other areas meaning as similar thereto as the existing law relating to land tenures applying to such areas, permits.

**S. 3. Act to override other laws, etc.**

The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law or in any contract express or implied or in any instrument and notwithstanding any usage or customs to the contrary :

Provided that nothing in this Act shall apply to any land held by a Corporation, not being a local authority or a company, establishment by or under any law for the time being in force :

Provided further that nothing in this Act shall affect any land and possession of which was taken by the State government before the date mentioned in the notification issued under section 4, in furtherance of any proposal for acquiring such land, whether any formal proceedings for such acquisition were started or not, and proceedings for acquisition of such land may be

continued or commenced as if this Act had not been passed.

## CHAPTER II

### **Acquisition to estates and of the rights of intermediaries therein**

- S. 4. **Notification vesting estates and rights of intermediaries.**
- (1) The State Government may from time to time by notification declare that with effect from the date mentioned in the notification, all estates and the rights of every intermediary in each such estate situated in any district or part of a district specified in the notification, shall vest in the State free from all incumbrances.
  - (2) The date mentioned in every such notification shall be the commencement of an agricultural year; and the notifications shall be issued so as to ensure that the whole area to which this Act extends, vests in the State on or before the 1<sup>st</sup> Day of *Baisakh* of the Bengali year 1362.
  - (3) Every such notification shall be published in the first instance, in at least two issues of each of two newspapers (one of which must be in the Bengali language) circulating in West Bengal and also by affixing at each police-stations and sub-registry office within the district or part of the district, specified in the notification and by beat of drums and in any other manner, if any, as may be prescribed.
  - (4) When the State Government is satisfied that the notification has been published in the instance as required under sub-section(2), it shall issue the notification in the *Official Gazette*.
  - (5) The publication of the notification in the *Official Gazette* shall be conclusive evidence that all requirements

relating to publication in the first instance as mentioned in sub-section(3) complied with and also of the due publication of the notification and of notice to all persons affected by the notification.

- (6) Notwithstanding anything contained in the foregoing sub-sections, and intermediary, may, at any time before the 15<sup>th</sup> day of February, 1955, apply to the State Government to have all his estates, tenures, under-tenures and other rights as intermediary, to be vested in the State and the State Government may, after considering the facts and circumstance of the case, if it thinks fit, make an order granting the application. Upon the order being made, all such estates, tenures, under-tenures and rights of the intermediary, shall vest in the State Government on and from the date of the order, free from all incumbrances (other than the rights of subordinate intermediaries, if any) and the provision of this Act, except the foregoing sub-sections and clauses(a) and (b) of section 5, shall, with necessary modifications apply as if, in relation to such estates, tenures, under-tenures and rights of the intermediary, reference to the publication of a notification under section 4 or to the date of vesting were reference to the order granting the application or to the date of such order, and references to the vesting under section 5 were reference to the vesting under this sub-section. The State Government shall have also power to make such other orders for giving effect to the provisions of this sub-section as it deems necessary.

**S. 5. Effect of notification.**

- (1) Upon the due publication of a notification under section 5, on and from the date of vesting.
- (a) the estates and the rights or intermediaries in the estates,

to which the declaration applies, shall vest in the State free from all incumbrance; in particular and without prejudice to the generality of the provisions of this clause, everyone of the following rights which may be owned by an intermediary shall vest in the State, name :

- (i) rights in sub-soil, including rights in mines and minerals,
  - (ii) right in *hats*, bazaars, ferries, fishers, tolls and other *sairati* interests;
- (aa) all lands in any estate comprised in a forest together with all rights to the trees therein or to the produce thereof and held by an intermediary or any other person,  
<sup>85</sup>[.....]
- (b) all grants of, and confirmation of titles to, estates and rights therein, to which the declaration applies and which were made in favour of intermediaries shall determine;
- I (subject to the provisions of sub-section(3) of section 6, every non-agricultural tenant holding any land) under an intermediary, and until the provisions of Chapter VI are given effect to, every *raiyyat* holding any land under an intermediary, shall hold the same directly under the State, as if the State had been the intermediary, and on the same t terms and conditions as immediately before the date of vesting :

Provided that if any non-agricultural tenant pays rent wholly in kind or partly in kind and partly in cash, then, notwithstanding anything contained in the foregoing clause, he shall pay such rent as a Revenue Officer specially empowered by the State Government in this behalf may determine in the prescribed manner and in accordance with the principle laid down in clause (ii) of section 42 :

Provided further that any person aggrieved by an

- order passed by the Revenue Officer determining rent under the first proviso may appeal to such authority and within such time as may be prescribed;
- (d) every non-agricultural tenant holding under an intermediary and until the provisions of Chapter VI are given effect to, every *raiyat* holding under an intermediary, shall be bound to pay to the State his rent and other dues in respect of his land, accruing on an from the date of vesting, and every payment made in contravention of this clause shall be void and of no effect.
- (2) For the removal of doubts it is hereby declared that notwithstanding anything to the contrary contained in any judgment, decree or order of any court of tribunal or any other law, all rights and interests in mines and minerals of all intermediaries, being lessees and sub-lessees in any notified area shall be deemed to have vested in the State with effect from the date of vesting mentioned in the notification under section 4 in respect of such notified area.
- <sup>86</sup>[(3)It is further declared that notwithstanding anything to the contrary contained in any judgement decree or order of any court of tribunal or in any other law, all lands in any estate comprised in a forest with all rights to the trees or to the produce thereof as mentioned in clause (aa) of sub-section(1) in any notified area shall be deemed to have vested in the State with effect from the date of vesting mentioned in the notification under section 4 in respect of that area.]

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<sup>85</sup> Omitted by W.B.E.A.(Am.) Act, 1977 (XXXVI) of 1977) dt. 05.05.1980.

<sup>86</sup> Added by *ibid.*

**S. 5A. Restriction on certain transfers.**

- (1) The State Government may after the date of vesting enquire into any case of transfer of any land by an intermediary made between the 5<sup>th</sup> Day of May, 1953 and the date of vesting, if in its opinion there are *prima facie* reasons for believing that such transfer was not *bona fide*.
- (2) If after such enquiry the State Government finds that such transfer was not *bona fide*, it shall make an order to that effect and thereupon the transfer shall stand cancelled as from the date on which it was made or purported to have been made :  
Provided that, subject to such cancellation, nothing in this sub-section shall be deemed to affect any rights which the transferor or the transferee may otherwise have against each other.
- (3) If after such enquiry the State Government finds that the transfer was *bona fide*, it shall make an order to that effect and thereupon the following consequences shall ensue, namely,
  - (i) the land shall, without prejudice to any rights which the transferor or the transferee may have against each other, be deemed to be the land of the transferee for the purpose of this Act;
  - (ii) if any such land or any part thereof is retained by the transferee under the provisions of this Chapter, such land or such part thereof may be taken into account in calculating the land which may be retained by the transferor under this Chapter as if such land or such part thereof had never been transferred and were retained by him.
- (4) The State Government may delegate all or may of its

powers under this section to such officers in its service as it may deem fit.

- (5) The procedure to be followed in such enquiry shall be such as may be prescribed :

Provided that—

- (i) no order shall be passed in an enquiry held under this section except after giving the transferor and the transferee an opportunity of being heard;
  - (ii) in conducting such enquiry the State Government and any officer to whom any powers have been delegated under sub-section(4), shall have all the powers of a civil court for the purposes of taking evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents and shall be deemed to be a civil court within the meaning of sections 480, 481 and 482 of the Code of Criminal Procedure, 1898 (V of 1898).
- (6) An appeal against any order passed by the State Government under section(2) or sub-section(3), or passed under any of those sub-sections as read with sub-section(4) by an officer to whom powers have been delegated under sub-section(4), if preferred within sixty days of such order or within sixty days from the date of appointment of the Special Judge whichever is later, shall lie to a Special Judge being a person who is or has been a District Judge or an Additional District Judge appointed by the State Government for the purpose of this section and such Special Judge shall dispose of the appeal according to the prescribed procedure.
- (7) In this section,—
- (i) a transfer shall be held to be not *bona fide* if it was made principally or partially with the object of increasing the



amount of land which a person may retain under this chapter or principally or partially with the object increasing the amount of compensation payable under Chapter III or Chapter IV;

- (ii) a transfer in favour of one or more of the following relatives of the transferor, that is to say—  
a wife, a husband, a child, a grandchild, a parent, a grandparent, a brother, a sister, a brother's son, a sister's son, daughter's husband, son's wife, a wife's brother or sister, or a brother's wife, made between the 5<sup>th</sup> day of May, 1953 and the date of vesting shall be presumed to be not *bona fide* until the contrary is proved :  
Provided that no such presumption shall be made in respect of transfer of land by an intermediary if the aggregate area of such land owned by the intermediary at any time between the 5<sup>th</sup> Day of May, 1953 and the date of transfer did not exceed twenty acres in extent in the case of non-agricultural land and twenty five acres in extend in the case of agricultural land;
- (iii) 'transfer' means a transfer by sale, mortgage, lease, exchange or gift;
- (iv) 'transferor' and 'transferee' include the successors in interest of a transferor or a transferee.

**S. 5B. Estate or tenure not liable to be sold under Act XI of 1859, Cooch Behar Act V of 1897, Bengal Regulation VIII of 1819 and Act VIII of 1885.**

On and from the 1<sup>st</sup> day of June, 1954, no estate tenure or under-tenure shall be liable to be sold under the Bengal Land Revenue Sales Act, 1859 (XI of 1859) or the Cooch Behar Revenue Sales Act, 1897 (Cooch Behar Act V of 1897) or the Bengal Patni Taluks Regulation, 1819 (Bengal Regulation VIII of 1819) or the Bengal Tenancy Act, 1885 (VIII of 1885) as the case may be, and any sale which took place on or after

that day under any of those Acts or that Regulation shall be deemed to have been void and of no effect :

Provided that where by reason of the foregoing provision to this section, any estate, tenure or under-tenure is not sold, or where such sale is void and of no effect, the arrears for which the estate, tenure or under-tenure would have been sold or were sold, shall, notwithstanding anything to the contrary in any other law, bear simple interest at the rate of ten *per centum per annum* from the date on which they become or became payable or from which the sale is deemed to have been void and if no effect, as the case may be, up to the date immediately preceding the date of vesting of such estate, tenure or under-tenure.

**S. 6. Right of intermediary to retain certain lands.**

(1) Notwithstanding anything contained in sections 4 and 5, an intermediary shall, except in the cases mentioned in the proviso to sub-section(2) but subject to the other provisions of that sub-section, be entitled to retain with effect from the date of vesting—

(a) land comprised in homesteads;

(b) land comprised in or appertaining to building and structures owned by the intermediary or by any person, no being a tenant holding under him by leave or licence;

*Explanation.*—For the purposes of this clause 'tenant' shall not include a *thika* tenant as defined in the Calcutta *Thika* Tenancy Act, 1949 (W.B. Act II of 1949).

(c) non-agricultural land in his *khas* possession including land held under him by any person, not being a tenant, by leave or licence, not exceeding fifteen acres in area, and excluding any land retained under clause (a) :

Provided that the total area of land retained by

an intermediary under clauses (a) and (c) shall not exceed twenty acres as may be chosen by him :

Provided further that if the land retained by an intermediary under clause (c) or any part thereof is not utilised for a period of five consecutive years from the date of vesting, for a gainful or productive purpose, the land or the part thereof may be resumed by the State Government subject to payment of compensation determined in accordance with the principles laid down in sections 23 and 24 of the Land Acquisition Act, 1894 (I of 1894);

- (d) agricultural land in his *khas* possession, not exceeding twenty five acres in area, as may be chosen by him :

Provided that in such portions of the district of Darjeeling as may be declared by notification by the State Government to be hilly portions, an intermediary shall be entitled to retain all agricultural land in his *khas* possession, or any part thereof as may be chosen by him;

- (e) tank fisheries;

*Explanation*—“Tank fishery” means a reservoir or place for the storage of water, whether formed naturally or by excavation or by construction of embankments, which is being use for pisciculture or for fishing, together with the sub-soil and the banks of such reservoir or place, except such portion of the banks as are included in a homestead or in a garden or orchard and includes any right of pisciculture or fishing in such reservoir or place;

- (f) subject to the provisions of sub-section(3), land comprised in tea gardens or orchards or land used for the purpose of livestock breeding, poultry farming or dairy;

- (g) subject to the provisions of sub-section(3), land comprised in mills, factories, or workshops;
- (h) where the intermediary is a local authority, land held by such authority, notwithstanding such land or any part thereof, may have been let out by such authority

Provided that where any land which has been let out by any local authority is retained by such authority under this clause, no person holding such land shall have any right of occupancy therein, and every such person shall be bounded to deliver possession of the land to the local authority when required by it for its purposes;

- (i) where the intermediary is a corporation or an institution established exclusively for a religious or a charitable purpose or both, or is a person holding under a trust or an endowment or other legal obligation exclusively for a purpose which is charitable or religious or both, land held in *khas* by such corporation or institution, or person, for such purpose including land held by any person, not being a tenant, by leave or licence of such corporation or institution or person :
- (j) where the intermediary is a cooperative society registered or deemed to have been registered under the Bengal Cooperative Societies Act, 1940, or a company incorporated under the Indian Companies Act, 1913, engaged exclusively in farming (and in business, if any connected directly with such farming)— agricultural land in the *khas* possession of the society or the company, not exceeding in area the number of acres which society or the company on the 1<sup>st</sup> day of January, 1952, and chosen by the persons, who were the members of the society or the

company on such date, would have been entitled to retain in the aggregate under clause (d), if every such person were an intermediary :

Provided that where any such person retains any land under clause (d), such person shall not be taken into account in calculating the aggregate area of the land which the society or the company may retain;

- (k) so much of requisitioned land as the intermediary would be entitled to retain after taking into consideration any other land which he may have retains under the other clauses;

*Exoplanation.*—'Requisitioned land' means any land which was in the *khas* possession of the intermediary and which was requisitioned by Government under the provisions of any law for the time being in force or was occupied by Government in pursuance of Rule 49 of the Defence of India Rules and continued to be subject to requisition or occupation on the date mentioned in the notification issued under section 4.

1. So much of land in the unauthorised occupation of refugees from East Bengal immediately before the date of vesting as an intermediary would be entitled to retain after taking into consideration any other land which he may have retained under the other clauses.

*Exoplanation*—Subject to the provisions contained in sub-section(3), nothing in this sub-section shall entitled an intermediary or any other person to retain any land comprised in a forest for any land comprised in any embankment as defined in the Bengal Embankment Act, 1882, the proper maintenance of which should, in the opinion of the State Government, be taken over by the State Government in the public interest.

2. An intermediary who is entitled to retain possession of any land under sub-section(1) shall be deemed to hold such land directly under the State from the date of vesting as a tenant, subject to such terms and conditions as may be prescribed and subject to payment of such rent as may be determined under the provisions of this Act and as entered in the record-of-rights finally published under Chapter V except that no rent shall be payable for land referred to in clause (h) or (I);

Provided that if any tank fishery or any land comprised in a tea-garden, orchard, mill, factory or workshop was held immediately before the date of vesting under a lease, such lease shall be deemed to have been given by State Government on the same terms and conditions as immediately before such date subject to such modification therein as the State Government may think fit to move.

3. In the case of land comprised in a tea garden, mill, factory or workshop the intermediary, or where the land is held under a lease, the lessee shall be entitled to retain only so much of such lands, in the opinion of the State Government, is required for the tea garden, mill, factory or workshop as the case may be, and a person holding under a lease shall, for the purpose of assessment of compensation, be deemed to be an intermediary :

Provided that the State Government may, if it thinks fit so to do after reviewing the circumstances of a case and after giving the intermediary or the lessee, as the case may be, and opportunity of being heard, revise any order made by it under this sub-section specifying the land which the intermediary or the lessee shall be entitled to retain as being required by him for the tea garden, mill, factory or workshop, as the case may be.

*Explanation.*—The expression “land held under a lease” includes any land held directly under the State under a lease.

*Explanation.*—In the case of land allowed to be retained by an intermediary or lessee in respect of a tea garden, such land may include any land comprised in a forest if, in the opinion of the State Government, the land comprised in a forest is required for the tea garden.

- (3A) Land which may be retained under clause (k) or clause (l) of sub-section (1) shall, if necessary, be demarcated in such manner as may be prescribed and shall be specified in an order made in this behalf by a Revenue Officer specially empowered for the purpose by the State Government.
- (3B) In executing any order for eviction of person in unauthorised occupation of land in pursuance of proceedings under the Rehabilitation of Displaced Persons and Eviction of Persons in Unauthorised Occupation of Land Act, 1951, possession shall be given to the intermediary of only so much of such land as he is entitled to retain under clause (l) of the sub-section (i) and possession of any land in excess thereof, shall be given to the Revenue Officer having jurisdiction over the area in which the land is situated.
- (3C) For the purpose of sub-section (3B) the officer or authority executing the order for eviction shall ascertain from the Revenue Officer referred to in sub-section (3A) particulars of the land possession of which may be given to the intermediary.
- (3D) Except as otherwise specifically provided in this Act or in the rules made thereunder, the provisions of the Bengal Tenancy Act, 1885 or the Cooch Behar Tenancy Act, 1910 shall not apply in the case of any land referred to in sub-section(2).

4. In the case of lands comprised in a forest or in any embankment referred to in the *Exception* to sub-section(1) and held by person other than an intermediary which vest in the State, such persons shall, for the purpose of assessment of compensation, be deemed to be an intermediary.
5. An intermediary shall exercise his choice for retention of land under sub-section(1) within such time and in such manner as may be prescribed. If no choice is exercised by him during the prescribed period, the Revenue Officer shall, after giving him an opportunity of being heard, allow him to retain so much of the lands as do not exceed the limits specified in clauses (c), (d) and (j) of that sub-section :

Provided that nothing in this sub-section shall require in intermediary to exercise the choice if he has already done so before the date of coming into force of the West Bengal Estates Acquisition (Second Amendment) Act, 1957.

**S. 7. Arrears of land revenue, cesses, taxes and impositions due from any intermediary.**

1. punt of such arrears from the money which such intermediary is entitled to receive as compensation under this Act :

[Provided that where the intermediary agrees in writing that the whole of the compensation money payable to him including the amount recovered by the State Government under the provisions of section 9, if any, may be adjusted against the arrears recoverable from the intermediary under this sub-section, no other ode of recovery shall be adopted for the recovery of any such arrears, except the balance, if any, remaining due after such adjustment, and suits and proceedings, if any,



pending for the recovery of any such arrears shall remain stayed until such adjustment has been made.]

2. In computing the period of limitation for the institution of any suit or proceeding for the recovery of any arrears referred to in sub-section(1), the time taken for adjustment of the arrears in accordance with the proviso to sub-section(1) shall be excluded.

**S. 8. Arrears of rent due to an intermediary and decrees for such arrears.**

All arrears of rent and cesses together with interest thereon and other amount lawfully recoverable by any intermediary on the date of vesting from any person, in respect of any interest of such intermediary which vests under section 5, and all sums due from such person in respect of any decree for arrears of rent in respect of such interest, whether having the effect of a rent decree or money decree and whether obtained before or after the date of vesting, and the execution of which is not barred by limitation, shall continue to be recoverable by such intermediary.

Provided that if such person be himself an intermediary, the recovery of such arrears from the compensation payable to him shall be subject to the provisions of section 26 of the Act

Provided further that if on the date of vesting a notification under section 99 of the Cess Act, 1880, was in force in respect of any interest of an intermediary or if interest of intermediary was let in farm of managed by a collector under clause (b) or clause (c) of section 73 of the Bengal Embankment Act, 1882, then computing the period of limitation for the institution of any suit or proceeding by the

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<sup>87</sup> This proviso was substituted for the original proviso by s. 2 of the West Bengal Estates Acquisition (Second Amendment) Act, 1973 (West Bengal Act, XXXIII of 1973).

intermediary for the recovery of any arrears of rent or cess in respect, of such interest, the period during which such notification was in force or during which the interest was let in farm or manage by the collector shall be excluded.

then computing the period of limitation for the institution of any suit or proceeding by the intermediary for the recovery of any arrears of rent or cess in respect, of such interest, the period during which such notification was in force or during which the interest was let in farm or manage by the collector shall be excluded.

**S. 9. Option to have arrears collected through the State Government on certain conditions.**

1. An intermediary may apply to the State Government for recovery by the State Government of all sums recoverable by him under the provisions of section 8.
2. The State Government may grant or refuse such application as it thinks fit but no such application shall be granted if made after the expiry of twelve months from the date vesting unless the intermediary makes an agreement in writing referred to in the proviso to subsection(1) of section 7.
3. If the State Government grants the application, it shall be competent for the State Government to recover all such sums as if they were public demands, or in any other manner as if the State Government were the intermediary

Provided that if any such sums be recoverable from more person then one who are co-sharers and who are jointly and severally liable to pay such sums, the extent of liability of each such co-sharer shall first of all be ascertained by the court in which, or the Officer before whom, proceedings in execution are taken, an no such proceedings shall, after the passing of the West Bengal Estate Acquisition (Amendment) Act, 1961, be

continued against all the co-sharers until the proceedings against each co-sharer in respect of his individual liability as so ascertained have been wholly or partially unsuccessful.

4. The State Government shall, from time to time in accordance with such rules as may be prescribed, send to the intermediary accounts of the amount recovered in pursuance of sub-section(3), and shall, subject to the terms of the agreement made in compliance with sub-section(2), where such an agreement is made, pay to the intermediary the amount so recovered after deducting therefrom the actual cost of recovery subject to a minimum of twenty *per centum* of the amount recovered. Such accounts shall be treated as conclusive and shall not be questioned in any manner.
5. The State Government shall not be liable if it fails to recover the whole or any portion of the sums referred to the sub-section(1).

**S. 10. Collector to take charge of estates and rights of intermediaries vested in the State.**

1. Upon the publication of any notification under section 4, the collector shall take charge of estates and interests of intermediaries which vest in the State under section 5.
2. For the purpose as aforesaid, the Collector may, by a written order served in the prescribed manner, require any intermediary or any person in possession *khas* or symbolical (of any such estate or of any such interest, to give up such possession by a date to be specified in the order which shall not be earlier than sixty days from the date of service of the order) and to deliver by that date any documents, registers, records and collection papers connected with the management of such estate or of such interest which are in his custody and to furnish a

- statement in the prescribed form in respect of such estate or such interest.
3. The Collector or any other officer authorised by him in this behalf may take such steps or use such force, as may be necessary to enforce compliance with the order and may also enter any building or place for the purpose of taking possession of documents, registers, records or collection papers referred to in sub-section(2).
  4. An intermediary shall be entitled in accordance with such rules as may be prescribed to take inspection of any documents, registers, records or collection paper which have been delivered to or taken possession of by the collector to make notes therefrom or to have certified copies thereof granted to him. No fees shall be charged for taking inspection or for making notes but fees may be charged according to the prescribed scale for certified copies. Certified copies granted under this sub-section shall be admissible in evidence.
  5. Nothing in this section shall authorise the collector to take *khas* possession of any estate or of any right of an intermediary therein, which may be retained under section 6.
  6. If after any estate or any interest therein of an intermediary has vested in the State under section 5, the intermediary or any other person possesses any land which was in the *khas* possession of the intermediary before the date of vesting but which the intermediary has not retained or cannot retained under section 6, then, where possession of such land has been taken by the collector in pursuance of sub-section(2) or not, the intermediary or such other person shall be liable for the period for which he is in possession of such land to pay—

(a) where such possession is authorised by the licence of the collector, such licence fee as may have been agreed upon between him and the collector or, in the absence of any agreement, as shall be calculate at the rate of Rs. 10 per acre *per annum*; or

<sup>88</sup>[(b) where such possession is not authorised by the collector, such damages for sue and occupation of such land as may be determined by the collector, after giving the intermediary or such other person an opportunity of being heard, at a rate not exceeding—

(i) in the case of agricultural land, twenty five *per centum* of the money value of the gross annual produce of such land,

(ii) in other cases, ten *per centum* of the market value of the land *per annum*.]

7. Any amount payable under sub-section(6) on account of licence fee or damages, as the case may be, shall be recoverable as a public demand :

<sup>89</sup>[Provided that where damages are due from an intermediary, the same may, without prejudice to any other made of recovery be set of under an order of the collector against the compensation payable to the intermediary under this Act.]

**S. 11. Penalty for non-compliance of collector's order.**

1. If any person on whom an order has been served under sub-section(2) of section 10, wilfully fails or neglects to comply with all or any of the directions given in such order within the time specified therein or within such further time as the collector may allow or withholds any documents, registers, records or collection papers, or

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<sup>88</sup> Substituted by the W.B. Estate Acquisition (Amendment) Act, 1975 (XXI of 1975).

<sup>89</sup> Added by W.B.E.A. (Am) Act 1975 (XXI of 1975).

wilfully furnishes any incorrect statement, shall be lawful for the collector, after giving such person. Such fine may extend—

- (a) in the case of a proprietor— to five times the annual revenue and cess payable by him or to one thousand rupees, whichever is greater;
  - (b) in the case of an intermediary who is not a proprietor— to five times the annual rent payable by him to one thousand rupees, whichever is greater;
  - (c) in other cases,— to one thousand rupees.
2. An appeal against any order of the collector under sub-section(1), if preferred with sixty days, of such order, shall lie to a Special Judge appointed for the purpose of this section and such Special Judge shall dispose of the appeal according to the prescribed procedure.
  3. The fine imposed under sub-section(1) or as confirmed or varied on any appeal therefrom shall be paid within sixty days of the order imposing the fine, or the order on appeal, as the case may be, and in default of such payment shall be recoverable as a public demand.

**S. 12. Payment of ad interim compensation.**

1. Every intermediary whose estate or interests have vested in the State and have been taken charge of by the collector under section 10 shall be entitled to receive in cash, in respect of such estate or interests at such time and in such manner as may be prescribed, an annual *ad interim* payment of such amount as may be prescribed. Such payments shall be deemed to be part of the compensation payable to such intermediary and shall, at the time of payment of such compensation, be deducted and adjusted against it, so however, that where such compensation, is payable partly in cash and partly in bonds adjustment shall be first against the compensation

payable in cash (and the interest on such compensation payable under this Act) and then, if necessary, against the compensation payable in bonds :

Provided that the first annual *ad interim* payment shall be made within eighteen months from the date of vesting and no *ad interim* payment shall be made after assessment of the compensation payable to the intermediary and publication of the Compensation Assessment Roll under sub-section(1) of section 14 or sub-section(5) of section 15, as the case may be :

Provided further that where having regard to the financial position and other circumstances, if any, or an intermediary or a class of intermediaries or of a person or a class of persons entitled to receive compensation under the provisions of this Act, the State Government considers it necessary so to do. The State Government may, by order, direct *ad interim* payment to such intermediary or such class of intermediaries or to such person or such class of persons of such amounts and at such intervals as may be specified in the order the amount so paid being adjusted in the manner laid down in the foregoing provisions of this sub-section.

2. Notwithstanding anything contained in sub-section(1), where the estate or interests of an intermediary referred to in clause (i) of sub-section(1) of section 6 has vested in the State and has been taken charge of by collector under section 10, such intermediary shall be entitled to receive an annual *ad interim* payment of the approximate net annual income from the estate or interest excluding the portion thereof which the intermediary has retained under the provisions of sub-section(1) of section 6, subject to deduction or adjustment in such manner as may be determined in this behalf by the compensation

- Officer against the annuity payable under the proviso to sub-section(1) of section 17.
3. It shall be competent, notwithstanding anything to the contrary elsewhere in this Act or in any enactment or any general principle of law, to make any payment of any compensation (*ad interim* or final) under this Act,—
- (a) in the case of a minor, to the guardian of such minor, and
  - (b) in the case of a lunatic, to the manager of the estate of such lunatic appointed under the Indian Lunacy Act IV of 1912.

Provided that except in the case of the following classes of guardians, that is to say,

- (i) a natural guardian,
  - (ii) a guardian appointed by the will of a minor's father or mother,
  - (iii) a guardian appointed or declared by a court, and
  - (iv) a person empowered to act as or exercise the powers of a guardian by or under any enactment relating to court or wards,
- No payments as aforesaid shall be made unless the guardian furnishes security in accordance with prescribed rules.
4. An intermediary who is a limited owner shall be entitled to receive *ad interim* payment to the extent of the amount of interest calculated in accordance with the provisions of this Act on the estimated total compensation payable for the estate or interests vesting in the State.

**S. 13. Management of estates and interests of intermediaries vested in the State.**

All estates and all interests of intermediaries therein, which have vested in the State under a notification under section 4 and which have been taken possession of by the collector



under section 10 shall be managed according to such rules as the State Government may from time to time make in this behalf:

Provided that the State Government may at any time, if it so thinks fit, entrust the management of such estates and such interest to any statutory authority on such terms and conditions as it may, by general or special order, fix and the statutory authority shall manage such estates and such interests in accordance with rules made by the State Government in this behalf.

### CHAPTER III

#### **Assessment and payment of compensation**

#### **S. 14. Preparation of Compensation Assessment Roll.**

1. The Compensation Officer shall prepare in respect of all intermediaries having lands in the notified area or in any part thereof over which the Compensation Officer has jurisdiction, a Compensation Assessment Roll on the basis of the record-of-rights prepared and finally published under Chapter V and publish the same in such manner as may be prescribed.
2. The Compensation Assessment Roll shall contain particulars about the gross income and the net income of each intermediary from all his estates and interest within the area, the amount of compensation payable in accordance with the provisions of this Act and such other particulars as may be prescribed.

Provided that any intermediary who acquired by a voluntary transfer made after the 1<sup>st</sup> day of January, 1952, a share in any estate or interest, no being the entire share of the transferor, shall not be treated separately.

#### **S. 15. Filing and disposal of objections to Compensation Assessment Roll prepared under section 14 and preparation of roll in respect of intermediaries having interests in more than one area.**

1. Within one month of the publication of the Compensation Assessment Roll under section 14—
  - (a) an intermediary may file before the compensation officer an objection in writing in the prescribed form in respect of any entry therein, or any omission therefrom relating to his estates, interests or income;
  - (b) an intermediary having estates or interests in any other area or areas shall submit to the Compensation Officer a statement in the prescribed form containing particulars of all his estates and interest wherever situated and the income therefrom.
2. The Compensation Officer shall, except in a case where an intermediary has filed a statement under clause (b) of sub-section(1), hear and dispose of any objection filed under clause (a) of the said sub-section according to such procedure as may be prescribed.
3. When an intermediary files a statement under clause (b) or sub-section(1), the Compensation Officer shall forward it to the collector.
4. On receipt of any statement forwarded to him under sub-section (3), the collector shall—
  - (a) refer the case to such Compensation Officer as may be specially appointed by the State Government in this behalf for assessment of compensation when it appears from the statement that all the estates and interests of the intermediary are situated within the district;
  - (b) refer the case to such Compensation Officer as may be specially appointed by the State Government in this behalf for assessment of compensation when it appears from the statement that the estates and

interests of the intermediary are situated in the more than one district.

5. When cases have been referred to a Compensation Officer under clause (a) or clause (b) of sub-section(4), such Compensation Officer shall prepare a Compensation Assessment Roll in respect of all the intermediaries whose cases have been so referred and publish it in such manner as may be prescribed. The provisions of section 14 shall apply *mutatis mutandis* to the preparation of such Compensation Assessment Roll.

**S. 15A. Filing and disposal of objections to Compensation Assessment Roll prepared under sub-section(5) of section 15.**

An intermediary may, within three months of the publication of the Compensation Assessment Roll referred to in sub-section(5) of section 15, file before Compensation Officer an objection in writing in respect of any entry therein or any omission therefrom relating to his estates, interests or income and the Compensation Officer shall thereupon hear and dispose of such objection according to such procedure as may be prescribed.

**S. 16. Gross income and net income.**

1. For the purpose of the preparation of the Compensation Assessment Roll;
  - (a) the gross income of an intermediary shall be taken to consist of—
    - (i) the aggregate of the rents and cesses payable or deemed to be payable to him for the previous agricultural year by his immediately subordinate tenants including—  
the average value of any rent in kind which was payable by such tenants during seven years immediately preceding the date of vesting

- commuted and determined in the prescribed manner;
- (ii) in respect of *khas* land which the intermediary does not retain under sub-section(1) of section 6, the annual income of such land determined in the prescribed manner;
  - (iii) the income derived from *hats*, *bazars*, ferries, fisheries, tolls and other *sairati* interests, calculated on the basis of the average annual income for five agricultural years immediately preceding the agricultural year in which the date of vesting falls or for such shorter period for which evidence is available;
  - (iv) in respect of forests the average annual income from the forests for twenty five agricultural years immediately preceding the agricultural year in which the date of vesting falls as determined by an officer appointed in this behalf by the State Government, on the following basis :
    - (I) for the period after the commencement of the West Bengal Private Forests Act, 1948,—
      - (A) where the forests have been under the management of private owners in accordance with working plans approved under that Act, the annual income yielded by the forests, and
      - (B) in other cases, the annual income calculated on the basis of the income determined under subparagraph (A) for similar forests in the area or in the district or, if there is no similar forests in the are or in the district, for similar forests in any other area or district,
    - (II) for the period before the commencement of the West Bengal Private Forests Act, 1948,—

- (A) where evidence as to the income yielded by the forests is available, the annual income according to such evidence, and
  - (B) where no such evidence is available, the annual income calculated on the basis of the income determined under sub-paragraph (A) for similar forests in the area or in the district or, if there is no similar forest in the area or in the district, for similar forests in any other area or district;
- (v) the annual income derived during the previous agricultural year from any other interest of such intermediary not expressly mentioned in sub-clause (i) to (iv), but excluding income derived from mines directly worked by the intermediary or from leases of mines and minerals granted by him.
- (b) The net income of an intermediary shall be computed by deducting from his gross income the following, namely :
- (i) any sum payable or deemed to be payable by such intermediary during the previous agricultural year as land revenue, cesses or rent, including the average value of any rent in kind which was payable by him during seven years immediately preceding the date of vesting commuted and determined in the prescribed manner, if any, to the State Government or to his immediately superior landlord, as the case may be, in respect of the interests to which his gross income relates;
  - (ii) the average of all sums payable as tax under the Bengal Agricultural Income-tax Act, 1944, or the Indian Income-tax Act, 1922, in respect of the interest to which his gross income relates, for the seven years ending of the 31<sup>st</sup> day of March 1955 or any shorter period for which evidence is available;

- (iii) the expenditure calculated on the basis of the average expenditure for five agricultural years immediately preceding the agricultural year in which the date of vesting falls or for such shorter period for which evidence is available, incurred by such intermediary on account of the maintenance of any irrigation or protective works which he is bound by law or under any agreement to maintain, respect of interests to which his gross income relates or where such expenditure should have incurred but was not so incurred, an amount calculated in the prescribed manner;
- (iv) charges on account of management collection at the following rates, namely :

<b>Amount of gross income</b>	<b>Rate</b>
Where the gross income does not exceed Rs.2,500	Nil
.Where the gross income exceeds Rs. 2,500 but does not exceed Rs. 5,500. income.	Two and a half per centum of the gross
Where the gross income exceeds Rs. 5,000 but does not exceed Rs. 10,000	Four per centum of the gross income.
Where the gross income exceeds Rs. 5,000 but does not exceed Rs. 15,000	Seven and a half per centum of the gross income.
Where the gross income exceeds Rs. 15,000 but does not exceed Rs. 25,000	Ten per centum of the gross income.
Where the gross income exceeds Rs. 25,000.	Fifteen per centum of the gross income.

Provided that where deduction of such charges, at the rates specified above, from gross income yields no net income, the collector shall, notwithstanding anything contained in this clause, fix by actual figures, subject to the approval of the

State Government, such charges on account of management and collection as he may consider to be reasonable having regard to the circumstances of each particular case.

- (v) any sum payable by such intermediary out of the income from his estates or interests which have vested in the State under section 5 to any person or institution exclusively for a religious or a charitable purpose or both by virtue of any charge on such income created by operation of law or by a decree of any court or by an instrument in writing;
- (vi) any sum payable by such intermediary out of the income of an estate or interest which has vested in the State under section 5, to a corporation or an institution established exclusively for a religious or a charitable purpose or both, or to a person holding under a trust or an endowment or other legal obligation exclusively for a purpose which is charitable or religious or both, where such estate or interest was held partly for a religious or charitable purpose and other than religious or charitable.

*Explanation.*—Any income from a wakf, trust or an endowment which is payable for the support of the founder or his family or descendants shall not be deemed to be income payable for a religious or charitable purpose.

2. In the case of a recusant proprietor of a temporarily settled estate, the *malikana* received by such proprietor in respect of the previous agricultural year shall be deemed to be the net income of such proprietor.

*Explanation.*—For the purposes of this section “previous agricultural year” means the agricultural year immediately preceding the agricultural year in which the date of vesting falls.

**S. 16A. Exclusion of estates and interests relating to mines and minerals.**

A Compensation Officer shall, in preparing under section 14 or section 15 a Compensation Assessment Roll exclude from the income of an intermediary whose rights in mines and minerals have vested in the State his income from such mines and minerals and shall after assessment of the compensation for his other estates and interests refer the case to the Compensation Officer appointed under Chapter IV for assessment of compensation in accordance with the provisions of that Chapter.

**S. 17. Assessment of Compensation.**

(1) After the net income has been computed under section 16, the Compensation Officer shall proceed to determine the amount of compensation payable to intermediaries in accordance with the following table, namely :

<b>Net Income</b>	<b>Amount of compensation payable</b>
For the first Rs. 500 or less than net income	Twenty times of such net income
For the first Rs. 500 or less than net income	Eighteen times of such net income
For the first Rs. 1000 or less than net income	Seventeen times of such net income
For the first Rs. 2000 or less than net income	Twelve times of such net income
For the first Rs. 10000 or less than net income	Ten times of such net income
For the first Rs. 15000 or less than net income	Six times of such net income
For the first Rs. 80000 or less than net income	Three times of such net income
For the balance of the net income	Two times of such balance net income

Provided that in the case of an intermediary referred in clause (i) of sub-section(1) of section 6, compensation payable to such intermediary shall be a perpetual annuity or where the interest of



the intermediary is terminable or is liable to be exhausted, an annuity for such number of years as may be prescribed, having regard to the circumstances, equal to the net annual income from the estate or interest of such intermediary excluding the portion thereof which the intermediary has retained under the provisions of sub-section(1) of section 6 :

Provided further that in the case of an intermediary—

(a) whose income consisted only of rent in kind the commuted value of which does not exceed Rs. 1000 per year, or

(b) whose income from rent in kind taking the commuted value thereof together with his other income from his estate or interests which have vested in the State under section 5 does not exceed the sum mentioned in clause (a) the compensation payable to such intermediary shall be an annuity, payable for a period of twenty five years, equal to the net annual income from the estates or interests in respect of which the intermediary received rent in kind and in the case of an intermediary mentioned in clause (b) the amount of such annuity shall be excluded from his net income for the purpose of assessing the compensation payable to him under the general provisions of sub-section(1).

2. (a) Where an intermediary is the holder of a temporary interest the compensation payable to such intermediary in respect of such interest shall not exceed the amount of net income which the intermediary would have derived from such interest during the unexpired period thereof, or

(b) where the interest of an intermediary is subject to a usufructuary mortgage, the compensation payable to such intermediary shall be appointed between him and his usufructuary mortgagee in such proportion as may be just and fair having regard to the unexpired period of the usufructuary mortgage.

3. The sum referred to in sub-clause (v) or sub-clause (vi) of clause (b) of sub-section(1) of section 16, shall be payable to the corporation, institution or person, as the case may be, as a perpetual annuity.
18. [*Preliminary publication of Compensation Assessment Roll and disposal of objection.—Omitted by S. 12 of the West Bengal Estates Acquisition (Amendment) Act, 1960 (West Bengal Act, XVII of 1960).*]
- S. 19. Contents of the order of compensation officer.**
- The order of the Compensation Officer deciding and objection under section 15 or section 15A or an order under sub-section(2) of section 25 shall contain a concise statement of the case, the points for determination, the decision thereon and the reasons for such decision.
- S. 20. Appeals.**
1. An appeal, if presented within ninety days from the date of the order appealed against, shall lie from every order passed by a Compensation Officer under section 15 or section 15A or under proviso (b) of sub-section(2) of section 25 to a Special Judge appointed for the purpose of this section.
  2. An appeal shall lie to the High Court from every order passed on appeal by a Special Judge under sub-section(1) on any of the grounds specified in section 100 of the Code of Civil Procedure, 1908.
- S. 21. Final publication of the Compensation Assessment Roll.**
1. When no objection has been filed or when all such objections have been disposed of, Compensation Officer shall make such alterations, if any, in the Compensation Assessment Roll as may be necessary to give effect to any order passed on objections made under section 15 or

section 15A and shall cause the said roll or the roll as so altered to be finally published in the prescribed manner and make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same with his name and official designation.

The publication of the Compensation Assessment Roll under sub-section(1) shall be conclusive evidence that the said roll has been duly make under this Chapter and every entry in such roll so finally published shall, subject to any modification by any order on appeal under section 20 or on revision under section 22, be conclusive of the matters referred to in such entry.

**S. 22. Correction of *bona fide* mistake.**

A Compensation Officer may, on application or of his own motion at any time before payment of compensation under section 23, correct any entry in the Compensation Assessment Roll, which he is satisfied has been made owing to *bona fide* mistake :

Provided that no such correction shall be made if an appeal affecting such entry has been presented under section 20 or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

**S. 23. Manner of payment of compensation.**

1. (a) As soon as may be after the date of the final publication of a Compensation Assessment Roll under section 21, the Compensation Officer shall, in the prescribed manner, proceed to make payment of the compensation to the intermediary who is entitled to such compensation in terms of the Compensation

Assessment Roll together with interest at the rate of three *per centum per annum* of such compensation accruing from the date of vesting to the date of final publication of the Compensation Assessment Roll :

Provided that in assessing interest under this clause, interest on all *ad interim* payments made under section 12 shall, from the date of any such payment to the date of final publication of the Compensation Assessment Roll, be excluded :

Provided further that in any case where the amount of compensation is enhanced as a result of an appeal under section 20, interest shall, subject to the provisions of the first proviso, be calculated from the date of vesting to the date of final publication of the Compensation Assessment Roll on the amount as determined on appeal.

- (b) Where the compensation to which an intermediary is entitled is in respect of interests which vested in the State on two different dates, interest shall be calculated on such compensation from the later of such dates and to the interest so calculated there shall be added the interest on the net income of the intermediary from his interests which vested in the State on the earlier date calculated at the same rate from such earlier date of vesting up to the later date of vesting.

Provided that such payment shall be without prejudice to the right of the intermediary to file an appeal under section 20.

- (1A) Where the intermediary is a limited owner, the Compensation Officer shall make payment to such intermediary of only the amount of interest

calculated at the rate mentioned in sub-section(1) on the compensation payable for the estates or interests vesting in the State less such amount, if any, as may have been paid under the provisions of sub-section(4) of section 12, before depositing the amount of compensation with the collection under section 24.

(2) Subject to the provisions of section 12 and sub-section(3) of section 26, all sums payable as compensation to an intermediary shall be paid in the manner following, that is to say :

(a) Payment in cash shall be made in accordance with the following table, namely :

<b>Net Income</b>	<b>Payment to be made in cash</b>
For the first Rs. 250 or less than net income	100 per centum of the amount of compensation payable in respect of such net income.
For the first Rs. 250 or less than net income	50 per centum of the amount of compensation payable in respect of such net income.
For the first Rs. 500 or less than net income	45 per centum of the amount of compensation payable in respect of such net income.
For the first Rs. 2000 or less than net income	40 per centum of the amount of compensation payable in respect of such net income.
For the first Rs. 25000 or less than net income	30 per centum of the amount of compensation payable in respect of such net income.
For the first Rs. 25,000 or less of the net income.	25 per centum of the amount of compensation payable in respect of such net income.
For the first Rs. 70000 or less than net income	20 per centum of the amount of compensation payable in respect of such net income.

For the first Rs. 100000 or less than net income	15 per centum of the amount of compensation payable in respect of such net income.
For the balance of the net income	12 per centum of the amount of compensation payable in respect of such net income.

The balance of the compensation shall be paid in negotiable and transferable bonds of not less than fifty rupees each carrying interest at three per centum per annum with effect from the date of issue and payable in the prescribed manner in twenty equal annual instalments and the remainder, if any, below fifty rupees, shall be paid in cash :

Provided that the State Government may at any time pay the commuted value of the bond in one instalment.

3. Notwithstanding anything to the contrary contained in sub-section(2), where the compensation payable to an intermediary or other person is an annuity the collector of the district shall make the annual payment in respect of such annuity in the prescribe manner to the trustee or other persons entitled for the time being receive such payment.

Provided that having regard to the financial position and other circumstances of an intermediary referred to in clause (a) or clause (b) of the second proviso to sub-section (1) of section 17, the State Government may pay to such intermediary the commuted value of the annuity payable to him calculated in the prescribed manner, in one or more instalments.

**S. 24. Compensation due to persons incompetent to alienate.**

If any intermediary entitled to receive such compensation in

respect of any interest be a person incompetent to alienate such interest, the Compensation Officer shall keep the amount of compensation payable for such interest whether in cash or bonds after deduction therefrom any amount recoverable under section 7, in deposit with the collector of the district and such collector shall arrange to invest the cash and the income from the bonds in the purchase of such Government or other approved securities as such collector thinks fit and shall direct the payment of the income from such investment to the intermediary who would for the time being have been entitled to hold and enjoy such interest if it had not vested in the State and such bonds and securities shall remain so deposited until they are made over to any person or person becoming absolutely entitled thereto;

Provided that nothing in this section shall affect the right of a limited owner to receive the whole or any part of such compensation in circumstances where such limited owner would be entitled under the law to spend the corpus of the interest :

Provided further that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation made under this Act to pay the same to the person lawfully entitled hereto.

**S. 25. Certain restriction as to amounts payable as compensation.**

1. No intermediary shall be entitled to receive on account of compensation any amount in excess of the amount calculated on his total net income from all his interests held by him within the State specified in the table contained in section 17.
2. The Compensation Officer shall, before making any payment under section 23 of any compensation payable

in terms of a Compensation Assessment Roll ascertain from the intermediary in the prescribed manner if any amount has already been paid to him on account of compensation and, if so, shall, by order, adjust the payment by making any deduction he considers necessary :

Provided that—

- (a) no such deduction shall be made until a reasonable notice has been given to the intermediary to appear and be heard in the matter; and
  - (b) any such order for deduction shall be subject to appeal in the manner provided under section 20.
3. If any intermediary having estates and interest in an area of areas other than the one in respect of which his Compensation Assessment Roll has been prepared and published does not submit a statement under clause (b) of sub-section(1) of section 15 or does not include in such a statement filed by him full and correct details regarding all his estates and interests and the income therefrom, with a view to getting higher compensation than what is admissible under the provisions of sub-section(1), the State Government may, by order made in this behalf, direct that such intermediary shall forfeit the whole or such part of the compensation payable to him as may be specified in the order.
- (3A) If an intermediary executes any instrument purporting to transfer any *khas* land which he has not retained under sub-section(1) or section 6 to any person and puts such person in possession of such land at any time before the payment of the compensation under section 23 to him, then, without prejudice to its right to recover possession of such land from such person, the State Government may, by order



made in this behalf, direct that such intermediary shall forfeit such part of the compensation payable to him as may be specified in the order.

(3B) An appeal against any order of forfeiture passed under sub-section(3) or sub-section(3A), if preferred within sixty days of such order shall lie to a Special Judge, being a person who is or has been a District Judge or an Additional District Judge appointed by the State Government for the purpose of hearing appeals under this sub-section and such Special Judge shall dispose of the appeal according to the prescribed procedure.

4. If, in any case, it is found that the amount of compensation paid to an intermediary is in excess of what is payable to him under the provisions of this Act, the excess amount so paid shall be adjusted against future instalments if any, so payable to him, and, if no such adjustment is possible, may be recovered from the intermediary as a public demand.

**S. 26. Extent of recovery of compensation money by attachment.**

1. Save as otherwise provided in the proviso to sub-section(1) of section 7<sup>90</sup> [or the proviso to sub-section(7) of section 10] no portion of the compensation payable to any intermediary in items of any Compensation Assessment Roll finally published under section 21, in excess of fifty *per centum* thereof shall—

(a) be liable to be deducted under an order of a collector made under section 7, or

(b) be liable to attachment at any one time in execution of decrees including decrees for arrears of rent.

2. Where there are several orders of attachment and the aggregate of the sums to be attached under such orders exceeds the limit referred to in sub-section(1), the order

shall be enforceable to the extent of such limit and the priority amongst them shall be decided, as far as practicable, in accordance with the principles laid down in section 73 of the Code of Civil Procedure, 1908.

Provided that any sum which is required to be deducted under the order of a collector under section 7 shall have priority before any order of attachment.

- (3) Except—
- (a) in a case covered by the proviso to sub-section(1) of section 7, or the proviso to sub-section(7) of section 10.
  - (b) when the entire amount of compensation is payable in cash under clause (a) of sub-section(2) of section 23; all sums to be deducted under section 7 or recoverable under an order or attachment under sub-section(1) shall be deducted from the amount of compensation payable in bonds under the provisions of clause (b) of sub-section(2) of section 23 or from the annuity payable under sub-section(3) of that section and not such sum shall be deducted from amounts payable under sub-section(1) or sub-section(2) of section 12.

#### CHAPTER IV Mines and Minerals

**S. 27. Provisions of Chapter IV to override other provisions of the Act.**

The provisions of this Chapter shall have effect notwithstanding anything to the contrary elsewhere in this Act.

<sup>90</sup>Substituted by the West Bengal Estates Acquisition (Amendment) Act, 1975 (XVI of 1975).

**S. 28. Rights intermediaries directly working mines.**

So much of the land in a notified area held by an intermediary immediately before the date of vesting (including sub-soil rights therein, but excluding rights hats and bazars not in the *khas* possession of the intermediary and land comprising forests, if any) as was comprised in or as appertained to any mine which was being directly worked by him immediately before such date shall with effect from such date be deemed to have been leased by the State Government to such intermediary. The terms and conditions of such lease shall be as agreed upon between him and the State Government, or in default of agreement as may be settled by the Mines Tribunal : Provided that all such terms and conditions shall be consistent with the provisions of any Central Act for the time being in force relating to the grant of mining leases.

**S. 29. Subsisting leases of mines or minerals.**

1. All leases of mines and minerals in a notified area granted by an intermediary and subsisting immediately before the date of vesting shall, with effect from such date, be deemed to have been granted by the State Government to the holder of the said subsisting lease on the same terms and conditions of the subsisting lease so however that—

(*ai*) rights in *hats* and bazars are not the *khas* possession of the holder of the lease and lands comprising forests, if any, shall be excluded from such lease;

(*I*) in cases where the holder of the lease had not in the opinion of the State Government done any prospecting or development work before the date of vesting, that he shall be allowed one year's time from the date of vesting to begin prospecting or development work, and, if in the opinion of the State Government, he has failed to do so, the State

Government shall be entitled to terminate the lease at any time after the expiry of such period by giving three months' notice in writing, unless sufficient clause is shown to the satisfaction of the State Government.

- (ii) in other cases, that if the holder of the lease has developed or done any prospecting work in respect of any part of the land included in the lease but has, in the opinion of the State Government, failed to do any prospecting or development work within three years from the date of vesting in respect of the remaining part of the land included in the lease, the State Government shall be entitled to resume the whole or any portion of such remaining part of the land together with the minerals lying thereunder, after giving three months' notice in writing, but in so resuming, the State Government shall have regard to the reasons for such failure and to the requirements, as appear to it to be reasonable, for the future development of the mining concern of the lease :

Provided that nothing in this sub-section shall prevent any notifications being made in the terms and conditions of the said lease consistent with the provisions of any Central Act for the time being in force regulating the modifications of existing mining leases.

2. Where in pursuance of additional conditions mentioned in sub-section(1), any lease of mines and minerals in terminated by the State Government under clause (i) of sub-section(1) or any land is resumed by the State Government under clause (ii) of that sub-section, the lessee shall be entitled to compensation calculated in accordance with the principles laid down in section 32, as

far as they are applicable, together with an amount not exceeding what has been expended by the lessee in works or operations connected with such lease or such resumed land included in the lease, less the value of any assets used or employed by him in such connection taken always by him.

**S. 30. Provision for lands comprised in works, building, etc.**

Where any land is deemed to have been leased by the State Government to an intermediary under section 28 or where a lease is deemed to have been granted by the State Government under section 29 to the holder of a subsisting lease, any land not included in such lease, which vests in the State by the operation of this Act and is in the use or occupation of the lessee for purposes connected with the working of any mine or the extraction of any minerals, including the land comprised in any works, buildings, machineries, tramways, sidings, roads, streets or thoroughfares, connected with such purpose, shall be deemed to have been included in such lease with effect from the date of vesting<sup>91</sup> [subject to the payment of rent at the rate of rupees forty five per 0.47 hectare per annum unless a different amount is agreed upon between the State Government and the intermediary or the lessee].

**S. 31. Compensation officer to prepare Compensation Assessment Roll for mines and minerals for three classes of intermediaries.**

1. The Compensation Officer shall prepare in the prescribed form and in the prescribed manner in Compensation Assessment Roll showing the compensation payable for mines and minerals—
  - (a) to every intermediary in whose land not being land deemed to have been leased under section 28 or land included in a lease referred to in section 29 there is,

in the opinion of the State Government, reason to believe that there are minerals not yet prospected or developed or partially prospected and developed and them abandoned;

(b) to every intermediary to whom any land is deemed to have been leased under section 28;

(c) to every intermediary, who granted a lease of mines and minerals and such lease was subsisting immediately before the date of vesting.

**S. 32. Determination of compensation for intermediaries referred to in section 31(1)(a).**

1. In preparing the Compensation Assessment Roll for every intermediary referred to in clause (a) of sub-section (1) of section 31, the Compensation Officer shall calculate the gross annual income of such intermediary on the probable income out of royalty which might have been derived by grant of lease of such land based on the opinion of a Mining Expert, appointed by the State Government, as regards the nature, quantity and the value of the minerals, likely exist in the land and capable of being worked and developed and other matters that may be prescribed. An amount equal to five *per centum* of such gross income shall be deemed to be the net income of such land; and the Compensation Officer shall determine four time such net income as the amount of compensation payable.
2. Where such intermediary as aforesaid has estates and interests for which compensation is payable under Chapter III, the Compensation Officer shall calculate the total amount which would have been payable in accordance with the table contained in sub-section(1) of section 17 as if the net income had been the aggregate of the net income calculated in respect of the estates and

interests for which compensations is payable under Chapter III and the net income calculated under this section; the Compensation Officer shall also calculate the total amount which would have been payable as compensation if compensation for such estates and interests and compensation for mines and minerals had been calculated separately; and the lesser of the two total amounts of compensation so calculated shall be the amount of compensation payable.

**S. 33. Determination of compensation for intermediaries referred to in section 31(1)(b).**

1. In preparing the Compensation Assessment Roll for every intermediary referred to in clause (b) of subsection(1) of section 31, the Compensation Officer shall take the gross income of such intermediary to be the average annual income calculated on the basis of annual returns filed by him for the assessment of cess or income tax during the period of eight agricultural years immediately preceding the agricultural year within which the date of vesting falls, or any shorter period for which return have been filed; and an amount equal to five per centum of such gross income shall be deemed to be the net income from such mines.
2. The Compensation Officer shall then determine the amount of compensation payable to the intermediary as aforesaid, after taking into consideration his net income and the opinion of a mining expert appointed by the State Government as regards the extent of the mining operations carried on, the minerals obtained and the estimated quantity and value of the minerals not yet worked or operated, and as regards any other matter that

<sup>91</sup> Substituted by W.B.E.A.(Am.) Act, 1977, dated 05.05.1980.

may be prescribed. Where the intermediary has no estates or interests for which he is entitled to compensation under Chapter III, the compensation payable to him shall be eight times the net income as calculated under this section. Where the intermediary has estates or interests for which compensation is payable under Chapter III, the Compensation Officer shall calculate the total amount which would have been payable in accordance with the table contained in subsection(1) of section 17 as if the net income had been the aggregate of the net income calculated in respect of the estates or interests for which compensation is payable under Chapter III and the net income calculated under this section; the Compensation Officer shall also calculate the total amount which would have been payable as compensation if compensation for estates and interests and compensation for mines and minerals had been calculated separately; and the lesser of the two total amounts of compensation so calculated shall be the amount of compensation payable.

**S. 34. Determination of compensation for intermediaries referred to in section 31(1)(c).**

1. In preparing the Compensation Assessment Roll for every intermediary referred to in clause (c) of subsection(1) of section 31, the gross income of the intermediary shall be the average annual gross income received (excluding any sum received by way of salami or premium) calculated on the basis of the annual returns filed by such intermediary for the assessment of cess or income tax during the period of eight agricultural years immediately preceding the agricultural year within which the date of vesting falls, or any shorter period for which such returns have been filed; and the net income



shall be computed by deducting from the gross income so determined the average of the income tax payable thereon during the said period and the cost of the collection at such rates as may be prescribed.

2. The Compensation Officer shall determine the amount of compensation payable to the intermediary as aforesaid after taking into consideration his net income, the duration of the unexpired portion of the lease, and the opinion of a mining expert appointed by the State Government with regard to the extent of the mining operations carried on, the minerals obtained and the estimated quantity and value of the minerals not yet worked or operated, and as regards any other matter that may be prescribed. Where the intermediary has no estates or interests for which he is entitled to compensation under Chapter III, the compensation payable to him shall be eight times the net income as calculated under this section. Where the intermediary has estates or interest for which compensation is payable under Chapter III, the Compensation Officer shall calculate the total amount which would have been payable in accordance with the table contained in subsection(1) of section 17 as if the net income had been the aggregate of the net income calculated in respect of the estates or interests for which compensation is payable under Chapter III and the net income calculated under this section; the Compensation Officer shall also calculate the total amount which would have been payable as compensation if compensation for estates and interests and compensation for mines and minerals had been calculated separately and the lesser of the two total amounts of compensation so calculated shall be the amount of compensation payable.

**S. 35. Reference to mines tribunal.**

If the amount of compensation determined under subsection(2) of section 29, section 32, section 33 or section 34, is not agreed to by the intermediary,, the Compensation Officer shall refer the question of the determination of the amount of compensation to the Mines Tribunal.

**S. 36. Mines tribunal.**

1. The Mines Tribunal appointed for the purposes of this Chapter shall consist of a Chairman who shall be a person who is or has been a District Judge or an Additional District Judge and another member who shall be mining expert. Both the Chairman and the Mining Expert Member shall be appointed by the State Government with the previous approval of the Central Government.
2. The tribunal shall follow such procedure as may be prescribed.
3. In regard to any matter of compensation referred to the Tribunal by the Compensation Officer under section 35, the Tribunal at the commencement of the proceedings before it may require the State Government and the intermediary to state that in their respective opinions is the amount of compensation payable; and in giving its decision as to the amount of compensation to be paid, the Tribunal shall follow the principles laid down in subsection(2) of section 29, section 32, section 33 or section 34, as the case may be.
4. In setting the terms and conditions of a lease by the State Government under section 28, the Tribunal shall have power to determine the area of land to be comprised in the lease and in so doing shall have regard to the amount of land reasonably required for the future development of

- mining concern and also to the provisions of section 30.
5. If there is a difference of opinion between the Chairman and the other members in respect of any matter, the matter shall be referred to a Judge of the High Court to be nominated by the Chief Justice and the decision of such Judge shall be binding on the Tribunal and shall be final and conclusive.
- S. 37. Appeal against orders of the tribunal.**  
An appeal, if presented within two months from the date of the order appealed against, shall lie against any other of the Tribunal to the High Court except in respect of matters of difference disposed of under sub-section(5) of section 36.
- S. 38. Payment of compensation for mines.**  
The provisions of sections 14, 15, 15A, 17, 19, 21, 22, 23, 24, 25 and 26 shall apply *mutatis mutandis* in regard to the procedure of preparation of Compensation Assessment Roll and the manner of payment of compensation for mines and minerals under this Chapter.

## CHAPTER V

### Preparation of Record-of-rights

- S. 39. Preparation of record-of-rights.**
1. Subject to the provisions of sub-section(4), the State Government may, for carrying out the purposes of this Act, make an order directing—
    - (a) that a record-of-right be prepared in respect of any district, or part of a district, or
    - (b) that the record-of-rights prepared and finally published under Chapter X of the Bengal Tenancy Act, 1885, in respect of any district, or part of a district be revised, by a Revenue Officer in

accordance with the provisions of this Chapter and such rules as may be made in this behalf by the State Government.

2. A notification in the *Official Gazette* of an order under sub-section(1) of this section shall be conclusive evidence that the order has been duly made.
3. When an order is made under sub-section(1), the Revenue Officer shall record-of-rights to be prepared or revised in pursuance of such order, such particulars as may be prescribed.
4. Where any proceedings in respect of the preparation of the record-of-rights have been commenced under Chapter X of the Bengal Treasury Act, 1885, before the date on which this Act comes into force and such record-of-rights has not been finally published, steps shall be taken for the completion and final publication of such record-of-rights. In taking such steps, the proceedings may be continued from the stage at which they rested on such date or may be reopened and recommenced from any earlier stage as may be decided by the Revenue Officer in his discretion having regard to the facts and circumstances of the case. The proceedings shall be in accordance with such rules as may be prescribed by the State Government. The record-of-rights shall thereupon be deemed to have been duly prepared and finally published under this Chapter.

*Explanation.*—Where before the commencement of the West Bengal Estates Acquisition (Amendment) Ordinance, 1957, any proceedings were reopened or recommenced by any Revenue Officer, such proceedings,—

- (i) shall not be invalid merely on the ground of the proceedings being reopened and recommenced or not

- being in accordance with the rules prescribed under this sub-section, and
- (ii) shall be deemed to be proceedings under this sub-section.

**S. 40. *Raiyat* paying rent in kind, etc.**

If, in respect of a holding, a *raiyyat* pays rent wholly in kind or partly in cash, Revenue Officer shall assess as rent for the land comprised in the holding,—

- (a) where the *raiyyat* pays rent wholly in kind, and amount calculated at the rate of nine rupees, per acre, and
- (b) where the *raiyyat* pays rent partly in kind and partly in cash, an amount calculated at the prevailing average rate of cash rent for lands or similar description and with similar advantages in the vicinity or at the rate of nine rupees per acre, whichever is less, as record such rent in the record-of-rights.

*Explanation.*—In this section 'rent in kind' includes rent which is the cash equivalent of a specified portion of the produce.

**S. 41. *Raiyat* or under tenant holding lands free of rent.**

In preparing or revising any record-of-rights under this Chapter, the Revenue Officer shall fix in respect of any land held free of rent by a person who holds such land free of rent in consideration of some service to be rendered, a rent determined on the basis of the rent paid by *raiyyats* or non-agricultural tenants for lands or similar description and with similar advantages in vicinity.

**S. 42. Intermediary liable to pay rent.**

1. Save as otherwise provided in sub-section(2), where an intermediary is entitled to retain possession of any land under sub-section(1) of section 6, then except in cases of

land retained under clause (h) or (i), and except in the cases referred to in the proviso to sub-section(2) of section 6, the Revenue Office shall determine the rent payable in the prescribed manner and in accordance with the following principles, that is to say—

- (i) if the land be agricultural land, on the basis of the rate of rent (paid by *raiya*ts or other persons holding lands) of similar description and with similar advantages in the vicinity;
- (ii) if the land be non-agricultural land, at a rate which the Revenue Officer may deem fair and equitable having regard to the rent generally paid for non-agricultural lands of similar description and with similar advantages in the vicinity or where such non-agricultural lands are not available in the vicinity or the rent generally paid for such non-agricultural lands cannot be readily ascertained, at such rate, not exceeding five *per centum* of the net annual income from the land estimated in the prescribed manner, as the Revenue Officer may deem fair and equitable :

Provided that in the case of an intermediary, who immediately before the date of vesting held any tenure comprising exclusive of non-agricultural lands, he shall, subject to any law for the time being in force for assessment or re-assessment of rent,

- (a) pay the same rent as he was paying immediately before the date of vesting if he retains all such lands;
- (b) pay as rent an amount which shall bear the same proportion to the rent he was paying immediately before the date of vesting, as the area of the land retained by him bears to the area of all the lands which were comprised in the tenure if he retains only part of such lands;

- (c) pay no rent for the land retained by him if he held such land rent free immediately before the date of vesting.
2. When an intermediary is entitled to retained possession of any land comprised in a tea garden under clause (f) of sub-section(1) as read with sub-section(3) of section 6, the Revenue Officer shall determine the rent payable in respect of such land in the following manner, that is to say—
- (a) for land under cultivation of tea or covered by factories, office buildings or quarters for labourers of the tea garden, at twice the average rate of rent paid for the highest class of agricultural lands in the vicinity subject to a maximum of Rs. 6·50 per acre.
  - (b) for land under cultivation of cardamom, at Rs. 15 per acre.
  - (c) for land under cultivation of any other crop, at one and a half times the average rate of rent paid for the average class of agricultural lands in the vicinity.
  - (d) for land under *hats* or markets, at the average rate of rent paid for the highest class of agricultural lands in the vicinity, plus an amount equivalent to 50 *per centum* of the profits from such *hats* or markets, and
  - (e) for any other land, at the average rate of rent paid for the average class of agricultural lands in the vicinity.
3. Notwithstanding anything to the contrary contained in the proviso to sub-section(2) of section 6 or in any contract, where any land comprised in a tea garden is held under a lease, the rent payable by the lessee in respect of such land shall be rent determined by the Revenue Officer in the manner specified in sub-section(2).

*Explanation.*—In this sub-section 'lease' includes a lease granted directly by the State Government.

4. Notwithstanding anything to the contrary contained in any judgement, decree or order of any court or tribunal or in any law, the rent determined under sub-section(2) or sub-section(3) shall take effect and shall be deemed always to have taken effect from the date of vesting.
- S. 42A. Determination of rent after draft or final publication of record-of-rights.**
1. If, for any reason, the rent payable in respect of any land retained by an intermediary under sub-section(1) of section 6 has not been determined before the draft or final publication of the record-of-rights under this Chapter, then, notwithstanding anything contained elsewhere in this Act, the Revenue Officer may, at any time, after giving notice to the person concerned determine the rent in accordance with the provisions of sections 40, 41 and 42 and enter the rent so determined in the record-of-rights.
  2. Any person aggrieved by an order of the Revenue Officer determining rent under sub-section(1) may appeal to such authority and within such time as may be prescribed.
  3. The decision of the appellate authority on such appeal shall be final and the Revenue Officer shall, if necessary, correct, in accordance with such decision, the entry relating to rent made by him in the record-of-rights.
- S. 43. Effect of rents settled under this chapter.**
- All rents determined under this Chapter and entered in the recorded-of-rights shall be deemed to have been correctly determined and to be fair and equitable for the purposes of this Act and shall be payable at such times and in such instalments as may be prescribed, and the period of limitation for the institution of suits relating to the recovery of arrears of rent shall be as provided in Article 149 of the First Schedule to the Indian Limitation Act, 1908.



**S. 44. Draft and final publication of the record-of-rights.**

- (1) When a record-of-rights has been prepared or revised the Revenue Officer shall publish a draft of the record so prepared or revised in the prescribed manner and for prescribed period and shall receive and consider any objections which may be made to any entry therein or to any omission therefrom during the period of such publication :

Provided that no order passed under section 5A shall be liable to be reopened in pursuance of an objection made under this sub-section.

2. When an such objections have been considered and disposed of according to such rules as the State Government may make in this behalf, the Revenue Officer shall finally frame the record and cause such record to be finally publish in the prescribed manner and make a certificate stating the fact of such final publication and the date thereof and shall date and subscribe the same under his name and official designation :

(2a1) Separate publication of different parts of draft or final records may be made under sub-section(1) of sub-section(2).

(2a) An officer specially empowered by the State Government may, on application within nine months, or of his own motion <sup>92</sup>[twenty five years], from the date of final publication of the record-of-rights or from the date of coming into force of the West Bengal Estate Acquisition (Second Amendment) Ordinance, 1957 whichever is later, revise an entry in the record finally publish in accordance with the provisions of sub-section(2) after giving the persons interested an

opportunity of being heard and after recording reasons therefore :

Provided that nothing in the foregoing paragraph shall be deemed to empower such officer to modify or cancel any order passed under section 5A, while revising any entry :

Provided further that no such officer shall entertain any application under this sub-section or shall to his own motion take steps to revise any entry, if an appeal against an order passed by, Revenue Officer on any objection make under sub-section(1), has been filed before the commencement of the West Bengal Estates Acquisition (Second Amendment) Ordinance, 1957, before a tribunal appointed for the purpose of this section, and, notwithstanding anything in this section, any such appeal may continue and be heard and disposed of as if the West Bengal Estates Acquisitions (Second Amendment) Ordinance, 1957, had not been promulgated.

3. Any person aggrieved by an order passed in revision under sub-section (2a) may appeal in the prescribed manner to a tribunal appointed for the purpose of this section, and within such period and on payment of such court fees as may be prescribed.
- (3a) The certificate of final publication referred to in sub-section(2), or in the absence of such certificate, a certificate signed by the collector of any district in which the area of which the record-of-rights relates is wholly or

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<sup>92</sup>The words eighteen years were substituted for the words 'fifteen years' by the W.B.E.A.(Am.) Act, 1973. The words "eighteen years" were substituted by the words "twenty one years" by the W.B.E.A.(Am.) Act, 1957. The words "twenty one years" substituted as above by the W.B.E.A.(Am.), 1978.

partly situate, stating that a record-of-rights has been finally published on a specified date, shall be conclusive proof of such publication and of the date thereof.

(3b) The State Government may, by notification, declare with regard to any specified area, that a record-of-rights has been finally published for every village included in such area and such notification shall be conclusive proof of such publication.

(3c) In any suit or other proceeding in which a record-of-rights prepared and published under this Chapter, or a duly certificate copy thereof or extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published unless such publication is expressly denied.

4. Every entry in the record-of-rights finally published under sub-section(2) including and entry revised under sub-section(2a) made under section 42A or corrected under section 45 or section 45A shall, subject to any modification by an order on appeal under sub-section(3), be presumed to be correct.

**S. 45. Correction of *bona fide* mistakes in record-of-rights.**

Any Revenue Officer specially empowered by the State Government in this behalf may, on application within one year, or of his own motion within nine year, from the date of certificate of the final publication of the record-of-rights under sub-section(2) of section 44, correct any entry in such record-of-rights which he is satisfied has been made owing to a *bona fide* mistake :

Provided that no such correction shall be made if any appeal affecting such entry has been presented under sub-section(3) of section 44 or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

**S. 45A. Correction of entry in record-of-rights.**

Any Revenue Officer specially empowered by the State Government in this behalf may correct any entry in any record-of-rights if it is necessary in his opinion to do so in pursuance of an order under section 5A or on account of any amendment made in the provisions of the Act or the rules made thereunder :

Provided that no such correction shall except where it is made in pursuance of an order under section 5A, be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

**S. 46. Bar to jurisdiction of civil court in respect of certain matters.**

*Omitted* by S. 4 of the West Bengal Estates Acquisition (Second Amendment) Act, 1973 (West Bengal Act XXXIII of 1973).

**S. 47. Modification of the finally published record-of-rights.**

The record-of-rights prepared and finally published under the provisions of the Chapter or deemed to have been so prepared and finally published, for any district or part of a district in respect of which a notification under section 4 has been duly published, shall as soon as may be after the date of vesting be modified by eliminating therefrom all the interest of the intermediaries which have vested in the State and showing therein only the tenants who hold directly under the State as a result of vesting of such interests in the State. One or more numbers to be borne on the revenue roll of the district shall be assigned by the collector in respect of the areas to which such record-of-rights relates in accordance with such rules as the State Government may make in this behalf and the Revenue Officer shall make a certificate that the record-of-rights has been so modified and shall date and subscribe the same under

his name and official designation :

Provided that entries in record-of-rights eliminated under the foregoing paragraph shall be deemed to be in force for the purpose of the preparation of the Compensation Assessment Roll and for all proceedings connected therewith or arising therefrom.

**S. 48. Costs of preparation of record-of-rights.**

The costs of preparation of record-of-rights prepared or deemed to have been prepared under this Chapter shall be borne by the State Government.

CHAPTER VI  
**Acquisition of interests of *raiyats* and  
under-*raiyats*.**

**S. 49. When this chapter is to come into force.**

The provisions of this Chapter shall come into force on such date and in such district or part of a district as the State Government may, by notification in the *Official Gazette*, appoint and for this purpose different date may be appointed for different district or parts of districts.

**S. 50. Certain persons to be deemed to be intermediaries.**

*Omitted* with retrospective effect by section 15 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Bengal Act, XXXV of 1955).

**S. 51. Notification vesting certain *khas* lands and rent receiving interests.**

*Omitted* with retrospective effect by section 15 of the West Bengal Estates Acquisition (Amendment) Act, 1955 (West Bengal Act, XXXV of 1955).

**S. 52. Application of Chapter II, III, V and VII to *raiyats* and under-*Raiyats*.**

On the issue of a notification under section 49 the provisions of Chapters II, III, V and VII shall, with such modifications as may be necessary, apply *mutatis mutandis* to *raiyat* and under *raiyats* as if such *raiyats* and under *raiyas* were intermediaries and the land held by them were estates and a person holding under a *raiyat* or an under-*raiyats* were a *raiyat* for the purposes of clauses (c) and (d) of section 5 :

Provided that, where a *raiyat* or an under-*raiyat* retains, under section 6 read with this section, any land comprised in a holding, been notwithstanding anything to the contrary contained in sub-section(2) of section 6, he shall pay,—

- (a) in cases where he was paying rent for the lands comprised in the holding and held by him immediately before the date of vesting (hereafter in this proviso referred to as the holding lands),—
  - (i) if he retains all the holding lands, the same rent as he was paying therefore immediately before the date of vesting, and
  - (ii) if the land retained by him forms part of the holding lands, such rent as bears the same proportion to the rent which he was paying for the lands immediately before the date of vesting as the area of the land retained by him bears to the area of all the holding lands :
- (b) in cases where he was liable to pay rent but was not paying any rent for the holding lands immediately before the date of vesting on the ground that the rent payable by him therefore was not assessed, such rent as may be assessed, *mutaitis mutandis*, in accordance with the provisions of section 42;

- (c) in cases where he was liable to pay rent wholly in kind or partly in kind and partly in cash, then, notwithstanding anything contained in clause (c) of section 5, such rent as may be assessed in accordance with the provisions of section 40; and
- (d) in cases where he was liable immediately before the date of vesting to pay for the holding lands a variable cash rent periodically assessed such rent as may be assessed, *mutaitis mutandis*, in accordance with the provisions of section 42.

## CHAPTER VII

### Supplemental and Miscellaneous.

- S. 53. Authorities for the purposes of this Act.**
  - 1. There shall be the following authorities for the purposes of this Act, namely :
    - (a) The Board of Revenue;
    - (b) Director of Land Records and Surveys;
    - (c) Settlement Officers;
    - (d) Assistant Settlement Officers;
    - (e) Compensation Officer;
    - (f) Revenue Officers;
    - (ff) Officers appointed by the State Government for the purpose of sub-clause (iv) of clause (a) of sub-section(1) of section 16;
    - (g) Mining Experts for the purposes of sections 32, 33 or 34.
  - 2. The State Government may appoint any person as a Compensation Officer or a Revenue Officer or may vest

any officer with the powers of a Compensation Officer under this Act.

**S. 54. Delegation of powers by the State Government and power and duties of the authorities.**

1. The State Government may, by notification in the Official Gazette, delegate any of the powers under this Act, except the power of making rules under section 59, to the Board of Revenue the Commissioner of a Division or a Collector subject to such reservations, if any, as may be specified in the notification.
2. All authorities referred to in section 53 shall exercise such powers and perform such duties under this Act or any rules made thereunder as may be conferred or imposed on them.

**S. 55. Appointment of special judges and tribunals.**

1. The State Government may appoint a person who is or has been a District Judge or an Additional District Judge to be a Special Judge for the purpose of section 11 or of section 20.
2. The State Government may appoint one or more tribunals for the purpose of section 44. Such tribunals shall be composed of a single member who shall be a person who is or has been a District Judge or an Additional District Judge and shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908.

**S. 55A. Limitation.**

The provisions of sections 5 and 12 of the Indian Limitations Act, 1908 shall apply to any appeal or application under this Act.



**S. 56. Power to enter upon land to make survey, etc.**

A Revenue Officer, subject to any rules made, under this Act, may at any time after giving previous notice, enter upon any land with such officers or other persons as he considers necessary, and make a survey of the land or take measurements thereof or do any other acts under this Act or any rules made thereunder.

**S. 57. Power to compel production of statements and documents and to enforce attendance of witnesses.**

(1) Subject to any rules made under this Act, a Revenue Officer may, for the purposes of this Act, by notice require any person to make and deliver to him a statement or to produce record or documents in his possession or control relating to any interest whatsoever in any land at a time or place specified in the notice.

(2) Every person required to make or deliver a statement or produce any record or document under this section shall be deemed legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

(3) For the purposes of an inquiry under this Act a Revenue Officer shall have power to summon and enforce the attendance of witnesses or of any person having any interest whatsoever in any land and to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

**S. 57A. Power of State Government to invest certain authorities with powers of civil courts.**

The State Government may by order invest any authority referred to in section 53 with all or any of the powers of a civil court under the Code of Civil Procedure, 1908.

**S. <sup>93</sup>[57B. Bar to jurisdiction of civil court in respect of certain matters.**

- (1) Where an order has been made under subsection(1) of section 39 directing the preparation of revision of a record-of-rights, no civil court shall entertain any suit or application for the determination of rent or determination of the status of any tenant or the incidents of any tenancy to which the record-of-rights relates and if any suit or application in which any of the aforesaid matters is in issue, is pending before a civil court on the date of such order, it shall be stayed, and it shall, on the expiry of the period prescribed for an appeal under subsection(3) of section 44 or when an appeal has been filed under the sub-section, as the case may be, on the disposal of such appeal, abate so far as it related to any of the aforesaid matters.
- (2) No civil court shall entertain any suit or application concerning any right in such estate, if it relates to—
  - (a) alteration of any entry in the record-of-rights finally published, revised, made, corrected or modified under any of the provisions of Chapter V,
  - (b) a dispute involving determination of the question, either expressly or by implication, where a raiyat or an intermediary, is or is not entitled to retain under the provisions of this Act such land or estates or right in such estate as the case may be, or
  - (c) any matter which under any of the provisions of this Act is to be, or has already been, enquired into, decided, death with or determined by the State

<sup>93</sup>This section 57B was inserted by s. 5 of the West Bengal Estates Acquisition (Second Amendment) Act, 1973 (West Bengal Act XXXIII of 1973).

Government of any authority specified therein.

and any such suit or application which is pending before a civil court, immediately before the commencement of the West Bengal Estates Acquisition (Second Amendment) Act, 1973 shall ablate so far as it relates to all or any of the matters referred to in clause (a), clause (b) or clause (c).

- (3) Any dispute referred to in clause (b) of sub-section(2) my be decided by a Revenue Officer not below the rank of an Assistant Settlement Officer, specially empowered by the State Government in this behalf, who shall dispose of the same in such manner as may be prescribed :

Provided that in deciding a dispute under this sub-section, the Revenue Officer shall not re-open any matter which has already been enquired into, investigated, determined or decided by the State Government or any authority under any of the provisions of this Act.

- (4) Any person aggrieved by a decision of the Revenue Officer made under sub-section(3) may appeal to the prescribed authority not below the rank of a Settlement Officer, within such, time, in such manner and subject to payment of such fees as may be prescribed.
- (5) A decision made by the Appellate Authority under sub-section(4) shall be final.

Explanation,—In this section—

- (i) suit includes an appeals, and  
(ii) an authority includes an authority to her an appeal]

**S. 58. Protection of action taken under the Act.**

- (1) No suit, prosecution or other legal proceeding shall lie against any person of anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

- (2) Save as otherwise expressly provide under this Act, no suit or other legal proceeding shall lie against the State Government of any damage cause or likely to be caused or for any injury suffered or likely to be suffered by virtue or any provisions of this Act or any rules made thereunder or by anything in good faith done or intended to be in pursuance of this Act or any rules made thereunder.

**S 59. Power to make rules.**

1. The State Government may, after previous publication, make rules for carrying out the purposes of this Act.
2. In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which, under any provisions of this Act, are required to be prescribed or to be provided for by rules.

#### CHAPTER VIII

##### **Application of the Act to transferred territories**

**S. 60. When this chapter is to come into force.**

The provisions of this Chapter shall come into force on such date and in such area of the transferred territories as the State Government may, by notification in the Official Gazette, appoint, and for this purpose different dates may be appointed for different areas.

Explanation,—In this Chapter 'transferred territories' means the territories transferred from the State of Bihar to the State of West Bengal by section 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956.

**S. 61. Application of the Act to transferred territories.**

On the issue of notification under section 60, the area in respect of which such notification is issued,—

- (1) The Bihar Land Reforms Act, 1950, shall stand repealed

and the provisions of the foregoing Chapters of this Act shall mutatis mutandis apply :

Provided that any reference in foregoing Chapters of this Act to the Bengal Tenancy Act, 1885 or any provision thereof shall, as the case may be, constructed as reference,—

- (i) in the case of application of such Chapters to the area comprised in the district of Purulia,— to the Chota Nagpur Tenancy Act, 1908, or the corresponding provision thereof, and
  - (ii) in the case of application of such Chapters to any other area of the transferred territories,— to the Bihar Tenancy Act, 1885, or the corresponding provisions thereof.
- (2) Estates or interests vested in the State Government under the provisions of the Bihar Land Reforms Act, 1950, prior to the date of issue of the notification shall be deemed to have vested in the State Government under the provisions of this Act :

Provided that—

- (i) no intermediary shall be allowed to retain any land other than, or in excess of, what is permitted under the provisions of section 6 or any other provisions of this Act,
- (ii) any land and interest which has vested in the State Government under the provisions of the Bihar Land Reforms Act, 1950, but which the exintermediary shall be entitled to retain under the provisions of this Act shall, if possible, be restored to him and no compensation shall be payable for any land or interest so restored;
- (iii) assessment of compensation already made or in progress on or before the date of issue of the

notification shall be reopened and assessment of compensation for all lands and interests vested or deemed to have been vested in the State Government under this Act shall be made afresh under the provisions of this Act;

- (iv) if an intermediary has possessed nay land other than or in excess of, what is permitted under the provisions of section 6 or any other provisions of this Act, he shall be liable to pay to the State Government for the period for which he has continued in possession of such land after his estate or interest vested in the State Government, such damages for use and occupation of such land as shall be calculated at the rate of Rs. 10 per acre per annum;
- (v) any sum payable by an intermediary as damages under clause (iv) shall be recoverable as a public demand.

## **17. The Biological Diversity Act, 2002**

### **THE BIOLOGICAL DIVERSITY ACT, 2002**

**No 18 of 2003**

[ 5<sup>th</sup> February,2003]

An Act to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto.

WHEREAS, India is rich in biological diversity and associated traditional and contemporary knowledge system relating thereto;

AND WHEREAS India is a party to the United Nations Convention on Biological Diversity signed at Rio de Janeiro on the 5<sup>th</sup> day of June, 1992;

AND WHEREAS the said Convention came into force on the 29<sup>th</sup> December, 1993;

AND WHEREAS the said Convention reaffirms the sovereign rights of the States over their biological resources;

AND WHEREAS the said Convention has the main objective of conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of utilisation of genetic resources

AND WHEREAS it is considered necessary to provide for conservation, sustainable utilisation and equitable sharing of the benefits arising out of utilisation of genetic resources and also to give effect to the said Convention.

Be it enacted by Parliament in the Fifty-third Year of the Republic of India as follows :-

## CHAPTER I Preliminary

- |  |   |   |
|--|---|---|
| Short title<br>extent and<br>commence-<br>ment | 1 | <ol style="list-style-type: none"><li>1) This Act may be called the Biological Diversity Act, 2002</li><li>2) It extends to the whole of India</li><li>3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint ;<br/>Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision</li></ol>  |
| Definations                                    | 2 | <p>In this Act unless the context otherwise requires,-</p> <ol style="list-style-type: none"><li>a) “benefit claimers” means the conservers of biological resources, their byproducts, creators and holders of knowledge and information relating to the use of such biological resources, innovations and practices associated with such use and application;</li><li>b) “biological diversity” means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of eco-systems;</li><li>c) “biological resources” means plants, animals and micro-organisms or parts thereof, their genetic material and by-products (excluding, value added products) with actual or potential use or value, but does not include human genetic material;</li><li>d) “bio-survey and bio-utilisation” means survey or collection of species, subspecies, genes, components and extracts of biological resource for any</li></ol> |



- purpose and includes characterisation, inventorisation and bioassay;
- e) “Chairperson” means the Chairperson of the National Biodiversity Authority or, as the case may be, of the State Biodiversity Board ;
  - f) “commercial utilisation” means end uses of biological resources for commercial utilisation such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used for improving crops and livestock through genetic intervention, but does not include conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping;
  - g) “fair and equitable benefit sharing” means sharing of benefits as determined by the National Biodiversity Authority under section 21;
  - h) “local bodies” means Panchayats and Municipalities, by whatever name called, within the meaning of clause (1) of article 243 B and clause (1) of article 243Q of the Constitution and in the absence of any Panchayats or Municipalities, institutions of self-government constituted under any other provision of the Constitution or any Central Act or State Act;
  - I) “member” means a member of the National Biodiversity Authority or a State Biodiversity Board and includes the Chairperson’
  - j) “National Biodiversity Authority” means the National Biodiversity Authority established under section 8;

- k) “prescribed” means prescribed by rules made under this Act;
- l) “regulations” means regulations made under this Act;
- m) “research” means study or systematic investigation of any biological resource or technological application, that uses biological systems, living organisms or derivatives thereof to make or modify products or processes for any use ;
- n) “State Biodiversity Board” means the State Biodiversity Board established under section 22;
- o) “sustainable use” means the use of components of biological diversity in such manner and at such rate that does not lead to the long-term decline of the biological diversity thereby maintaining its potential to meet the needs and aspirations of present and future generations;
- p) “value added products” means products which may contain portions or extracts of plants and animals in unrecognisable and physically inseparable form.

CHAPTER II  
REGULATION OF ACCESS TO  
BIOLOGICAL DIVERSITY

- 3 1) No person referred to in sub-section (2) shall, without previous approval of the National Biodiversity Authority, obtain any biological resource occurring in India or knowledge associated thereto for commercial utilisation or for bio-survey and bio-utilisation. Certain persons not to undertake Biodiversity related activities without approval of National Biodiversity Authority
- 2) The persons who shall be required to take the approval of the National Biodiversity

- Authority under sub-section (1) are the following, namely:
- 43 & 1961
- (a) a person who is not a citizen of India
  - (b) a citizen of India who is a non-resident as defined in clause (30) of section 2 of the Income-tax Act 1961
  - (c) a body corporate, association or organisation-
    - i. not incorporated or registered in India ;or
    - ii. incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management
4. No person shall, without the previous approval of the National Biodiversity Authority, transfer the results of any research relating to any biological resources occurring in, or obtained from, India for monetary consideration or otherwise to any person who is not a citizen of India or citizen of India who is non-resident as defined in clause (30) of section 2 of the Income-tax Act 1961 or a body corporate or organisation which is not registered or incorporated in India or which has any non-Indian participation in its share capital or management:
- Result of research not to be transferred to certain persons without approval of national Biodiversity Authority
- 43 & 1961
- Explanation – For the purposes of this section, “transfer” does not include publication of research papers or dissemination of knowledge in any seminar or workshop, if such publication is as per the guidelines issued by the Central Government.
- 5.1) The provisions of sections 3 and 4 shall not apply to collaborative research projects involving transfer or exchange of biological resources or information relating thereto between institutions, including Govern-
- Sections 3 and 4 shall not apply to collaborative research projects

ment sponsored institutions of India, and such institutions in other countries, if such collaborative research projects satisfy the conditions specified in sub-section (3)

- 2) All collaborative research projects, other than those referred to in sub-section (1) which are based on agreements concluded before the commencement of this Act and in force shall, to the extent the provisions of agreement are inconsistent with the provisions of this Act or any guidelines issued under clause (a) of sub-section (3) be void.
- 3) For the purposes of sub-section (1) collaborative research projects shall-
  - a) conform to the policy guidelines issued by the Central Government in this behalf
  - b) be approved by the Central Government

Application for intellectual Property rights not to be made without approval of National Biodiversity Authority

- 6.1) No person shall apply for any intellectual property right, by whatever name called, in or outside India for any invention based on any research or information on a biological resource obtained from India without obtaining the previous approval of the National Biodiversity Authority before making such application ;

Provided that if a person applies for a patent, permission of the National Biodiversity Authority may be obtained after the acceptance of the patent but before the sealing of the patent by the patent authority concerned ;

Provided further that the National Biodiversity Authority shall dispose of the application for permission made to it within a period of ninety days from the date of receipt thereof;

- 2) The National Biodiversity Authority may, while granting the approval under this

section, impose benefit sharing fee or royalty or both or impose conditions including the sharing of financial benefits arising out of the commercial utilisation of such rights;

- 3) The provisions of this section shall not apply to any person making an application for any right under any law relating to protection of plant varieties enacted by Parliament.
- 4) Where any right is granted under law referred to in sub-section (3), the concerned authority granting such right shall endorse a copy of such document granting the right to the National Biodiversity Authority.

Prior intimation to State Biodiversity Board for obtaining biological resource for certain purposes

7. No person, who is a citizen of India or a body corporate, association or organisation which is registered in India, shall obtain any biological resource for commercial utilisation, or bio-survey and bio-utilisation for commercial utilisation except after giving prior intimation to the State Biodiversity Board concerned ;

Provided that the provisions of this section shall not apply to the local people and communities of the area, including growers and cultivators of biodiversity, and vaidis and hakims, who have been practising indigenous medicine.

Establishment National Biodiversity Authority

### CHAPTER III

#### **NATIONAL BIODIVERSITY AUTHORITY**

8. 1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established by the Central Government for the purposes of this Act, a body to be called the National Biodiversity Authority.
- 2) The National Biodiversity Authority shall be a body corporate by the name aforesaid,

having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be issue.

- 3) The head office of the National Biodiversity Authority shall be at Chennai and the National Biodiversity Authority may, with the previous approval of the Central Government, establish offices at other places in India.
- 4) The National Biodiversity Authority shall consist of the following members, namely:-
  - a) a Chairperson, who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the Central Government.
  - b) three ex officio members to be appointed by the Central Government, one representing the Ministry dealing with Tribal Affairs and two representing the Ministry dealing with Environment and Forests of whom one shall be the Additional Director General of Forests or the Director General of Forests;
  - c) seven ex officio members to be appointed by the central Government to represent respectively the Ministries of the Central Government dealing with -
    - I. Agricultural Research and Education
    - II. Biotechnology
    - III. Ocean Development
    - IV. Agriculture and Co-operation
    - V. Indian Systems of Medicine and Homeopathy

VI. Science and Technology  
VII. Scientific and Industrial  
Research

- d) five non-official members to be appointed from amongst specialists and scientists having special knowledge of or experience in, matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources, representatives of industry, conservers, creators and knowledge-holders of biological resources.
9. The term of office and conditions of service of the Chairperson and the other members other than ex officio members of the National Biodiversity Authority shall be such as may be prescribed by the Central Government. Conditions of Service of Chairperson and members
10. The Chairperson shall be the Chief Executive of the National Biodiversity Authority and shall exercise such powers and perform such duties, as may be prescribed. Chairperson to be Chief Executive of National Biodiversity Authority
11. The Central Government may remove from the National Biodiversity Authority any member who, in its opinion, has - Removal of members
- a) been adjudged as an insolvent ;or
  - b) been convicted of an offence which involves moral turpitude. or
  - c) become physically or mentally incapable of acting as a member; or
  - d) so abused his position as to render his continuance in office detrimental to the public interest ;or
  - e) acquired such financial or other interest as is likely to affect prejudicially his functions as a member

- 12.1) The National Biodiversity Authority shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be prescribed.
- 2) The Chairperson of the National Biodiversity Authority shall preside at the meetings of the National Biodiversity Authority
- 3) If for any reason the Chairperson is unable to attend any meeting of the National Biodiversity Authority, any member of the National Biodiversity Authority chosen by the members present at the meeting shall preside at the meeting.
- 4) All question which come before any meeting of the National Biodiversity Authority shall be decided by a majority of votes of the members present and voting and in the event of equality of votes, the Chairperson or, in his absence, the person presiding, shall have and exercise a second or casting vote.
- 5) Every member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at the meeting shall disclose the nature of his concern or interest and after such disclosure, the member concerned or interested shall not attend that meeting.
- 6) No act or proceeding of the National Biodiversity Authority shall be invalidated merely by reason of-
- (a) any vacancy in, or any defect in the constitution of, the National Biodiversity Authority; or
  - (b) any defect in the appointment of a person acting as a member ;or

Meetings of  
National  
Biodiversity  
Authority



- (c) any irregularity in the procedure of the National Biodiversity Authority not affecting the merits of the case.
- Committees of National Biodiversity Authority
13. 1) The National Biodiversity Authority may constitute a committee to deal with agrobiodiversity.  
Explanation – For the purposes of this subsection, “agro biodiversity means biological diversity, of agriculture related species and their wildrelative,
- 2) Without prejudice to the provisions of subsection (1), the National Biodiversity Authority may constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its functions under this Act
- 3) A committee constituted under this section shall co-opt such number of persons, who are not the members of the National Biodiversity Authority, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.
- 4) The persons appointed as members of the committee under sub-section (2) shall be entitled to receive such allowances or fees for attending the meetings of the committee as may be fixed by the Central Government.
- Officers & Employees of National Biodiversity Authority
14. 1) The National Biodiversity Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.
- 2) The terms and conditions of service of such officers and other employees of the National Biodiversity Authority shall be such as may be specified by regulations.

- |   |     |   |
|---|-----|---|
| Authentication of orders and decisions of National Biodiversity Authority                         | 15. | All orders and decisions of the National Biodiversity Authority shall be authenticated by the signature of the Chairperson or any other member authorised by the National Biodiversity Authority in this behalf and all other instruments executed by the National Biodiversity Authority shall be authenticated by the signature of an officer of the National Biodiversity Authority authorised by it in this behalf.                 |
| Delegation of Powers  | 16. | The National Biodiversity Authority may, by general or special order in writing, delegate to any member, officer of the National Biodiversity Authority or any other person subject to such conditions, if any, as may be specified in the order, such of the powers and functions under this Act ( except the power to prefer an appeal under section 50 and the power to make regulations under section 64) as it may deem necessary. |
| Expenses of National Biodiversity Authority to be defrayed out of the Consolidated Fund of India. | 17. | The salaries and allowances payable to the members and the administrative expenses of the National Biodiversity Authority including salaries, allowances and pension payable to, or in respect of, the officers and other employees of the National Biodiversity Authority shall be defrayed out of the Consolidated Fund of India.   |

**CHAPTER IV  
FUNCTIONS AND POWERS OF THE  
NATIONAL BIODIVERSITY  
AUTHORITY**

- |  |        |   |
|--|--------|---|
| Functions & Power of National Biodiversity Authority | 18. 1) | It shall be the duty of the National Biodiversity Authority to regulate activities referred to in sections 3,4 and 6 and by regulations issue guidelines for access to biological resources and for fair and equitable benefit sharing, |
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- 2) The National Biodiversity Authority may grant approval for undertaking any activity referred to in sections 3,4 and 6
- 3) The National Biodiversity Authority may
  - (a) advise the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of biological resources;
  - (b) advise the State Governments in the selection of areas of biodiversity importance to be notified under sub-section (1) of section 37 as heritage sites and measures for the management of such heritage sites,
  - (c) perform such other functions as may be necessary to carry out the provisions of this Act.
- 4) The National Biodiversity Authority may, on behalf of the Central Government, take any measures necessary to oppose the grant of intellectual property rights in any country outside India on any biological resource obtained from India or knowledge associated with such biological resource which is derived from India.

#### CHAPTER V

#### **APPROVAL BY THE NATIONAL BIODIVERSITY AUTHORITY**

- 19.1) Any person referred to in sub-section (2) of section 3 who intends to obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilisation or for bio-survey and bio-utilisation or transfer the results of any research relating to biological
- Approval by  
the National  
Biodiversity  
Authority for  
Undertaking  
Certain  
activities

resources occurring in, or obtained from, India, shall make application in such form and payments of such fees as may be prescribed, to the National Biodiversity Authority

- 2) Any person who intends to apply for a patent or any other form of intellectual property protection whether in India or outside India referred to in sub-section (1) of section 6, may make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.
  - 3) On receipt of an application under sub-section (1) or sub-section (2), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to any regulations made in this behalf and subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing, reject the application :  
Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.
  - 4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section
- 20.1) No person who has been granted approval under section 19 shall transfer any biological resource or knowledge associated thereto which is the subject matter of the said approval except with the permission of the National Biodiversity Authority.
- 2) Any person who intends to transfer any

Transfer of  
biological  
resource or  
knowledge

biological resource or knowledge associated thereto referred to in sub-section (1) shall make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.

- 3) On receipt of an application under sub-section (2) the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing, reject the application.

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

- 4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section

Determination  
of equitable  
benefit sharing  
by National  
Biodiversity  
Authority

- .21. 1) The National Biodiversity Authority shall while granting approvals under section 19 or section 20 ensure that the terms and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, local bodies concerned and the benefit claimers.

- 2) The National Biodiversity Authority shall, subject to any regulations made in this behalf, determine the benefit sharing which

shall be given effect in all or any of the following manner, namely :-

- (a) grant of joint ownership of intellectual property rights to the National Biodiversity Authority , or where benefit claimers are identified, to such benefit claimers'
  - (b) transfer of technology
  - (c) location of production, research and development units in such areas which will facilitate better living standards to the benefit claimers;
  - (d) association of Indian scientists, benefit claimers and the local people with research and development in biological resources and bio-survey and bio-utilisation;
  - (e) setting up of venture capital fund for aiding the cause of benefit claimers;
  - (f) payment of monetary compensation and other non-monetary benefits to the benefit claimers as the National Biodiversity Authority may deem fit.
- (3) Where any amount of money is ordered by way of benefit sharing, the National Biodiversity Authority may direct the amount to be deposited in the National Biodiversity Fund :

Provided that where biological resource or knowledge was a result of access from specific individual or group of individuals or organisations, the National Biodiversity Authority may direct that the amount shall be paid directly to such individual or group of individuals or organisations in accordance with the terms of any agreement and in such manner as it deems fit.

- 4) For the purposes of this section , the National Biodiversity Authority shall, in consultation with the Central Government, by regulations, frame guidelines.

#### CHAPTER VI

#### STATE BIODIVERSITY BOARD

- Establishment of State Biodiversity Board
22. 1) With effect from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established by the Government for the purposes of this Act, a Board for the State to be known as the \_\_\_\_\_  
(name of the State) Biodiversity Board.
  - 2) Notwithstanding any thing contained in this section, no State Biodiversity Board shall be constituted for a Union territory and in relation to a Union territory, the National Biodiversity Authority shall exercise the powers and perform the functions of a State Biodiversity Board for that Union territory:  
  
Provided that in relation to any Union territory, the National Biodiversity Authority may delegate all or any of its powers or functions under this subsection to such person or group of persons as the Central Government may specify.
  - 3) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract, and shall by the said name sue and be sued.

- 4) The Board shall consist of the following members namely-
  - (a) a Chairperson who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the State Government;;
  - (b) not more than five *ex officio* members to be appointed by the State Government to represent the concerned Departments of the State Government.
  - (c) not more than five members to be appointed from amongst experts in matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources.
- 5) The head office of the State Biodiversity Board shall be at such place as the State Government may, by notification in the Official Gazette, specify
23. The functions of the State Biodiversity Board shall be to-
 

<ol style="list-style-type: none"> <li>(a) advise the State Government, subject to any guidelines issued by the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of the benefits arising out of the utilisation of biological resources;</li> <li>(b) regulate by granting of approvals or otherwise requests for</li> </ol>	Function of State Biodiversity Board
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commercial utilisation or bio-survey and bio-utilisation of any biological resource by Indians;

(c) perform such other functions as may be necessary to carry out the provisions of this Act or as may be prescribed by the State Government.

24. 1) Any citizen of India or a body corporate, organisation or association registered in India intending to undertake any activity referred to in section 7 shall give prior intimation in such form as may be prescribed by the State Government to the State Biodiversity Board.
- 2) On receipt of an intimation under sub-section (1) the State Biodiversity Board may, in consultation with the local bodies concerned and after making such enquiries as it may deem fit, by order, prohibit or restrict any such activity if it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity.  
Provided that no such order shall be made without giving an opportunity of being heard to the person affected.
- 3) Any information given in the form referred to in sub-section (1) for prior intimation shall be kept confidential and shall not be disclosed, either intentionally or unintentionally, to any person not concerned thereto.
25. The provisions of sections 9 to 17 shall apply to a State biodiversity Board and shall have effect subject to the following modifications, namely:-
- (a) references to the Central Government shall be construed as
- Power of State Biodiversity Board to restrict certain activities violating the objectives of conservation. etc.
- Provisions of section 9 to 17 to apply with modifications to State Biodiversity Board

- references to the State Government ;
- (b) references to the National Biodiversity Authority shall be construed as references to the State Biodiversity Board.
  - (c) reference to the Consolidated Fund of India shall be construed as reference to the Consolidated Fund of the State.

CHAPTER VII  
**FINANCE , ACCOUNTS AND AUDIT OF  
 NATIONAL BIODIVERSITY  
 AUTHORITY**

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| Grants or Loans by the Central             | 26. The Central government may, after due appropriation made by parliament by law in this behalf, pay to the National Biodiversity Authority by way of grants or loans such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.   |
| Constitution of National Biodiversity Fund | <p>27. 1) There shall be constituted a Fund to be called the National Biodiversity Fund and there shall be credited thereto.</p> <ul style="list-style-type: none"> <li>a) any grants and loans made to the National Biodiversity Authority under section 26;</li> <li>b) all charges and royalties received by the National Biodiversity Authority under this Act; and</li> <li>c) all sums received by the National Biodiversity Authority from such other sources as may be decided upon by the Central Governemtn.</li> </ul> <p>2) The funds shall be applied for-</p> <ul style="list-style-type: none"> <li>a) channelling benefits to the benefit claimers;</li> <li>b) conservation and promotion of</li> </ul> |

biological resource and development of areas from where such biological resources or knowledge associated thereto has been accessed ;

- c) socio-economic development of areas referred to in clause (b) in consultation with the local bodies concerned.

Annual  
report of  
National  
Biodiversity  
Authority

28. National Biodiversity Authority shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and furnish to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditors' report thereon.

- 29. 1) The national Biodiversity Authority shall prepare a budget, maintain proper accounts and other relevant records (including the accounts and other relevant records of the National Biodiversity Fund) and prepare an annual statement of account in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.
- 2) The accounts of the National Biodiversity Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the National Biodiversity authority to the Comptroller and Auditor-General of India.
- 3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the National Biodiversity Authority shall have the same rights and privileges and authority in connection

with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the National Biodiversity Authority.

- 4) The accounts of the National Biodiversity Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government.

Annual report  
to be laid  
before  
Parliament

30. The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before each House of Parliament.

#### CHAPTER VIII

#### FINANCE , ACCOUNTS AND AUDIT OF STATE BIODIVERSITY BOARD

31. The State Government may, after due appropriation made by the State Legislature by law in this behalf, pay to the State Biodiversity Board by way of grants or loans such sums of money as the State Government may think fit for being utilized for the purposes of this Act
- Grant of money  
by State  
Government to  
to State  
Biodiversity
32. 1) There shall be constituted a Fund to be called the State Biodiversity Fund and there shall be credited thereto -
- Constitution of  
State  
Biodiversity  
Fund
- (a) any grants and loans made to the State Biodiversity Board under section 31;
- (b) any grants or loans made by the

National Biodiversity Authority.

- (c) all sums received by the State Biodiversity Board from such other sources as may be decided upon by the State Government.
- 2) The State Biodiversity Fund shall be applied for -
- (a) the management and conservation of heritage sites;
  - (b) compensating or rehabilitating any section of the people economically affected by notification under subsection (1) of section 37;
  - (c) conservation and promotion of biological resources;
  - (d) socio-economic development of areas from where such biological resources or knowledge associated thereto has been accessed subject to any order made under section 24, in consultation with the local bodies concerned;
  - (e) meeting the expenses incurred for the purposes authorised by this Act.
33. The State Biodiversity Board shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government
34. The accounts of the State Biodiversity Board shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the State Biodiversity Board shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon.

Annual report  
of State  
Biodiversity  
Board

Audit of  
accounts of  
State  
Biodiversity  
Board

35. The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the House of State Legislature;
- Annual report of State Biodiversity Board to be laid before State Legislature

CHAPTER IX  
**DUTIES OF THE CENTRAL AND THE  
STATE GOVERNMENTS**

36. The Central Government shall develop national strategies, plans, programmes for the conservation and promotion and sustainable use of biological diversity including measures for identification and monitoring of areas rich in biological resources, promotion of *in situ*, and *ex situ*, conservation of biological resources, incentives for research, training and public education to increase awareness with respect to biodiversity
- Central Government to develop National strategies, plans, etc. for conservation etc. of biological diversity
- 2) Where the Central Government has reason to believe that any area rich in biological diversity, biological resources and their habitats is being threatened by overuse, abuse or neglect, it shall issue directives to the concerned State Government to take immediate ameliorative measures, offering such State Government any technical and other assistance that is possible to be provided or needed.
- 3) The Central Government shall, as far as practicable wherever it deems appropriate, integrate the conservation, promotion and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.
- 4) The Central Government shall undertake measures,-
- i. wherever necessary, for assessment of environmental impact of that

project which is likely to have adverse effect on biological diversity, with a view to avoid or minimise such effects and where appropriate provide for public participation in such assessment;

ii. to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology likely to have adverse impact on the conservation and sustainable use of biological diversity and human health.

5) The Central Government shall endeavour to respect and protect the knowledge of local people relating to biological diversity, as recommended by the National Biodiversity Authority through such measures, which may include registration of such knowledge at the local, State or national levels, and other measures for protection, including *sui generis* systems

Explanation, - For the purposes of this section.

(a) “ex situ conservation” means the conservation of components of biological diversity outside their natural habitats;

(b) in situ conservation means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

Biodiversity  
heritage sites 37.

1) Without prejudice to any other law for the time being in force, the State

Government may from time to time in consultation with the local bodies, notify in the Official Gazette, areas of biodiversity importance as biodiversity heritage sites under this Act.

- 2) The State Government, in consultation with the Central Government, may frame rules for the management and conservation of all the heritage sites.
- 3) The State Government shall frame schemes for compensating or rehabilitating any person or section of people economically affected by such notification.

Power of Central Government notify threatened species

38. Without prejudice to the provisions of any other law for the time being in force, the Central Government, in consultation with the concerned State Government, may from time to time notify any species which is on the verge of extinction or likely to become extinct in the near future as a threatened species and prohibit or regulate collection thereof for any purpose and take appropriate steps to rehabilitate and preserve those species.

Power of Central Government to designate repositories

39. 1) The Central Government may, in consultation with the National Biodiversity Authority, designate institutions as repositories under this Act for different categories of biological resources.
- 2) The repositories shall keep in safe custody the biological material including voucher specimens deposited with them.
  - 3) Any new taxon discovered by any person shall be notified to the repositories or any institution designated for this purpose and he shall deposit the voucher



specimens with such repository or institution.

Power of Central to exempt certain biological resources

40. Notwithstanding anything contained in this Act, the Central Government may, in consultation with the National Biodiversity Authority, by notification in the Official Gazette, declare that the provisions of this Act shall not apply to any items, including biological resources normally traded as commodities.

## CHAPTER X

### **BIODIVERSITY MANAGEMENT COMMITTEES**

- 41.1) Every local body shall constitute a Biodiversity Management Committee within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and micro-organisms and chronicling of knowledge relating to biological diversity.
- Constitution of Biodiversity Management Committees
- Explanation – For the purpose of this sub-section,
- a) “cultivator” means a variety of plant that has originated and persisted under cultivation or was specifically bred for the purpose of cultivation.
  - b) “folk variety” means a cultivated variety of plant that was developed, grown and exchanged informally among farmers;
  - c) “landrace” means primitive cultivar that was grown by ancient farmers and their successors.
- 2) The National Biodiversity Authority and

the State Biodiversity Boards shall consult the Biodiversity Management Committees while taking any decision relating to the use of biological resources and knowledge associated with such resources occurring within the territorial jurisdiction of the Biodiversity Management Committee.

- 3) The Biodiversity Management Committees may levy charges by way of collection fees from any person for accessing or collecting any biological resource for commercial purpose from areas falling within its territorial jurisdiction.

#### CHAPTER XI

##### **LOCAL BIODIVERSITY FUND**

- 42 The State Government may, after due appropriation made by State Legislature by law in this behalf, pay to the Local Biodiversity Funds by way of grants or loans such sums of money as the State Governments may think fit for being utilized for the purposes of this acts. Grants to Local Biodiversity Fund
43. 1) There shall be constituted a Fund to be called the Local Biodiversity Fund at every area notified by the State Government where any institution of self-government is functioning and there shall be credited thereto- Constitution of Local Biodiversity Fund
  - a) any grants and loans made under section 42;
  - b) any grants or loans made by the National Biodiversity Authority.
  - c) any grants or loans made by the State Biodiversity Boards;
  - d) fees referred to in sub-section (3) of section 41 received by the Biodiversity Management Committees;

e) all sums received by the Local Biodiversity Fund from such other sources as may be decided upon by the State Government.

44. 1) Subject to the provisions of sub-section (2), the management and the custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied, be in the manner as may be prescribed by the State Government. Application of Local Biodiversity Fund
- 2) The Fund shall be used for conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the community in so far such use is consistent with conservation of biodiversity

45. The person holding the custody of the Local Biodiversity fund shall prepare, in such form and during each financial year at such time as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the concerned local body Annual report of Biodiversity Management Committees

Audit accounts Biodiversity Management Committees 46. The accounts of the Local Biodiversity Fund shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the person holding the custody of the Local Biodiversity Fund shall furnish, to the concerned local body, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon

Annual report, etc, of the Biodiversity Management Committee to be submitted to District Magistrate 47. Every local body constituting a Biodiversity Management Committee under sub-section (1) of section 41, shall cause, the annual report and audited copy of accounts together with auditor's report thereon referred to in sections 45 and 46, respectively and relating to such Committee to be submitted to the

District Magistrate having jurisdiction over the areas of the local body.

CHAPTER XII  
MISCELLANEOUS

- National Biodiversity authority to be bound by the directions given by Central Government
- 48.1) Without prejudice to the foregoing provisions of this Act, the National Biodiversity Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.
- Provided that the National Biodiversity Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.
- 2) The decision of the Central Government whether a question is one of policy or not shall be final.
- Power of State Government to give directions
49. 1) Without prejudice to the foregoing provisions of this Act, the State Biodiversity Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.
- Provided that the State Biodiversity Board shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.
- 2) The decision of the State Government whether a question is one of policy or not shall be final.
- Settlement of disputes between State Biodiversity Boards
- 50.1) If a dispute arises between the National Biodiversity Authority and a State Biodiversity Board, the said Authority or the Board, as the case may be, may prefer an appeal to the Central Government

within such time as may be prescribed.

- 2) Every appeal made under sub-section (1) shall be in such form as may be prescribed by the Central Government.
- 3) The procedure for disposing of an appeal shall be such as may be prescribed by the Central Government.

Provided that before disposing of an appeal, the parties shall given a reasonable opportunity of being heard.

- 4) If a dispute arises between the State Biodiversity Boards, the Central Government shall refer the same to the National Biodiversity Authority.
- 5) While adjudicating any dispute under sub-section (4), the National Biodiversity authority shall be guided by the principles of natural justice and shall follow such procedure as may be prescribed by the Central Government.
- 6) The National Biodiversity Authority shall have, for the purposes of discharging its functions under this section, the same power as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matter, namely :-
  - (a) summoning and enforcing the attendance of any person and examining him on oath;
  - (b) requiring the discovery and production of documents.
  - (c) receiving evidence on affidavits;
  - (d) issuing commissions for examination of witnesses or documents;
  - (e) reviewing its decisions;
  - (f) dismissing an application for default or deciding it ex parte;
  - (g) setting aside any order of dismissal of

any application for default or any order passed by it ex parte.

(h) any other matter which may be prescribed.

7) Every proceeding before the National Biodiversity Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code and the National Biodiversity Authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

51. All members, officers and other employees of the National Biodiversity Authority or the State Biodiversity Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Members officers, etc. of National Biodiversity Authority and State Biodiversity Board deemed to be public servants

52. Any person, aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, may file an appeal to the High Court within thirty days from the date of communication to him, of the determination or order of the National Biodiversity Authority or the State Biodiversity Board, as the case may be :

Appeal

Provided that the High Court may, if satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

53. Every determination of benefit sharing or order made by the National Biodiversity Authority or a State Biodiversity Board under this Act or the order made by the High Court in

any appeal against any determination or order of the National Biodiversity authority or the a State Biodiversity Board shall, on a certificate issued by any officer of the National Biodiversity Authority or a State Biodiversity Board or the Registrar of the High Court, as the case may be, be deemed to be decree of the civil court and be executable in the same manner as a decree of that court.

*Explanation.*-For the purposes of this section and section 52, the expression “State Biodiversity Board” includes the person or group of persons to whom the powers or functions under sub-section (2) of section 22 have been delegated under the proviso to that subsection and the certificate relating to such person or group of persons under this section shall be issued by such person or group of persons, as the case may be.

54. No suit, prosecution or other legal proceedings shall lie against the Central Government or the State Government or any officer of the Central government or the state Government or any member, officer or employee of the national Biodiversity authority or the State Biodiversity Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder. Protection of action taken in good faith
55. 1) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3 or section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees and where the damage caused exceeds ten lakh rupees such fine may commensurate with the damage caused, or with both. Penalties
- 2) Whoever contravenes or attempts to contravene or abets the contravention of

the provisions of section 7 or any order made under sub-section (2) of section 24 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both

Penalty for contravention of directions or orders of Central Government, State Government, National Biodiversity Authority and State Biodiversity Boards

56. If any person contravenes any direction given or order made by the Central Government, the State Government, the National Biodiversity Authority or the State Biodiversity Board for which no punishment has been separately provided under this Act, he shall be punished with a fine which may extend to one lakh rupees and in case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of continuous contravention with additional fine which may extend to two lakh rupees everyday during which the default continues

Offences by companies

57.1) Where an offence or contravention under this Act has been committed by a company, every person who at the time the offence or contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly:

**Provided that nothing contained in this subsection shall render any such person liable to any punishment provided in this act, if he proves that the offence or contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.**

2) Notwithstanding anything contained in sub-section (1), where an offence or



contravention under this act has been committed by a company and it is proved that the offence or contravention has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section,-

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.

- |  |   |
|--|---|
| Offences to be cognizable and non-bailable                         | 58. The offences under this Act shall be cognizable and non-bailable.   |
| Act to have effect in addition to other Act                        | 59. The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, relating to forests or wildlife.  |
| Power of Central Government to give directions to State Government | 60. The Central Government may give directions to any state Government as to the carrying into execution in the State of any of the provisions of this act or of any rule or regulation or order made thereunder.   |
| Cognizance offences  | 61. No Court shall take cognizance of any offence under this act except on a complaint made by- <ul style="list-style-type: none"> <li>(a) the Central Government or any authority or officer authorized in this behalf by that Government; or</li> <li>(b) any benefit claimer who has given notice of not less than thirty days in the prescribed manner, of such offence and of his intention to make a</li> </ul> |

complaint, to the Central Government or the authority or officer authorized as aforesaid.

62. 1) The central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this act. Power of Central Government to make rules
- 2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely;
- (a) terms and conditions of service of the Chairperson and members under section 9;
  - (b) powers and duties of the Chairperson under section 10;
  - (c) procedure under sub-section (1) of section 12 in regard to transaction of business at meetings;
  - (d) form of application and payment of fees for undertaking certain activities under sub-section (1) of section 19;
  - (e) the form and manner of making an application under sub-section (2) of section 19;
  - (f) form of application and the manner for transfer of biological resource or knowledge under sub-section (2) of section 20;
  - (g) form in which, and the time of each financial year at which, the annual report of the National Biodiversity authority shall be prepared and the date before which its audited copy of accounts together with auditor's report thereon shall be furnished under section 28;

- (h) form in which the annual statement of account shall be prepared under sub-section (1) of section 29;
  - (I) the time within which and the form in which, an appeal may be preferred the procedure for disposing of an appeal and the procedure for adjudication, under section 50;
  - (j) the additional matter in which the National Biodiversity authority may exercise powers of the civil court under clause (h) of sub-section (6) of section 50;
  - (k) the manner of giving notice under clause (b) of section 61;
  - (l) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules;
- 3) Every rule made under this section and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

63. (1) The State Government may , by notification in the Official Gazette, make rules for carrying out the purpose of this Act. Power of State Govern-ment to make rules
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-
- (a) the other functions to be performed by the State biodiversity board under clause (c) of section 23;
  - (b) the form in which the prior intimation shall be given under sub-section (1) of section 24;
  - (c) the form in which, and the time of each financial year at which, the annual report shall be prepared under section 33;
  - (d) the manner of maintaining and auditing the accounts of the State Biodiversity Board and the date before which its audited copy of accounts together with auditor's report thereon shall be furnished under section 34;
  - (e) management and conservation of national heritage sites under section 37
  - (f) the manner of management and custody of the Local Biodiversity Fund and the purposes for which such fund shall be applied under sub-section (1) of section 44;
  - (g) the form of annual report and the time at which such report shall be prepared during each financial year under section 45;
  - (h) the manner of maintaining and auditing the accounts of the Local Biodiversity Fund and the date

before which its audited copy of the accounts together with auditor's report thereon shall be furnished under section 46;

- (I) any other matter which is to be, or may be, specified
- 3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State legislature where it consists of two Houses, or where such Legislature consists of one house, before that house.
- 64. The National Biodiversity Authority shall, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.
- 65. (1) If any difficulty arises in giving effect to the provisions of this act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty;  
Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act;
- 2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament

**17a. Authorisation of officers to file complaints under section 61(a) of the Biological Diversity Act, 2002**

**MINISTRY OF ENVIRONMENT AND FORESTS**

**NOTIFICATION**

New Delhi, the 17<sup>th</sup> November, 2008

**S.O. 2708(E)**— In exercise of the powers conferred by clause (a) of Section 61 of the Biological Diversity Act, 2002 (18 of 2003), the Central Government hereby authorises the officers specified in column (2) of the table below, to file complaints with regard to offences punishable under the said Act, within the areas of jurisdiction specified against each in the corresponding entry in column (3) of the Table aforesaid, subject to the condition that the Central Government may revoke such authorisation or may itself exercise the powers under the said section, if in its opinion such a course of action is necessary in the public interest, namely:-

**TABLE**

Sl. No.	Officers authorized to file complaints under Section 61(a) of the Biological Diversity Act, 2002	Area of Jurisdiction
1.	Officers of the National Biodiversity Authority, not below the rank of Scientist 'C'	Whole of India
2.	Officers of the State Biodiversity Boards, not below the rank of Scientist 'C'	Whole of the concerned State
3.	Officers of the Regional Offices of the Ministry of Environment and Forests, Government of India, not below the rank of Scientist 'C'	Whole of the States under the jurisdiction of the respective Regional Offices

[F.No. 28-14/2008-CS-III (NBA)]  
A.K.Goyal, Jt. Secy.

**17b. Authorisation of forest officers to file complaints under section 61(a) of the Biological Diversity Act, 2002**

**MINISTRY OF ENVIRONMENT AND FORESTS**

**NOTIFICATION**

New Delhi, the 7<sup>th</sup> January, 2009

**S.O. 120(E)**— In exercise of the powers conferred by clause (a) of Section 61 of the Biological Diversity Act, 2002 (18 of 2003), the Central Government hereby make the following further amendments in the Notification No. S.O. 2708 (E). dated 17<sup>th</sup> November, 2008 namely :-

**TABLE**

Sl. No.	Officers authorized to file complaints under Section 61(a) of the Biological Diversity Act, 2002	Area of Jurisdiction
4.	Forest officer not below the rank of Range Officer	In their respective Jurisdiction

[F.No. 28-14/2008-CS-III (NBA)]

A.K.Goyal, Jt. Secy

## CHAPTER 3

### **The Forest (Conservation) Act, 1980 and Rules and Guidelines Thereunder**

#### 1. The Forest (Conservation) Act, 1980

THE FOREST (CONSERVATION) ACT, 1980  
(69 of 1980)

(with amendments made in 1988)

[27<sup>th</sup> December, 1980]

An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:

#### **1. Short title, extent and commencement.**

- (1) This Act may be called the Forest (Conservation) Act, 1980.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall be deemed to have come into force on the 25<sup>th</sup> day of October 1980.

#### **2. Restriction on the dereservation of forests or use of forest land for non-forest purpose.**

Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing—

- (i) that any reserved forest (within the meaning of the expression “reserved forest” in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;
- (ii) that any forest land or any portion thereof may be used for any non-forest purpose;



- (iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by government;
- (iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation.

Explanation : For the purpose of this section, “non-forest purpose” means the breaking up or clearing of any forest land or portion thereof for—

- (a) the cultivation of tea, coffee, spices, rubber, palms, oil bearing plants, horticultural crops or medicinal plants;
- (b) any purpose other than reafforestation, but does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.

### **3. Constitution of Advisory Committee.**

The Central Government may constitute a Committee consisting of such number of persons as it may deem fit to advise the Government with regard to—

- (i) the grant of approval under Section 2; and
- (ii) any other matter connected with the conservation of forests which may be referred to it by the Central Government.

### **3A. Penalty for contravention of the provisions of the Act.**

Whoever contravenes or abets the contravention of any of the provisions of Section 2, shall be punishable with simple imprisonment for a period which may extend to fifteen days.

**3B. Offences by authorities and Government departments.**

- (1) Where any offence under this Act has been committed—
- (a) by any department of Government, the head of the department; or
  - (b) by any authority, every person who, at the time the offence was committed, was directly in charge, of, and was responsible to, the authority for the conduct of the business of the authority as well as the authority;  
shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:  
Provided that nothing contained in this sub-section shall render the head of the department or any person referred to in clause (b), liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.
- (2) Notwithstanding anything contained in sub-section (1), where an offence punishable under the Act has been committed by a department of Government or any authority referred to in clause (b) of sub-section (1) and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the head of the department, or in the case of an authority, any person other than the person referred to in clause (b) of sub-section (1), such officer or person shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punishable accordingly.

**4. Power to make rules**

- (1) The Central Government may, by notification in the

Official Gazette, make rules for carrying out the provisions of this Act.

- (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

#### **5. Repeal and Saving**

- (1) The Forest (Conservation) Ordinance, 1980 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

## **2. The Forest (Conservation) Rules, 2003**

### **MINISTRY OF ENVIRONMENT AND FORESTS NOTIFICATION**

New Delhi, the 10th January, 2003

#### **THE FOREST (CONSERVATION) RULES, 2003**

(G.S.R.23 (E) – In exercise of the powers conferred by subsection (1) of Section 4 of the Forest (Conservation) Act, 1980 (69 of 1980), and in supersession of the Forest (Conservation) Rules, 1981, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely :

#### **1. Short title, extent and commencement: -**

- (1) These rules may be called the Forest (Conservation) Rules, 2003.
- (2) They shall extend to the whole of India except the State of Jammu and Kashmir.
- (3) They shall come into force on the date of their publication in the Official Gazette.

#### **2. Definitions:**

In these rules, unless the context otherwise requires—

- (a) “Act” means the Forest (Conservation) Act, 1980 (69 of 1980);
- (b) “Committee” means the Advisory Committee constituted under Section 3 of the Act;
- (c) “Chairperson” means the Chairperson of the Committee;
- (d) “Member” means a member of the Committee;
- (e) “Nodal Officer” means any officer not below the rank of Conservator of Forests, authorised by the State Government to deal with the forest conservation matters under the Act;
- (f) “Regional Office” means a Regional Office of the

Central Government in the Ministry of Environment and Forests established as part of the Ministry to deal with the forest conservation matters under the Act;

- (g) “Section” means a section of the Act;
- (h) “User Agency” means any person, organisation or company or Department of the Central or State Government making a request for diversion or denotification of forest land for non-forest purpose or using forest land for non-forest purpose in accordance with the permission granted by the Central Government under the Act or the rules.

**3. Composition of the Committee:**

- (1) The Committee shall be composed of the following members:
  - (i) Director General of Forests, Ministry of Environment and Forests – Chairperson.
  - (ii) Additional Director General of Forests, Ministry of Environment and Forests— Member.
  - (iii) Additional Commissioner (Soil Conservation), Ministry of Agriculture— Member.
  - (iv) Three eminent experts in forestry and allied disciplines (non-officials)— Members.
  - (v) Inspector general of Forests (Forest Conservation), Ministry of Environment and Forests – Member-Secretary.
- (2) Additional Director General of Forests shall act as the Chairperson in the absence of Director General of Forests.

**4. Terms of appointment of non-official members shall be as follows:**

- (i) a non-official member shall hold his office for a period of two years;

- (ii) a non-official member shall cease to hold office if he becomes of unsound mind, becomes insolvent or is convicted by court of law on a criminal offence involving moral turpitude;
- (iii) a non-official member may be removed from his office if he fails to attend three consecutive meetings of the Committee without any sufficient cause or reasons;
- (iv) any vacancy in the membership caused by any reasons mentioned in clauses (ii) and (iii) shall be filled by the Government for the unexpired portion of two years term;
- (v) travelling and daily allowance shall be payable to the non-official members of the Committee at the highest rate admissible to the Government servants of group 'A' under the rules and orders made by the Central Government and for the time being in force.

Provided that the payment of travelling allowance and daily allowance to a member who is a Member of the Parliament or a Member of a State Legislature shall be regulated in accordance with the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954) or the respective provisions of law pertaining to the member of the concerned State Legislature.

**5. Conduct of business of the Committee:**

- (i) The Chairperson shall call the meeting of the Committee whenever considered necessary, but not less than once in a month.
- (ii) The meeting of the Committee shall be held at New Delhi.
- (iii) In a case where the Chairperson is satisfied that inspection of site or sites of forest land proposed to be used for non-forest purposes shall be necessary or expedient in connection with the consideration of the proposal or proposals received under sub-rule (3) of rule

6, he may direct that the meetings of the Committee be held at a place other than New Delhi from where such inspection of site or sites is necessary.

- (iv) The Chairperson shall preside over every meeting of the Committee at which he is present.
- (v) Every question upon which the Central government is required to be advised shall be considered in the meeting of the Committee provided that in urgent cases if the meeting cannot be convened within a month, the Chairperson may direct that papers may be circulated and sent to the members for their opinion within the stipulated time.
- (vi) The quorum of the meeting of the committee shall be three.

**6. Submission of the proposals seeking approval of the Central Government under section 2 of the Act:**

- (1) Every user agency, who wants to use any forest land for non-forest purposes, shall make his proposal in the appropriate Form appended to these rules, i.e. Form 'A' for proposals seeking first time approval under the Act and Form 'B' for proposals seeking renewal of leases where approval of the Central Government under the Act had already been obtained earlier, to the concerned nodal officer authorised in this behalf by the State Government, along with requisite information and documents, complete in all respects, well in advance of taking up any non-forest activity on the forest land.
- (2) Every State Government or other authority, after having received the proposal under sub-rule (1) and after being satisfied that the proposal requires prior approval under section 2 of the act, shall send the proposal to the Central Government in the appropriate forms, within ninety days of receipt of the proposal from the user agency for proposals seeking first time approval under the Act and

within sixty days for proposals seeking renewal of leases where approval of the Central Government under the Act had already been obtained earlier.

Provided that all proposals involving clearing naturally grown tree in forest land or portion thereof for the purpose of using it for reforestation shall be sent in the form of Working Plan or Management Plan.

- (3) The proposal referred in sub-rule (2) above, involving forest land of more than forty hectare shall be sent by the State Government to the Secretary to the government of India, Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi – 110 003, with a copy of the proposal (with complete enclosures) to the concerned Regional Office.
  - (4) The proposal referred to in sub-rule (2) above, involving forest land upto forty hectare shall be sent to the Chief Conservator of Forests or Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests.
  - (5) The proposal referred to in sub-rule (2) above, involving clearing of naturally grown trees in forest land or portion thereof for the purpose of using it for reforestation shall be sent to the Chief Conservator of Forests or Conservator of Forests of the concerned Regional Office of the Ministry of Environment and forests.
- 7. Committee to advise on proposals received by the Central Government:**
- (1) The Central Government shall refer every proposal, complete in all respects, received by it under sub-rule (3) of rule 6 including site inspection reports, wherever required, to the Committee for its advice thereon.
  - (2) The committee shall have due regard to all or any of the following matters while tendering its advice on the proposals referred to it under sub-rule (1), namely: -



- (a) Whether the forest land proposed to be used for non-forest purpose forms part of a nature reserve, national park, wildlife sanctuary, biosphere reserve or forms part of the habitat of any endangered or threatened species of flora and fauna or of an area lying in severely eroded catchment;
  - (b) Whether the use of any forest land is for agricultural purposes or for the rehabilitation of persons displaced from their residences by reason of any river valley or hydroelectric project;
  - (c) Whether the State Government or other authority has certified that it has considered all other alternatives and that no other alternatives in the circumstances are feasible and that the required area is the minimum needed for the purpose; and
  - (d) Whether the State government or the other authority undertakes to provide at its cost for the acquisition of land of an equivalent area and afforestation thereof.
- (3) While tendering the advice, the Committee may also suggest any conditions or restrictions on the use of any forest land for any non-forest purpose, which in its opinion, would minimise adverse environmental impact.

**8. Action of the Central Government on the advice of the Committee:**

The Central Government shall, after considering the advice of the Committee tendered under rule 7 and after such further enquiry as it may consider necessary, grant approval to the proposal with or without conditions or reject the same within sixty days of its receipt.

**9. Proceedings against persons guilty of offences under the Act:**

- (1) The Central Government may, by notification, authorise

any officer not below the rank of Conservator of Forests or the concerned forest officer having territorial jurisdiction over the forest land in respect of which the said offence is said to have been committed, to file complaints against the person(s) prima-facie found guilty of offence under the Act or the violation of the rules made thereunder, in the court having jurisdiction in the matter.

Provided that no complaint shall be filed in the court, without giving the person(s) or officer(s) or authority(s) against whom the allegation of offence exist, an opportunity to explain his or their conduct and to show cause, by issuing a notice in writing of not less than sixty days, as to why a complaint should not be filed in the court against him or them for alleged offences.

- (2) The officer authorised by the Central Government in sub-rule (1) may require any State Government or its officer or any person or any other authority to furnish to it within a specified period any reports, documents, statistics and any other information related to contravention of the Act or the rules made thereunder, considered necessary for making a complaint in any court of jurisdiction and every such State government or officer or person or authority shall be bound to do so.

**APPENDIX**

( See Rule 6 )

FORM – 'A'

**Form for seeking prior approval under section 2 of the proposals by the State Governments and other authorities**

**PART – I**

(to be filled up by user agency )

1. Project details:
  - (i) **Short narrative of the proposal and project/ scheme for which the forest land is required.**
  - (ii) **Map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.**
  - (iii) **Cost of the project.**
  - (iv) **Justification for locating the project in forest area.**
  - (v) **Cost-benefit analysis (to be enclosed).**
  - (vi) **Employment likely to be generated.**
2. Purpose-wise break-up of the total land required :
3. Details of displacement of people due to the project, if any :
  - (i) **Number of families.**
  - (ii) **Number of Scheduled Castes/ Scheduled Tribe families.**
  - (iii) **Rehabilitation plan. (to be enclosed)**
4. Whether clearance under Environment (Protection) Act, 1986 required? (Yes/No).
5. Undertaking to bear the cost of rising and maintenance of compensatory afforestation and/ or penal compensatory afforestation as well as cost for protection and regeneration of Safety Zone, etc. as per the scheme prepared by the State Government (undertaking to be enclosed).

6. Details of Certificates/ documents enclosed as required under the instructions.

**Signature**  
**(Name in Block letters)**  
**Designation**  
**Address (of User Agency)**

Date: \_\_\_\_\_

Place: \_\_\_\_\_

**State serial No. of proposal** \_\_\_\_\_

(To be filled up by the Nodal Officer with date of receipt)

**PART – II**

(To be filled by the concerned Deputy Conservator of Forests)

State serial No. of proposal \_\_\_\_\_

7. Location of the project / Scheme :
- (i) **State/ Union Territory.**
  - (ii) **District.**
  - (iii) **Forest Division.**
  - (iv) **Area of forest land proposed for diversion (in ha.).**
  - (v) **Legal status of forest.**
  - (vi) **Density of vegetation.**
  - (vii) **Species-wise (scientific names) and diameter class-wise enumeration of trees (to be enclosed. In case of irrigation/hydel projects enumeration at FRL, FRL-2 meter & FRL-4 meter also to be enclosed).**
  - (viii) **Brief note on vulnerability of the forest area to erosion.**
  - (ix) **Approximate distance of proposed site for diversion from boundary of forest.**

- (x) Whether forms part of National Park, Wildlife Sanctuary, Biosphere Reserve, Tiger Reserve, Elephant Corridor, etc. (if so, the details of the area and comments of the Chief Wildlife Warden to be annexed).**
  - (xi) Whether any rare/ endangered/ unique species of flora and fauna found in the area, if so, details thereof.**
  - (xii) Whether any protected archaeological/ heritage site/ defence establishment or any other important monument is located in the area. If so, the details thereof with NOC from competent authority, if required.**
8. Whether the requirement of forest land as proposed by the user agency in col.2 of Part – I is unavoidable and barest minimum for the project. If no, recommended area item-wise with details of alternatives examined.
9. Whether any work in violation of the Act has been carried out (Yes/ No). If yes, details of the same including period of work done, action taken on erring officials. Whether work in violation is still in progress.
10. Details of compensatory afforestation scheme:
- (i) Details of non-forest area/ degraded forest area identified for compensatory afforestation, its distance from adjoining forest, number of patches, size of each patch.**
  - (ii) Map showing non-forest/ degraded forest area identified for compensatory afforestation and adjoining forest boundaries.**
  - (iii) Detailed compensatory afforestation scheme including species to be planted, implementing agency, time schedule, cost structure, etc.**

- (iv) **Total financial outlay for compensatory afforestation scheme.**
  - (v) **Certificate from competent authority regarding suitability of area identified for compensatory afforestation and from management point of view. (To be signed by the concerned Deputy Conservator of Forests).**
11. Site inspection report of the DCF (to be enclosed) especially highlighting facts asked in col. 7 (xi, xii), 8 and 9 above.
  12. Division/ District profile:
    - (i) Geographical area of the district.
    - (ii) Forest area of the district.
    - (iii) Total forest area diverted since 1980 with number of cases.
    - (iv) Total compensatory afforestation stipulated in the district/ division since 1980 on
      - (a) forest land including penal compensatory afforestation,
      - (b) non-forest land.
  13. **Specific recommendations of the DCF for acceptance or otherwise of the proposal with reasons.**

Signature  
Name  
Official Seal

Date: \_\_\_\_\_

Place: \_\_\_\_\_

**PART – III**

( To be filled by the concerned Conservator of forests )

- 14. Whether site, where the forest land involved is located has been inspected by concerned Conservator of Forests (Yes/ No). If yes, the date of inspection and observations made in form of inspection note to be enclosed.
- 15. Whether the concerned Conservator of Forests agree with the information given in Part – B and the recommendations of Deputy Conservator of Forests.
- 16. Specific recommendation of concerned Conservator of Forests for acceptance or otherwise of the proposal with detailed reasons.

Signature  
Name  
Official Seal

Date: \_\_\_\_\_  
Place: \_\_\_\_\_

**PART – IV**

(To be filled in by the Nodal Officer or Principal Chief Conservator of Forests or Head of Forest Department)

- 17. Detailed opinion and specific recommendation of the State Forest Department for acceptance or otherwise of the proposal with remarks.

(While giving opinion, the adverse comments made by concerned Conservator of Forests or Deputy Conservator of Forests should be categorically reviewed and critically commented upon).

Signature  
Name & Designation  
(Office Seal)

Date: \_\_\_\_\_  
Place: \_\_\_\_\_

**PART – V**

(To be filled in by the Secretary in charge of Forest Department or by any other authorised officer of the State Government not below the rank of an Under Secretary)

**18. Recommendation of the State Government :**

(Adverse comments made by any officer or authority in Part –B or Part –C or Part –D above should be specifically commented upon).

Signature  
Name  
Official Seal

Date: \_\_\_\_\_

Place: \_\_\_\_\_

**INSTRUCTIONS (for Part – I) :**

1. The project authorities may annex a copy of the approved project/plan in addition to filling Col. 1(I) e.g. IBM approved mining plan for major minerals/CMPDI plan with subsidence analysis reports, etc.
- 2.. Map has to be in original duly authenticated jointly by project authorities and concerned DCF – Col. 1 (ii).
3. Complete details of alternative alignments examined especially in case of projects like roads, transmission lines, railway lines, canals, etc. to be shown on map with details of area of forest land involved in each alternative to be given – Col. 1 (iii).
4. For proposals relating to mining, certificate from competent authority like District Mining Officer about non-availability of the same mineral in surrounding/ nearby non-forest areas.
5. In case the same company/individual has taken forest land for similar project in the State, a brief detail of all such



approvals/leases be given as an enclosure along with current status of the projects.

6. The latest clarification issued by the Ministry under Forest (Conservation) Act, 1980 may be kept in mind. In case such information do not fit in the given columns, the same shall be annexed separately.

**GENERAL INSTRUCTIONS:**

1. On receipt of proposal, Nodal Officer shall issue a receipt to the user agency indicating therein the name of the proposal, user agency, and area in hectares, serial number and date of receipt.
2. If the space provided above is not sufficient to specify any information, please attach separate details/ documents.
3. While forwarding the proposal to the Central Government, complete details on all aspects of the case as per Form prescribed above read with the clarification issued by the Ministry of Environment and Forests, Government of India, New Delhi should be given. Incomplete or deficient proposals shall not be considered and shall be returned to the State Government in original.
4. The State Government shall submit the proposal to the Central Government within stipulated time limits. In case of delay while forwarding, the reasons for the same to be given in the forwarding/ covering letter.

**FORM – 'B'**

( See rule 6 )

**Form for seeking prior approval under section 2 of the proposals by the State Governments and other authorities in respect of renewal of leases, which have been earlier granted clearance under Forest (Conservation) Act, 1980.**

**PART – I**

(to be filled up by user agency)

1. Letter No. & date vide which clearance under Forest (Conservation) Act, 1980 accorded by the Central Government (copy to be enclosed):
2. Project details :
  - (i) Short narrative of the proposal and project/ scheme for which the forest land is required.
  - (ii) Map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.
  - (iii) Cost of the project.
3. Purpose-wise break-up of the total land required (already broken & to be broken)
4. Details of Certificates/ documents enclosed as required under the instructions.

Signature  
(Name in Block letters)  
Designation  
Address (of User Agency)

Date: \_\_\_\_\_

Place: \_\_\_\_\_

State serial No. of proposal \_\_\_\_\_

(To be filled up by the nodal Officer with date of receipt)

**PART – II**

(To be filled by the concerned Deputy Conservator of Forests)

State serial No. of proposal \_\_\_\_\_

5. Location of the project/ Scheme :

(i) **State/ Union  
Territory**

- (ii) District**
  - (iii) Forest Division**
  - (iv) Area of forest land proposed for diversion (in ha.)**
  - (v) Legal status of forest**
  - (vi) Density of vegetation**
  - (vii) Species-wise (scientific names) and diameter class-wise enumeration of trees in unbroken area**
  - (viii) Whether forms part of National park, wildlife sanctuary, biosphere reserve, tiger reserve, elephant corridors, etc. (If so, the details of the area and comments of the Chief Wildlife Warden to be annexed).**
6. Whether any work in violation of the Act has been carried out (Yes/ No). If yes, details of the same including period of work done, action taken on erring officials. Whether work in violation is still in progress.
  7. Site inspection report of the DCF (to be enclosed) in respect to status of compliance of conditions stipulated during earlier approval.
  8. Division/ District profile:
    - (i) Geographical area of the District.
    - (ii) Forest area of the district.
    - (iii) Total forest area diverted since 1980 with number of cases.
    - (iv) Total compensatory afforestation stipulated in the district/ division since 1980 on—
      - (a) forest land including penal compensatory afforestation,
      - (b) non-forest land.

- (v) Progress of compensatory afforestation as on (date)  
\_\_\_\_\_ on  
(a) forest land,  
(b) non-forest land.

9. Specific recommendation of the DCF for acceptance or otherwise of the proposal with reasons.

Signature  
Name  
Official Seal

Date: \_\_\_\_\_

Place: \_\_\_\_\_

### **PART – III**

#### **(To be filled by the concerned Conservator of Forests)**

10. Whether site, where the forest land involved is located has been inspected by concerned Conservator of Forests (Yes/ No).

If yes, the date of inspection & observations made in form of inspection note to be enclosed.

11. Whether the concerned Conservator of Forests agree with the information given in part – B and the recommendations of Deputy Conservator of Forests.

12. Specific recommendation of concerned Conservator of Forests for acceptance or otherwise of the proposal with detailed reasons.

Signature  
Name  
Official Seal

Date: \_\_\_\_\_

Place: \_\_\_\_\_

**PART – IV**

**(To be filled by the Nodal Officer or Principal Chief  
Conservator of Forests or Head of Forests Department)**

13. Detailed opinion and specific recommendation of the State Forest Department for acceptance or otherwise of the proposal with remarks.

(While giving opinion, the adverse comment made by concerned Conservator of Forests or Deputy Conservator of Forests should be categorically reviewed and critically commented upon).

Signature

Name

Official Seal

Date: \_\_\_\_\_

Place: \_\_\_\_\_

**PART – V**

**(To be filled by the Secretary in charge of Forest Department  
or by any other authorised officer of the State Government  
not below the rank of an Under Secretary)**

**14. Recommendation of the State Government:**

(Adverse comments made by any officer or authority in Part – B or Part – C or part – D above should be specifically commented upon)

Signature

Name & Designation

Official Seal

Date: \_\_\_\_\_

Place: \_\_\_\_\_

### **INSTRUCTIONS (for Part – I):**

1. The project authorities may annex a copy of the approved project/ plan in addition to filling Col. 2(i) e.g. IBM approved mining plan for major minerals/ CMPDI plan with subsidence analysis reports, etc.
2. Map has to be in original duly authenticated jointly by project authorities and concerned DCF – Col. 2(ii).
3. In case the same company/ individual has taken forest land for similar project in the State, a brief detail of all such approvals/ leases be given as an enclosure along with current status of the projects.
4. Item-wise requirement (Col. 3) should be separately shown for broken up and fresh areas.
5. The latest clarifications issued by the Ministry under Forest (Conservation) Act, 1980 may be kept in mind. In case such information does not fit in the given columns, the same shall be annexed separately.

### **GENERAL INSTRUCTIONS:**

1. On receipt of proposal, Nodal Officer shall issue a receipt to the user agency indicating therein the name of the proposal, user agency, area in hectare, serial number and date of receipt.
2. If the space provide above is not sufficient to specify any information, please attach separate details/ documents.
3. While forwarding the proposal to the Central Government, complete details on all aspect of the case as per Form prescribed above read with the clarifications issued by the Ministry of Environment and Forests, Government of India, New Delhi should be given. Incomplete or deficient proposals shall not be considered and shall be returned to the Sate Government in original.

4. The State Government shall submit the proposal to the Central Government within stipulated time limits. In case of delay while forwarding, the reasons for the same to be given in the forwarding/covering letter.

[F. No. 5-5/98-FC]

Sd/-

(Dr. V.K. BAHUGUNA)

Inspector General of Forests (Forest Conservation)

Note : The principal rule were published vide G.S.R. No. 719 dated the 1<sup>st</sup> August, 1981, Part – II, Sec. 3, sub-section (1) of the Gazette of India and subsequently amended vide

(1) G.S.R. 14, dated the 28<sup>th</sup> December, 1987

(2) G.S.R. 640(E), dated the 26<sup>th</sup> June, 1989

(3) G.S.R. 563(E), dated the 21<sup>st</sup> May, 1992.

- 3. Clarification regarding repair and maintenance of roads constructed on forest lands for public purpose prior to 1980**

F. No. 11-48/2002-FC

Government of India

**Ministry of Environment & Forests**

F.C. Division

Paryavaran Bhavan, CGO Complex

Lodhi Road, New Delhi – 110 003, Dated : 14.09.2004

To  
The Principal Secretary (Forests)  
Government of Rajasthan,  
Jaipur

Sub: Clarification on repair and maintenance of roads constructed on forest lands for public purpose prior to 1980.

Sir,

I am directed to refer your letter No. F.1(17)Van/91 dated 20.07.2004 on the above mentioned subject. In this regard, the matter has been examined by the Central Government in its entirety. Since, good roads are the means of better communication and indicator of development and as these also help in better patrolling, protection and management of forests, the Central Government issue the following clarification for the repair and maintenance of roads constructed on forest lands for public purpose prior to commencement of Forest (Conservation) Act, 1980:

1. Roads constructed on forest lands prior to 25.10.1980 (date of enactment of FC Act, 1980) may be repaired and maintained and black topping may be done with prior permission of the State Forest Department. While undertaking such works, State Government shall ensure:

- (a) No tree felling should be allowed.
- (b) No widening of roads should be undertaken without prior permission of the Central Government under Forest (Conservation) Act, 1980.
- (c) No breaking of fresh forest land is carried out.
- (d) While black-topping, adequate precaution should be taken by the user agency to avoid any damage to flora and fauna.
- (e) Plantation activities are taken up along the road at the cost of user agency, if the concerned Divisional Forest Officer finds it necessary.

2. However, for the repair and maintenance of roads in protected areas like National Park/Sanctuaries, prior permission of National Board of Wildlife shall be taken by the State Government on case to case basis in view of the Supreme Court Order dated 14.02.2000 in Writ Petition (C) No. 202 of 1995.



This issues with the approval of competent authority.Yours faithfully,

Sd/-  
(Anurag Bajpai)  
Assistant Inspector General of Forests

Copy to :

1. The Principal Chief Conservator of Forests, All States and UTs.
  2. The Chief Conservator of Forests (Central), All Regional Offices, Ministry of Environment & Forests.
  3. The Nodal Officer (FC), Forest Department, All States/UTs.
  4. Director (FC)
  5. AIGF(P)/AIGF(S)/SO(FC)
  6. Guard File
- 4. Guidelines for diversion of forest land for non-forest purpose under the Forest (Conservation), 1980 Act- General approval under section 2 of the Act**

F. No. 11-9/98-FC  
Government of India  
**Ministry of Environment & Forests**  
F.C. Division

Paryavaran Bhavan, CGO Complex  
Lodhi Road, New Delhi – 110 003,  
Dated : 03.01.2005

To  
The Principal Secretary (Forests)  
(All States/UTs)

Sub: Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980— General approval under Section 2 of Forest (Conservation) Act, 1980, thereof.

Sir,

Central Government believes that development and conservation should go hand in hand. This is a constitutional requirement of a welfare State like India which has also been emphasized by the Supreme Court from time to time. The tenet is embodied in the spirit of the Forest (Conservation) Act, 1980. Awareness among the people for conservation of environment is bound to come from within, provided the other developmental requirements of food, fibre, education, health and communication, etc., are satisfied. Central Government is committed to expedite its efforts for developmental activities in forest areas to cover the largest possible population of tribal and forest dwellers. To tackle the problems of sensitive areas on socio-economic front, the Central Government is all set to facilitate speedier execution of essential developmental activities.

Government of India is of the view that development of tribal villages/forest fringe villages can be ensured by providing basic and essential developmental facilities and sense of security in sensitive areas without compromising on environmental consideration and a balance has to be made between the economic/developmental considerations on one hand and ecological considerations on the other. It is imperative that for the creation of these facilities in forest/forest fringe area, most of the land requirement would have to be met from the forest lands.

A small beginning in this direction has been made when general approval under Section 2 of Forest (Conservation) Act, 1980, was accorded for underground laying of electricity cables and electric wires to individual households, drinking water supply/water pipelines, telephone lines was accorded under certain conditions vide para (iii) of the Guidelines of this Ministry's letter No. 2-1/2003-FC dated 20-10-2003, which is reproduced as under:

“In the tribal areas, there shall be general approval under Section-2 of the Forest (Conservation) Act, 1980 for underground laying of electricity cables and electric wires to individual households, drinking water supply/water pipelines, telephone lines, which involve felling of trees not exceeding 50 number per project (should be below 60 cm girth class) and are outside National Parks or Wildlife Sanctuary and are laid along the roads and within the existing right of way. This general approval shall be subject to the conditions that the Nodal Officer shall certify compliance. Records of such works undertaken shall be maintained by the Nodal Officer and the Territorial DFO. Nodal Officer shall send quarterly report to concerned Chief Conservator of Forests (Regional Office) for monitoring purpose. In lieu of felling of trees, five times of the number of felled trees shall be planted by the User Agency at or near the site. Any deviation shall require permission from the Central Government under the Forest (Conservation) Act, 1980.”

The issue of according general approval in case of some critical development and security related activities has again been reviewed by the Ministry of Environment and Forests holistically, and it has been found appropriate that extension of approval for some other critical developmental and other initiatives meant for people's welfare and security, will go a long way in educating the masses, generating awareness and seeking their cooperation in conservation, regeneration and restoration of degraded forest and creation of a sense of security among them.

In view of the above, and in addition to general approval already given for certain activities as stated above, the Central Government, hereby conveys its general approval under Section-2 of the Forest (Conservation) Act, 1980 for diversion of forest land to Government Departments for following activities.

1. Schools

2. Dispensary/Hospital
3. Electric and Telecommunication lines;
4. Drinking water
5. Water/Rainwater harvesting structures;
6. Minor irrigation canal;
7. Non-conventional sources of energy;
8. Skill up-gradation/vocational training centre;
9. Power sub-stations;
10. Communication posts; and
11. Police establishments like police stations/outposts/border outposts/watch towers, in sensitive areas (identified by Ministry of Home Affairs)

The general approval shall be subject to fulfilment of following conditions:

- (i) The forest land to be diverted for above mentioned specified developmental works should be less than one hectare in each case.
- (ii) The clearance of such developmental projects shall be subject to the condition that the same is need based.
- (iii) The legal status of the land shall remain unchanged i.e. shall remain Reserved/Protected/ Village/Un-classed/Other types of forests/forest as the case may be.
- (iv) The User Agency shall submit the project proposal to the State/UT Government in the prescribed format i.e. Form-A as provided in Rule-6 of the Forest (Conservation) Rules, 2003.
- (v) The project should not involve felling of more than fifty numbers of trees per hectare. Corresponding permissible limit of maximum number of trees to be felled for the

- forest area diverted shall be in proportion to the extent of the diverted area.
- (vi) The project site should be outside National Parks or Wildlife Sanctuary or Protected Areas.
  - (vii) The concerned Divisional Forest Officer shall assess the bare minimum requirement of the forest land for the project, which shall not exceed one hectare in each case and will also certify to this effect.
  - (viii) The User Agency will seek permission for diversion of forest land duly recommended by Principal Chief Conservator of Forests, from the State/UT Government.
  - (ix) The Nodal Officer (Forest Conservation) shall submit monthly report to the concerned Regional Office by 5<sup>th</sup> of every month regularly regarding approval of such cases. In the event of failure, the exercise of power by the State/UT Government to grant such permission may be suspended by the Central Government for a specified period of time or till the information is submitted.
  - (x) The User agency shall plant and maintain two times the number of trees felled of the diverted land to maintain the green cover at the project cost. Planting site for the purpose will be identified by the State Forest Department (preferably within or in the surrounding area of the project). Only indigenous forest tree species shall be used for such plantations. Trees, if planted on the diverted area, will not be felled without the permission of the State Forest Department. Trees, planted in surrounding area, will belong to State Forest Department.
  - (xi) The User Agency shall be responsible for any loss to the flora/fauna in the surroundings and therefore, shall take all possible measures to conserve the same.

- (xii) The User Agency shall pay the Net Present Value (NPV) of the diverted forest land as established by law.
- (xiii) The permission granted by the State Government shall be subject to the monitoring by the concerned Regional Office of the Ministry of Environmental and Forests.
- (xiv) The forest land shall not be used for any purpose other than that specified in the proposal. Any change in the land use without prior permission of the Central Government shall amount to the violation of Forest (Conservation) Act, 1980. Request for such changes shall be made to the Regional Office by the Nodal Officer (Forest Conservation) of the State/UT.
- (xv) The State Forest Department/State Government or the concerned Regional Office may impose from time to time any other condition in the interest of conservation, protection and/or development of forests.

The general approval under the Forest (Conservation) Act, 1980 is granted initially for period of two years ending 31.12.2006 and will be subject to review thereafter.

Yours faithfully,  
Sd/-  
( Anurag Bajpai )  
Asstt. Inspector General of Forest

**5. Clarification regarding plantation of Jatropha on forest land**

F. No. 2-1/2003-FC (Pt. III)  
Government of India  
Ministry of Environment & Forests  
F.C. Division

Paryavaran Bhawan, CGO Complex  
Lodhi Road, New Delhi – 110 003,  
Dated : 24.06.2006

To

1. The Principal Chief Conservator of Forests, All States/Union Territories.
2. The Principal Secretary/Secretary (Forests), All State/Union Territory Governments.

**Sub : Plantation of Jatropha on Forest Land; Clarification under the Forest (Conservation) Act, 1980 regarding.**

Sir,

I am directed to refer to the subject mentioned above and to say that the matter of applicability of the Forest (Conservation) Act, 1980 in respect of plantation of Jatropha (*Jatropha curcas*) on forest land has been recently reviewed in the Ministry. On the basis of the recommendations of the Forest Advisory Committee under Section-3 of the said Act, following guidelines are hereby issued with the approval of the Competent Authority:

1. Plantation of Jatropha (*Jatropha curcas*) on forest land would require prior approval of the Central Governments under the Forest (Conservation) Act, 1980, except when—
  - (a) the species to be planted are indigenous or naturalised to the area in question; and
  - (b) such plantation activity is part of an overall afforestation programme for the forest area in question.
2. Plantation of Jatropha on forest land shall be subject to the condition that such plantation shall be done on degraded forest land and no clearance of forest growth shall be done for the same.

This issues in supersession of this Ministry's letter of even number date 08<sup>th</sup> June 2005 and 05<sup>th</sup> September 2005 on the above subject.

Yours faithfully,  
Sd/-

( Sandeep Kumar )  
Asstt. Inspector General of Forests

**6. Guidelines for diversion of forest land for non-forestry purposes under Forest (Conservation) Act, 1980 –Guidelines for collection of Net Present Value**

F. No. 5-3/2007-FC  
Government of India  
Ministry of Environment & Forests  
(F.C. Division)

Paryavaran Bhavan, CGO Complex  
Lodhi Road, New Delhi – 110 510  
Dated : 05.02.2009

To  
The Principal Secretary/Secretary (Forests)  
(All States/UT Governments)

Sub:**Guidelines for diversion of forest land for non-forestry purposes under Forest (Conservation) Act, 1980— Guidelines of collection of Net Present Value (NPV).**

Sir,  
The Ministry of Environment and Forests, Government of



India has been receiving representations from different States seeking detailed clarification and guidelines on the above mentioned subject in the light of the Supreme Court Judgement dated 28.03.2008 revising the general rates of NPV and various other orders defining differential rates for various categories of projects.

After careful examination of the issue, I am directed to inform that the Hon'ble Supreme Court of India vide its judgement dated 28.03.2008 has re-fixed the rates of Net Present Value (NPV) on the basis of scientific data taking in view the ecological role and value of the forests. The 16 major forest types have been re-grouped into 6 ecological classes depending upon their ecological functions.

Eco-Class I Consisting of Tropical Wet Evergreen Forests, Tropical, Semi Evergreen Forests and Tropical Moist Deciduous Forests

Eco-Class II Consisting of Littoral and Swamp Forests

Eco-Class III Consisting of Tropical Dry Deciduous Forests

Eco-Class IV Consisting of Tropical Thorn Forests and Tropical Dry Evergreen Forests

Eco-Class V Consisting of Sub-tropical Broad Leaved Hill Forests, Sub-tropical Pine Forests and Sub-tropical Dry Evergreen Forests

Eco-Class VI Consisting of Montane Wet Temperate Forests, Himalayan Moist Temperate Forests, Himalayan Dry Temperate Forests, Sub-Alpine Forest, Moist Alpine Scrub and Dry Alpine Scrub.

Based on the ecological importance of forest falling in different eco-value and canopy density classes, relative weightage factors have also been taken into consideration. By using these relative weightage factors, the equalized forest area in eco-value Class-I and very dense forest corresponding to forest falling in different eco-value and density classes have been compiled. The net present value per hectare of forest has been fixed based on this data. For calculating the average net present value per hectare of forests in India, the following monetary value of goods and services provided by the forests have been considered :

- (a) Value of timber and fuel wood
- (b) Value of Non-timber Forest Products (NTFP)
- (c) Value of fodder
- (d) Value of Eco-tourism
- (e) Value of Bio-prospecting
- (f) Value of Ecological Services of Forest
- (g) Value of Flagship Species
- (h) Carbon Sequestration Value

Based on the above, the NPV was fixed and the following recommendations have been made by the Hon'ble Supreme Court of India.

- (i) For non-forestry use/diversion of forest land, the NPV may be directed to be deposited in the Compensatory Afforestation Fund as per the rates given below:

Eco Value	Class and NPV rates in Rs.					
	Class I	Class II	Class II	Class IV	Class V	Class VI
Very Dense Forest	10,43,000	10,43,000	8,87,000	6,26,000	9,39,000	9,91,000
Dense Forest	9,39,000	9,39,000	8,03,000	5,36,000	8,45,000	8,97,000
Open Forest	7,30,000	7,30,000	6,26,000	4,38,000	6,57,000	6,99,000

N.B.:*The NPV rate fixed would hold good for a period of three years and is subject to variation after three years as per the Supreme Court's judgement dated 28.03.2008.*

- (ii) The use of forest land falling in National Parks/Wildlife Sanctuaries will be permissible only in totally unavoidable circumstances for public interest projects and after obtaining permission from the Hon'ble Court. Such permissions may be considered on payment of an amount equal to ten times in the case of National Parks and five times in the case of Sanctuaries respectively of the NPV payable for such areas. The use of non-forest land falling within the National Parks and Wildlife Sanctuaries may be permitted on payment of an amount equal to the NPV payable for the adjoining forest area. In respect of non-forest land falling within marine National Parks/Wildlife Sanctuaries, the amount may be fixed at five times the NPV payable for the adjoining forest area:

The Hon'ble Supreme Court of India vide its order dated 24.04.2008 and 09.05.2008 has also exempted certain category of projects as per the details given below:

Copy to :

1. The Principal Chief Conservator of Forests, All states/UTs.
2. The Nodal Officer (FCA), O/o the PCCF's, All States/UTs.

List of Activities/Project		Exemption Levels for NPV (as percentage of full chargeable NPV)	Remarks
1.	(i) Schools	Full exemption up to 1-00 ha of forest and provided : (a) no felling of trees in involved (b) alternate forest land is not available (c) the project is of non-commercial nature and is part of the plan/non- Plan scheme of Governemtn; and (d) the area is outside National Park/ Sanctuary	As per Hon'ble SupremeCourt Order dated 09.05.2008 regarding correction of the judgement dated 28.03.2008
	(ii) Hospitals		
	(iii) Children's Play ground of non-commercial nature		
	(iv) Community centres in rural areas		
	(v) Over-head tanks		
	(vi) Village tanks		
	(viii) Laying of underground drinking water pipeline up to 4" diameter, and		
	(viii) Electricity distribution line up to 22 KV in rural areas.		
2.	Relocation of Villages from the National Park/Sanctuaries to alternate forest land.	Full Exemption	-do-
3.	Collection of boulders/silts from the river belts in the forest area.	Full exemption provided : (a) area is outside Nationa Park/ Sanctuary, (b) no mining lease is approved/signed in respect of this area; (c) the works including the sale of boulders/silt are carried our departmentally or through Government undertaking or through the Economic Development Committee or Joint Forest Mangement Committee. (d) the activity is necessary for conservation and protection of forests; and (e) the sale proceeds are used for protection/conservation of frests.	-do-
4.	Laying of underground optical fibre cable.	Full exemption provided : no felling of trees in nvolved;and areasfalls outside National Park/Sanctuary	-do-
5.	Pre-1980 regulatisation of encroachments and conversion of forest villages into revenue villages.	Full Exemption provided these are strictly in accordance with MoEF's Guidelines dated 18.09.1990.	

6.	Underground mining	50% of the NPV of the entire area.	-do-
7.	Field Firing Range	Full Exemption provided : (a) no felling of trees are involved, and (b) no likelihood of destruction of forest in involved.	As per Hon'ble Supreme Court Order Dated 24.04.2008
8.	Wind Energy Projects	50% of the minimum rate of the NPV irrespective of the eco-class in which the project lies provided minimum tree felling is involved.	-do- and CEC clarification dated 22.12.2008

In case of any other category seeking exemption from payment of NPV, the State Government/User Agency may approach Hon'ble Supreme Court of India as per its order dated 24.04.2008 and 09.05.2008.

This issues with the approval of competent authority.  
Sd/-

( C.D. Singh )

Senior Assistant Inspector General of Forests

3. All Regional Offices of MoEF located at Bhopal, Shillong, Bangalore, Bhubaneswar, Lucknow and Chandigarh.
4. The RO(HQ), MoEF, New Delhi.
5. Monitoring Cell, FC Division, MoEF, New Delhi.
6. Guard File.

Sd/-

( C.D. Singh )

Senior Assistant Inspector General of Forests

- 7 **Diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980—ensuring compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.**

F. No. 11-9/1998-FC (Pt.)  
Government of India

Ministry of Environment & Forests  
( FC Division )

Paryavaran Bhavan, CGO Complex  
Lodhi Road, New Delhi – 110510,

Dated : 03.08.2009

To  
The Chief Secretary/Administrator  
(All States/UT Governments except J&K)

Sub: Diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980—ensuring compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sir,

In continuation to this Ministry's letter of even number dated 30.07.2009, I am directed to invite the attention of the State Government to the operationalization of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 which has become effective from 01.01.2008. It is observed that the proposals under the Forest (Conservation) Act, 1980 are being received from different States/UT Governments with the submission that the settlement of rights under Forest Rights Act, 2006 (FRA) will be completed later on.

Accordingly, to formulate unconditional proposals under the Forest (Conservation) Act, 1980, the State/UT Governments are, wherever the process of settlement of Rights under the FRA has been completed or currently under process, required to enclose evidences for having initiated and completed the above process, especially among other sections, Sections 3(1)(i), 3(1)(e) and 4(5). These enclosures of evidence shall be in the form of following:

- (a) A letter from the State Government certifying that the complete process for identification and settlement of rights

under the FRA has been carried out for the entire forest area proposed for diversion, with a record of all consultations and meetings held;

- (b) A letter from the State Government certifying that proposals for such diversion (with full details of the project and its implications, in vernacular/local languages) have been placed before each concerned Gram Sabha of forest dwellers, who are eligible under the FRA;
- (c) A letter from each of the concerned Gram Sabhas, indicating that all formalities/processes under the FRA have been carried out, and that they have given their consent to the proposed diversion and the compensatory and ameliorative measures, if any, having understood the purposes and details of proposed division;
- (d) A letter from the State Government certifying that the diversion of forest land for facilities managed by the Government as required under section 3(2) of the FRA have been completed and that the Gram Sabhas have consented to it;
- (e) A letter from the State Government certifying that discussions and decisions on such proposals had taken place only when there was a quorum of minimum 50% of members of the Gram Sabha present;
- (f) Obtaining the written consent or rejection of the Gram Sabha to the proposal;
- (g) A letter from the State Government certifying that the rights of Primitive Tribal Groups and Pre-Agricultural Communities, where applicable, have been specifically safeguarded as per section 3(1)(e) of the FRA.
- (h) Any other aspect having bearing on operationalisation of the FRA.

The State/UT Governments, where process of settlement of Rights under the FRA is yet to begin, are required to enclose evidences supporting that settlement of rights under FRA 2006 will be initiated and completed before the final approval for proposals.

This is issued with the approval of the Minister of Environment and Forests.

Sd/-

( C.D. Singh )

Senior Assistant Inspector General of Forests

Copy to :

1. The PMO (kind attention: Director, PMO)
2. The Secretary, Ministry of Tribal Affairs, Shastri Bhawan, New Delhi.
3. The Principal Chief Conservator of Forests, All States/UTs.
4. The Nodal Officer (FCA) Office of the Principal Chief Conservator, All States/UTs.
5. All Regional Offices of MoEF located at Bhotal, Shillong, Bengalore, Lucknow, Bhubaneswar and Chandigarh.
6. The RO(HQ), DIGF(FP), Senior AIGF(FCI/AIGF)(FC) MoEF, New Delhi.
7. Monitoring Cell, FC Division, MoEF, New Delhi for placing the same on the website of the MoEF.
8. Guard File.

Sd/-

( C.D. Singh )

Senior Assistant Inspector General of Forests

- 8. Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 – General Approval under Section 2 of the Act.**

F. No. 11-9/1998-FC (Pt.)

Government of India

Ministry of Environment & Forests

( F.C. Division )

Paryavaran Bhavan, CGO Complex  
Lodhi Road, New Delhi – 110 510,



Dated : 11.09.2009

To  
The Chief Secretary (Forests)  
(All States/UTs)

**Sub : Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980— General Approval under Section 2 of Forest (Conservation) Act, 1980, thereof.**

Sir,

In continuation of this Ministry's letter of even number dated 03.01.2005 and 24.09.2007 by which general approval for certain activities to be carried out by the Government Departments involving not more than 1.00 ha. of forest land, under Forest (Conservation) Act, 1980 was granted initially for a period of two years has been further extended for further period of five years i.e. up to 31.12.2013 on the same terms and conditions as enumerated in the above cited letters.

It may also be noted that this General Approval under Section 2 of Forest (Conservation) Act, 1980 is for the above mentioned activities in those forest areas, which are outside the purview of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Yours faithfully,

Sd/-

( C.D. Singh )

Senior Assistant Inspector General of Forests

Copy to :

1. The Director, PMO, New Delhi for kind information.
2. The Secretary, Ministry of Home Affairs, New Delhi.
3. The Secretary, Planning Commission, New Delhi.
4. The Secretary, Ministry of Rural Development, New Delhi.

5. The Secretary, Ministry of Tribal Affairs, New Delhi.
6. All PCCF's/Nodal Officers (All States/UTs)
7. All Regional Offices, Ministry of Environment & Forests.
8. Director General of Police (All States/UTs)
9. Director (FC)/AIGs(FC)
10. File No. 2-1/2003(FC)
11. Guard File
- 9. Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act- procedure for utilising the land for approach/exit road to petrol/CNG pumps.**

F. No. 5-3/2007-FC (Pt.-I)  
Government of India  
Ministry of Environment & Forests  
( FC Division )

Paryavaran Bhavan,  
CGO Complex, Lodhi Road,  
New Delhi – 110510,  
Dated : 18<sup>th</sup> March , 2010

To  
The Principal Secretary (Forests),  
(All States/UTs)

**Sub : Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980— procedure for utilizing the land for approach/exit road to petrol/CNG pumps.**

Sir,

The Ministry of Environment and Forests, Government of India has been receiving number of representations from different State/UT Governments and various Project Proponents seeking clarification in respect of detailed guidelines dated 15.07.2004 on procedure for utilising the land for approach/exit road to petrol

pumps. The representations/suggestions were discussed by the Forest Advisory Committee (FAC), constituted by the Central Government under Section-3 of the said Act, in its meeting on 07.01.2010.

After careful examination of the proposal and on the basis of the recommendations of the FAC, the Central Government hereby conveys its approval for modifying the existing provisions of the guidelines dated 15.07.2004 for utilising the land for approach / exit road to petrol / CNG pumps under the Forest (Conservation) Act, 1980 as given below :

1. The total frontage of 30-40 meter depending upon the request of the applicant be considered for clearance.
2. Excepting the entry & exit, the entire frontal portion should be maintained under some kind of shrubby or ornamental vegetations and never put to any commercial utilisation including construction of buildings.
3. Entire periphery of the establishment should be lined up with tree plantation at a close spacing of 1.0 to 1.5 meter keeping an offset of 1.5 meter from the boundary, with light crown trees which will maintain greenery without compromising with the land requirement of the establishment.
4. The detailed guidelines issued by MoEF on procedure for utilising the land for approach / exit road to petrol pumps dated 15.07.2004 may include petrol, diesel, LPG, CNG or any kind of fuel distribution.

The guidelines dated 15.07.2004 issued by the MoEF on procedure for utilizing the land for approach / exit road to petrol pumps stands modified to the extent mentioned above.

Yours faithfully

Sd/-  
(C.D. Singh)

Sr. Assistant Inspector General of Forests

**10. Guidelines for transfer of lease from one user agency to another user agency**

F. No. 11-9/1998-FC  
Government of India  
Ministry of Environment & Forests  
(FC Division)

Paryavaran Bhavan, CGO Complex  
Lodhi Road, New Delhi – 110 510,  
Dated : 3<sup>rd</sup> May, 2010

To

The Principal Secretary/Secretary (Forests),  
All States/UT Governments

**Sub: Diversion of forest land for non-forestry purposes under Forest (Conservation) Act, 1980— Guidelines for 'Transfer of Lease' from one user agency to another user agency - regarding**

Sir,

The Ministry of Environment and Forests, Government of India has been receiving representations from various project proponents/individual through different State/UT Governments seeking directions/ guidelines of the Central Government on transfer of leases, particularly mining leases, with respect to area limit, cases of death or inheritance of individual incumbent, liquidation of companies, etc. The questions have been raised about imposition of transaction/transfer fee for such transfer of leases.

In this connection, it is submitted that similar matter was taken up in the Forest Advisory Committee (FAC) on 17.09.2009

and the FAC recommended that transfer of leases, being an administrative issue need not be brought before the FAC, and the Administrative Ministry may take a decision in this regard. Accordingly, the matter was analysed in the Ministry and it was noted that any diversion of forest land is for a specific purpose for a specific applicant/user. However, transfer can be considered for the same purpose and under the same conditions.

In view of the above, I am directed to convey the approval of the Central Government to levy 10% Net Present Value (NPV) or Rs. 1,00,000 whichever is less, as transfer fee to discourage middle man from processing proposals and then selling it to others under the provisions of the Forest (Conservation) Act, 1980. This, however, is not applicable in case of Wind Power Generation, which involves large number of transferees.

This is issued with the approval of competent authority.

Yours faithfully,  
Sd/-

( C.D. Singh )  
Senior Assistant Inspector General of Forests

## CHAPTER 4

The Scheduled Tribes and Other Traditional Forest Dwellers  
(Recognition of Forest Rights) Act, 2006

### **1. THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006**

No. 2 of 2007

[29th December, 2006]

An Act to recognise and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

AND WHEREAS it has become necessary to address the

long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:-

## CHAPTER 1

### PRELIMINARY

#### **Short title and commencement:**

1. (1) This Act may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

#### **Definitions:**

2. In this Act, unless the context otherwise requires,—
  - (a) “community forest resource” means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;
  - (b) “critical wildlife habitat” means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific

and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4;

- (c) “forest dwelling Scheduled Tribes” means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs and includes the Scheduled Tribe pastoralist communities;
- (d) “forest land” means land of any description falling within any forest area and includes unclassified forests, un-demarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;
- (e) “forest rights” means the forest rights referred to in section 3;
- (f) “forest villages” means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of taungya settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the Government;



- (g) “Gram Sabha” means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;
- (h) “habitat” includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes; (i) “minor forest produce” includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like;
- (j) “nodal agency” means the nodal agency specified in section 11;
- (k) “notification” means a notification published in the Official Gazette;
- (l) “prescribed” means prescribed by rules made under this Act;
- (m) “Scheduled Areas” means the Scheduled Areas referred to in clause (1) of article 244 of the Constitution;
- (n) “sustainable use” shall have the same meaning as assigned to it in clause (o) of section 2 of the Biological Diversity Act, 2002;
- (o) “other traditional forest dweller” means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for bona fide livelihood needs.

Explanation.-For the purpose of this clause, “generation” means a period comprising of twenty-five years;

- (p) “village” means—
- (i) a village referred to in clause (b) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; or
  - (ii) any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or
  - (iii) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not; or
  - (iv) in the case of States where there are no Panchayats, the traditional village, by whatever name called;
- (q) “wild animal” means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 and found wild in nature.

## CHAPTER II

### FOREST RIGHTS

#### **Forest rights of Forest dwelling Scheduled Tribes and other traditional forest dwellers:**

3. (1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely :

- (a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;
- (b) community rights such as nistar, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;
- (c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;
- (d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;
- (e) rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;
- (f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;
- (g) rights for conversion of Pattas or leases or grants issued by any local authority or any State Government on forest lands to titles;
- (h) rights of settlement and conversion of all forest villages, old habitation, un-surveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;
- (i) right to protect, regenerate or conserve or manage

any community forest resource which they have been traditionally protecting and conserving for sustainable use;

- (j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;
  - (k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;
  - (l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;
  - (m) right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.
- (2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:

- (a) schools;
- (b) dispensary or hospital;
- (c) anganwadis;
- (d) fair price shops;
- (e) electric and telecommunication lines;
- (f) tanks and other minor water bodies;
- (g) drinking water supply and water pipelines;
- (h) water or rain water harvesting structures;
- (i) minor irrigation canals;
- (j) non-conventional source of energy;
- (k) skill upgradation or vocational training centres;
- (l) roads; and
- (m) community centres: Provided that such diversion of forest land shall be allowed only if,—
  - (i) the forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and
  - (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

### CHAPTER III

#### **RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS**

Recognition of, and vesting of, forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers.

4. (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and

- vests forest rights in—
- (a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;
  - (b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3.
- (2) The forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely—
- (a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;
  - (b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;
  - (c) the State Government has concluded that other reasonable options, such as, co-existence are not available;
  - (d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such

affected individuals and communities given in the relevant laws and the policy of the Central Government; (e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

- (f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package :

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses.

- (3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.
- (4) A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of- kin.
- (5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land

under his occupation till the recognition and verification procedure is complete.

- (6) Where the forest rights recognised and vested by sub-section (1) are in respect of land mentioned in clause (a) of sub-section (1) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.
- (7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act.
- (8) The forest rights recognised and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

**Duties of holders of forest rights:**

5. The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to—
  - (a) protect the wild life, forest and biodiversity;
  - (b) ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected;



- (c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;
- (d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.

#### CHAPTER IV

### **AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS**

Authorities to vest forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers and procedure thereof.

6. (1) The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.
- (2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted under subsection (3) and the Sub-Divisional Level Committee shall consider and dispose of such petition:

Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

- (3) The State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.
- (4) Any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition:

Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-Divisional Level Committee :

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

- (5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee.
- (6) The decision of the District Level Committee on the record of forest rights shall be final and binding.

- (7) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.
- (8) The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed.
- (9) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.

## CHAPTER V

### OFFENCES AND PENALTIES

#### **Offences by members or officers of authorities and Committees under this Act.**

7. Where any authority or Committee or officer or member of such authority or Committee contravenes any provision of this Act or any rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees:

Provided that nothing contained in this sub-section shall render any member of the authority or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

**Cognizance of offences.**

8. No court shall take cognizance of any offence under section 7 unless any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or the Gram Sabha through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority.

CHAPTER VI

MISCELLANEOUS

**Members of authorities, etc., to be public servants.**

9. Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

**Protection of action taken in good faith.**

10. (1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done by or under this Act.
- (2) No suit or other legal proceeding shall lie against the

Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

- (3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its Chairperson, members, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.

**Nodal agency.**

11. The Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorised by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act.

**Power of Central Government to issue directions.**

12. In the performance of its duties and exercise of its powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central Government may, from time to time, give in writing.

**Act not in derogation of any other law.**

13. Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

**Power to make rules.**

14. (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

- (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:
- (a) procedural details for implementation of the procedure specified in section 6;
  - (b) the procedure for receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of forest rights under sub-section (1) of section 6 and the manner of preferring a petition to the Sub-Divisional Committee under sub-section (2) of that section;
  - (c) the level of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government to be appointed as members of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee under sub-section (8) of section 6;
  - (d) the composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section (9) of section 6;
  - (e) any other matter which is required to be, or may be, prescribed. (3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before

the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

K. N. CHATURVEDI,  
Secy. to the Govt. of India

**2. Constitution of state level monitoring committee for proper implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**

Government of West Bengal  
Backward Classes Welfare Department  
Writers' Buildings  
Kolkata

No. 644(10)-BCW/6M(MC)-5/2006

Dated : 07.03.2008

**NOTIFICATION**

Whereas in terms of Govt. of India's Powers conferred by Sub-sections (1) and (2) of Section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) under the Notification of the Govt. of India in Ministry of Tribal Affairs No. G.S.R.-437(E) dated the 19th June, 2007 and its related Rules 2008 under the Notification of the Govt. of India in Ministry of Tribal Affairs No. G.S.R.I.(E) dated the 1st January, 2008, a State Level Monitoring Committee is required to be constituted for proper implementation of the Act and Rules.

Now, therefore, in pursuance of the provisions of the Act, 2006 and Rules, 2008 the Governor is pleased hereby to constitute the State Level Monitoring Committee with the following members :

- |     |  |                  |
|-----|--|------------------|
| (a) | Chief Secretary, Government of West Bengal   | Chairperson      |
| (b) | Additional Chief Secretary, Government of West Bengal                                    | Member           |
| (c) | Principal Secretary, Government of West Bengal, Land & Land Reforms Department           | Member           |
| (d) | Principal Secretary, Government of West Bengal, Panchayat & Rural Development Department | Member           |
| (e) | Secretary, Government of West Bengal, Backward Classes Welfare Department                | Member           |
| (f) | Principal Chief Conservator of Forests, Government of West Bengal                        | Member           |
| (g) | Shri Rupchand Murmu, MP, Jhargram PC   | Member           |
| (h) | Shri Chotan Kisku, MLA, Phansidawa AC  | Member           |
| (i) | Shri Rabindranath Hembram, MLA, Kashipur AC  | Member           |
| (j) | Commissioner, Backward Classes Welfare, Government of West Bengal                        | Member Secretary |

Sd/-  
Secretary to the Government of West Bengal

**3. Clarification regarding the phrase “primarily reside in and who depend on the forest or forest lands for bona fide livelihood needs” appearing in sections 2(c) and 2(o) of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.**

No. 17014/02/2007-PC&V(Vol. VII)

Government of India  
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi

Dated : June 9, 2008



To

All State Secretaries in-charge of Tribal Welfare

[All States / UTs, except J&K]

Sub : Implications of the phrase “primarily reside in and who depend on the forest or forest lands for bona fide livelihood needs” appearing in sections 2(c) and 2(o) of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sir,

As you are aware, Section 2(c) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 defines the expression “Forest dwelling Scheduled Tribes” to mean the members or community of Scheduled Tribes who primarily reside in and who depend on the forest or forest lands for bona fide livelihood needs and includes the Scheduled Tribe pastoralist communities. Similarly, Section 2(o) of the Act defines the expression “other traditional forest dweller” to mean any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or the forests land for bona fide livelihood needs.

2. This Ministry has received references from certain States seeking clarification about the implications of the phrase “primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs” appearing in sections 2(c) and 2(o) of the Act as to whether this would cover the Schedules Tribes and other traditional forest dwellers who are not necessarily living inside the forests but are depending on the forests or forest lands for their bona fide livelihood needs. This issue was also raised in the meetings of the Secretaries of Tribal Welfare/Development Department of the States on the implementation of the Act held on 18th-19th February, 2008 and 16th May, 2008 in New Delhi.

3. The matter has been examined in consultation with the Ministry of Law & Justice and it is clarified that the implication of using the word 'primarily' is to include the Scheduled Tribes and other Traditional Forest Dwellers who have either habitation, or patches of land for self-cultivation for livelihood, and would, therefore be primarily spending most of their time either in temporary make shift structures or working on patches of land in such areas irrespective of whether their dwelling houses are outside the forest or forest land. Therefore, such Scheduled Tribes and other Traditional Forest Dwellers who are not necessarily residing inside the forest but are depending on the forest for their bona fide livelihood needs would be covered under the definition of "forest dwelling Scheduled Tribes" and "other traditional forest dwellers" as given in Sections 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
4. This may be noted and communicated to all concerned with implementation of the Act.

Yours faithfully

Sd/-

[ Sunil Garg ]

Under Secretary to the Government of India

**4. Implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the State of West Bengal**

F. No. 23011/28/2008-SG-II(FRA)

Government of India

Ministry of Tribal Affairs

Shastri Bhawan, New Delhi

January 29, 2009

To

Shri M. Pandit

Joint Commissioner for Reservation and Ex-Officio

Joint Secretary to the Government of West Bengal

Backward Classes Welfare Department

Writers' Buildings, Kolkata – 700 001

Sub : Implementation of the Scheduled Tribes and Other  
Traditional Forest Dwellers (Recognition of Forest  
Rights) Act, 2006 in the State of West Bengal.

Sir,

I am directed to refer to your letter No. 222-BCW/6M(MC)-5/2006(1) dated 20.01.2009 on the above subject and to say that the term “forest land” is defined in section 2(d) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the said definition does not include revenue and land outside the forest area. Therefore, the revenue land under the occupation of forest dwelling Scheduled Tribes and other traditional forest dwellers is not to be taken into account for determining the limit of an area of 4 hectares of forest land for habitation or for self-cultivation, referred to in Section 4(6) of the Act. The area of encroachment of forest land shall, however, be included in the limit of 4 hectares, prescribed in section 4(6) of the Act.

2. However, section 3(1)(a) of the Act refers to “the right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood...”, while rule 2(1)(b) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008

notified on 1.1.2008 defines “bona fide livelihood needs” as “fulfilment of sustenance need of self and family...”. As the basic objective of the Act is to provide livelihood means to forest dwelling Schedules Tribes and other traditional forest dwellers, the livelihood aspect also needs to be kept in view, while considering the maximum limit of an area of 4 hectares of forest land for recognition and vesting of forest rights. If the forest dwellers do not primarily reside on the forest land in their occupation and depend on the revenue land or the area of regularized encroachment of forest land for their bona fide livelihood needs, then they should not get the title to the forest land in occupation.

3. The issue raised in your letter may be decided keeping in view the above position.

Yours faithfully

Sd/-

[Sunil Garg ]

UnderSecretary to the Government of India

**5. Constitution of Joint Committee of the Ministry of Environment & Forests and Ministry of Tribal Affairs**

Ministry of Environment and Forests

GOVERNMENT OF INDIA

**PROPOSED REVISIONS TO THE TERMS OF REFERENCE OF MoEF NOTIFICATION**

DATED 11th FEBRUARY, 2010

Ministry of Environment & Forests has decided to reconstitute the Committee as Joint Committee of the Ministry of Environment & Forests and Ministry of Tribal Affairs with the following revised composition and terms of reference :

The Revised Composition of the Committee shall be as follows:

<b>No.</b>	<b><i>Individual and Affiliation</i></b>	<b><i>Designation</i></b>
1	Dr. N.C. Saxena, Retd. Secretary, Planning Commission	Chairman
2	Dr. Devendra Pandey, Former DG, Forest Survey of India	Co-Chairman
3	Dr. Sharach Chandra Lele, ATREE, Bangalore	Member
4	Dr. Ravi Chellam, Wildlife Conservation Society India Programme, Bangalore	Member
5	Dr. Arup Jyoti Saikia, IIT, Guwahati	Member
6	Dr. A.K. Jha, Commissioner, Tribal Research & Training Institute, Pune	Member
7	Shri C.R. Sreedharan, Retd. PCCF, Tamilnadu	Member
8	Shri V.R. Khare, Retd. PCCF, Madhya Pradesh	Member
9	Representative of the Ministry of Tribal Affairs	Member
10	Representative of the Ministry of Panchayati Raj	Member
11	Shri Ashis Kothari, Kalpavriksh, Pune	Member
12	Shri Ravi Rebbapragada, Executive Director, SAMATA	Member
13	Ms. Jarjum Ete, Centre for Environment, Development and Gender Empowerment, Itanagar	Member
14	DIG (Forest Policy), MoE&F	Member
15	Shri R.K. Dogra, ADG(E), ICFRE, Dehrdun	Member-Secretary
16	Shri Achyuta Samanta, KIIT Group, Bhubaneswar	Member
17	Shri Raman Lal Meena, IAS Retd. Faridabad	Member
18	Shri Mannu Lal Markam, Addl. District Magistrate (Retd.) Shahdol.	Member
19	Ms. Vasavi Kiro, National Alliance for Women, Jharkhand	Member

**The Revised Terms of Reference shall be as follows:**

1. The Committee shall study in detail the implementation of the Forest Rights Act, 2006 including factors that are aiding and impeding its implementation.
2. The Committee shall recommend necessary policy changes in the future management of the forestry sector in India which may be necessary as a consequence of implementation of Forest Rights Act.
3. The Committee shall identify the role of various agencies (official and others) in facilitating forest-dwellers in carrying out their roles regarding conservation and management of forests as envisaged in the Act.
4. The Committee shall identify opportunities for and recommend measure to ensure convergence of various beneficiary oriented programmes for the forest rights holders taken up by various line departments in the states.
5. The Committee shall, wherever possible, hold public consultations on all relevant issues soliciting the inputs of the concerned stakeholders.
6. The Committee shall extend full support to the Ministry for Tribal Affairs in their efforts to enforce and implement the Forest Rights Act.
7. The Committee shall define a new role for the Forest Department vis-à-vis the Gram Sabha for forest conservation and regeneration.
8. Any other matter which the Committee feels is ancillary or incidental to the purposes of its establishment.

The Committee shall have the power to co-opt any specialists that it may feel necessary and in furtherance of the purposes of its establishment.

The Committee shall submit its report within six months from the date of its constitution.

This is issued with the approval of the competent authority in the Ministry of Environment and Forests and the Ministry of Tribal Affairs.

Sd/-

Dr. Bachittar Singh  
Joint Secretary, Ministry of  
Tribal Affairs  
13.4.2010

Sd/-

Dr. P.B. Ganopadhyay  
Additional Director  
General of Forests  
13.4.2010

**6. Clarification regarding raising of non-forestry crops on patta land allotted under Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**

No. 11-9/98-FC(Pt.)  
Government of India  
Ministry of Environment & Forests  
( FC Division )

Paryavaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi – 110 510  
Dated: 17th August, 2010

OFFICE MEMORANDUM

**Sub : Implementation of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006— Clarification to the PCCF, Tripura, Agartala regarding raising of non-forestry crops on patta land allotted under FRA 2006.**

The undersigned is directed to refer to FP Division's OM No. 7-1/2008-FP dated 06.04.2010 communicating the concern of the PCCF, Tripura on raising of non-forestry crops on land allotted under FRA 2006 and to inform that the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 recognizes the rights of tribal and other traditional forest dwellers over forest land and accordingly, right over the forest land is accorded under the provisions of the Forest Right Act, 2006 after following the procedure enumerated in the Act.

The issue was discussed in the Ministry. The Ministry is of the view that once the said right over forest land is given to the tribal and other traditional forest dwellers, the right holders are free to raise any crop for his sustenance, be it agricultural or horticultural or commercial in nature including rubber/tea plantation.

Yours faithfully

Sd/-  
[ C.D. Singh ]  
Sr. Assistant Inspector General of Forests

Copy to:

1. Ministry of Tribal Affairs, Shastri Bhawan for Information
2. The Principal Chief Conservator of Forests, Tripura, Agartala w.r.t. his letter No. 6-400/Land/ For-07/Pt.-III/1065 dated 20.03.2010.
3. All other PCCFs for information.
4. All Nodal Officers (FCA) O/o PCCFs for information.
5. Regional Offices of Ministry of Environment & Forests located at Bangalore, Chandigarh, Bhopal, Bhubaneswar, Lucknow and Shillong.



6. RO(HQ) Section, MoEF.
7. All DIGs/Sr. AIGs/AIGs of MoEF for information.

**7. Minutes of meeting regarding implementation of the provisions of PESA in LWE affected Districts**

F. No. 8-4/2010-FP  
Government of India  
Ministry of Environment & Forests  
(Forest Policy Division)

Paryavaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi – 110 003  
Dated: 16<sup>th</sup> September, 2010

To  
Secretary (Forest),  
LWE Affected States i.e.  
Andhra Pradesh, Bihar, Chattisgarh,  
Jharkhand, Madhya Pradesh, Maharastra, Orissa,  
Uttar Pradesh and West Bengal  
Sub : Minutes of the meeting regarding implementation of  
provisions of PESA in LWE affected Districts.

The undersigned is directed to refer to this Ministry's letter of even number dated 28th January, 2010 and to enclose herewith a copy of Ministry of Home Affairs' U.O. No. 18015/10-NM-IV dated 13th August, 2010 regarding above mentioned subject.

2. Ministry of Home Affairs has requested that MoEF may take

up with the State Governments the matter of withdrawal of court cases instituted against tribals for violation of various forest laws keeping in view the provision of the “Forest Rights Act”.

3. In this regard, you are requested that the information relating to withdrawal of petty forest offence related cases against the tribals for violations of various forest laws keeping in view the provisions of the FRA, 2006 may kindly be furnished to this Ministry..

Yours faithfully

Sd/-

Encl: as above

[N.C.Saravanan]

Asstt. Inspector  
General of Forests (NAEB/FP)

Copy to:

PCCFs of concerned States

Copy of MHA U.O. No. 18015/80/10-NM-IV dated : 13th August, 2010

Government of India  
Ministry of Home Affairs  
Naxal Management Division  
North Block, Room No. 25-B  
New Delhi – 110 001

Sub : Minutes of Meeting regarding implementation of provision of PESA in LWE affected Districts regarding.

This Ministry has received minutes of meeting from Cabinet Secretariat about the above mentioned meeting which was held on

21st July, 2010 in Rastrapati Bhawan, New Delhi. After detailed deliberations, the following decision was taken:

1. Ministry of Environment & Forests may take up with the State Governments the matter of withdrawal of court case instituted against tribals for violation of various forest laws keeping in view the provision of the Forest Rights Act.
2. Ministry of Environment & Forest is requested to take appropriate/necessary action in this matter under intimation to this Ministry.

Sd/-

[Sanjay Kumar ]

Under Secretary (NM-IV)

23093461

Secretary, Ministry of Environment & Forest, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi

MHA UO No. 18015/80/10-NM IV Dated : 13th August, 2010

**8. Implementation of Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in States**

F. No. 12-1/2006-FP  
Government of India  
Ministry of Environment & Forest  
( Forest Policy Division )

Paryavaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi – 110 003  
Dated : 23rd September, 2010

To  
The Chief Secretary,  
All the States

Sub : Implementation of FRA in States.

Sir,

With reference to the above subject, I would like to inform you that this Ministry has received comments from observers that in certain cases, District Collectors are issuing Pattas without proper identification of the actual parcel of (forest) land allotted, and without fixing any boundaries. This means that the patta-holders will have to wander around searching for a suitable piece of (forest) land to occupy, and their right to remain on a piece of (forest) land will always be under question because survey and demarcation has not been done. For the concerned forest officers, also, the situation is fraught with anxiety, as they can be hauled up any day for allowing unauthorised occupation and felling of forest lands.

It is requested to issue strict directions that the plots of land should be located on the ground, boundaries surveyed and plotted on a map duly signed by the concerned authorities, and Tribal Deptt. to give funds for erecting boundary pillars whose GPS readings should be recorded and entered in revenue and forest department records and on the patta. Where scattered plots of land have been occupied throughout a tract of forest, they may be brought to one corner of the forest to avoid honeycombing and subsequent fragmentation.

The compliance of the action may kindly be intimated of MoEF for needful action.

Yours faithfully

Sd/-

[ A.M. Singh ]

DIGF(FP)

Copy to :

PCCFs of all the States for verification & comments.

## CHAPTER- 5

### Orders relating to Joint Forest Management

#### 1. Management and Transfer of Strip Plantations

GOVERNMENT OF WEST BENGAL  
FOREST DEPARTMENT  
FOREST BRANCH  
NOTIFICATION

No. 2914-For./D/6M 31/S4 Dated: Calcutta, the 22<sup>nd</sup> July, 1986

1. The Forest Department has taken up a massive Social Forestry Project since 1981 for raising plantation of trees on lands belonging to PWD, I&W Department and Panchayat Bodies along roads and canals which envisages popular participation for successful execution of the Project. One of the objectives of the aforesaid Project is to share benefits accruing from such plantations with the local people to make it more meaningful socially and also to ensure their active participation, co-operation and support in raising, maintaining and protecting such plantations.
2. (i) Under the scheme the Forest Officer (which includes his successors sub-ordinates and agents) shall establish and maintain plantations on the lands selected by him within his jurisdiction with the project fund placed at his disposal.  
(ii) In establishing and maintaining the said plantations, the Forest Officer will employ labour, as far as practicable, from amongst the landless residents and poorer sections of the populations of the concerned Gram Panchayat area contiguous to the said land.
3. Now in exercise of power conferred by clause (K) and clause (O) of sub-section(i) of section 20 of the West Bengal

Panchayat Act, 1973 (West Bengal Act XLI of 1973), the Governor is pleased hereby to direct that for proper maintenance and protection of such plantations and facilitating sharing of benefits arising out of the plantations with the beneficiaries i.e. local people, management and control of sectors of such strip plantations be transferred to the local Gram Panchayet within whose jurisdiction such strip plantations lie, from the third year of creation (e.g. plantations raised in 1984 shall be handed over in 1986 after first maintenance in 1985) or at the earliest convenience thereafter by an order of the Forest Officer having jurisdiction over such plantations subject to observance of procedure laid down below.

4. In exercise of the powers conferred by section 222 of the said Act, the Governor is pleased hereby to give the following instructions and directions for the guidance of the Gram Panchayats, Samities and the Zilla Parishads in the discharge of their functions:

**Instructions and Directions:**

- A. After a strip plantation is established by the Forest Officer, the Gram Panchayat, on receipt of intimation from the Forest Officer, shall by a resolution undertake to—
  - (i) Protect the said plantation;
  - (ii) Inform the Forest Officer about any person or persons attempting to trespass or wilfully, maliciously damage the said plantation or commit theft thereon;
  - (iii) Prevent such trespass, mischief, theft or damage; and
  - (iv) Apprehend or assist in the apprehension of such person or persons.
- B. For facilitating the transfer of strip plantations and proper upkeep of the plantations transferred in the 3<sup>rd</sup> year or

- conveniently thereafter—
- (i) The Bhumi Sanskar Sthayee Samiti of the Panchayat Samiti will work out modalities for post-transfer management, especially the aspect of protection of such plantations and sharing of benefits with local people on behalf of the Panchayat Samity;
  - (ii) The beneficiaries shall be identified by the Bhumi Sanskar Sthayee Samiti of the Panchayat Samiti from amongst the economically backward people living in the vicinity of the plantation, preference, however, being given to the members of Scheduled Caste and Scheduled Tribe Communities.

While selecting such beneficiaries for the above purpose, well-defined sectoral allotments may be made to the beneficiaries (individual/family/group) for protection and maintenance of such plantations, keeping the numbers of trees the same as far as practicable.

- C. After the strip of plantation is transferred by the Forest Officer to the Gram Panchayat on completion of above tasks—
- (i) The beneficiaries as identified shall be allowed to collect grass fodder, fallen woods and other minor produce from the plantations including thinning & cutting of such plantations, prior to harvesting of the principal crop but without any damages to such crop;
  - (ii) The beneficiaries will enjoy only the benefits accruing from said plantations without any rights on the land;
  - (iii) The Forest Officer would continue to monitor the management of the strip plantations even after control and management of the same is transferred to the Gram

- Panchayat;
- (iv) The plantations will be harvested on maturity and disposed of by the Forest Officer in consultation with the Bhumi Sanskar Sthayee Samiti of the Panchayat Samiti;
  - (v) The Forest Officers shall arrange distribution of the prespecified percentage of harvested produce, to be decided upon in consultation with the Bhumi Sanskar Sthayee Samiti of the Panchayat Samiti, to the selected beneficiaries at a concessional rate, or free of cost, subject to recovery of the direct cost for establishing, protecting and maintaining the plantation less the cost for seedlings, and transfer of required funds to the Gram Panchayats for raising future plantations;
  - (vi) The Gram Panchayat shall ensure that the beneficiaries protect and manage such strip plantations without any damage to roads, canals, bridges, culverts, etc. and take every precaution for safety of roads/canals and traffic movements;
  - (vii) The Gram Panchayat shall ensure that the first row on either side of road/canal together with all fruit and ornamental trees are retained;
  - (viii) The Forest Department may retain any particular strip plantation and also reserve the right to resume any strip plantation transferred to Panchayats for specific public purpose;
  - (ix) The Panchayat Samiti through the Bhumi Sanskar Sthayee Samiti at the Block Level and Zilla Parishad through the Bhumi Sanskar Sthayee Samiti at the District Level will supervise and monitor execution of this scheme for transfer of management and control of strip



- plantations to Panchayats;
- (x) Separate ledger accounts shall be maintained by the Gram Panchayats for the purpose of depositing the net income accruing under the foregoing clause (v) of 'Instruction & Directions';
  - (xi) The monies standing to the credit of the said account shall be utilised by the Gram Panchayat for the sole purpose of afforestation works and/or creation, establishment and maintenance or plantations/woodlots within the Gram Panchayat area for the benefit of local people in accordance with the plan as may be advised by the local Forest Officer.
  - (xii) The Gram Panchayat shall submit periodic reports and returns as may be prescribed by the Forest Department to the concerned Forest Officer of the district and send copies thereof to the Zilla Parishad through the Panchayat Samiti.
  - (xiii) No additional post should be created by the Forest Department, the Panchayat and CD(Panchayat) Department or the Panchayat bodies for implementation of this scheme for transfer of management and control of strip plantation to Panchayats.

By order of the Government,  
Sd/-  
(J. Sanyal)  
Secretary to the Government of West Bengal

Amendments to Notification No. 2914-For dated 22.07.1986

**I. Notification No. 7534-For/D/I/6M-7/93 dated 02.08.1994**  
**Government of West Bengal**  
**FOREST DEPARTMENT**  
**FOREST BRANCH**

No.: 7534-For/D/I/6M-7/93

Dated, Calcutta the 2nd August, 1994

From: Officer on Special Duty and Ex-officio Dy. Secy. to the  
Govt. of West Bengal

To: The Principal Chief Conservator of Forests, West Bengal

Sub: Management and Transfer of strip plantations.

Ref: His Memo No. 302/SFW/2M-22 dated 18.02.1993 and  
Unofficial No. 1589/SFW/2M-22 dated  
25.07.1994.

In partial modification of this Department's Notification no. 2914-For., dated 22.07.1986 the undersigned is directed by order of the Governor to say that the Governor is pleased to direct that contents in clauses (iv), (v), (x) and (xi) of item C below Para 4, thereof may be substituted as stated below seriatim :

**Clause (IV)** The Plantation will be harvested on maturity as decided by the Forest Officer and will be disposed of by the Panchayat Samity. Each sale either by auction or by tender as deemed fit shall be made on the basis of decision of the Bon-O-Bhumi Sanskar Sthayee Samity of the Panchayat Samity in which the Forest Officer shall be invited to participate. The formation of felling coupe/lot in plantations will be done by the Forest Officer;

**Clause (V)** On the basis of the requisition of the Forest Officer and the resolution of the Artha Sanstha Unnayan-O-646

Parikalpana Sthayee Samity on it, the Panchayet Samity shall refund to the concerned Forest Officer the direct cost of establishing, protecting and maintaining the harvested plantation(s), the cost of formation of felling coupes/lots and also transfer required funds for reforestation on the same site;

**Clause (X)** Separate ledger account shall be maintained by the Gram Panchayat(s) for the purpose of arriving at the balance income and accruing incidental expenses for holding auction or tender;

**Clause (XI)** The balance money standing to the credit of the said account shall be distributed by Panchayat Samity among selected beneficiaries.

Suitable instructions may be communicated to the concerned Chief Conservator of Forests, Conservator of Forests, and Divisional Forest Officers.

Sd/—

( S. M. Chaki )

Officer on Special Duty and Ex-Officio  
Dy. Secy. to the Govt. of West Bengal

**II. Notification No. 2204-For/D/1/6M-7/93 dated 12.05.1995**

Government of West Bengal  
FOREST DEPARTMENT  
FOREST BRANCH

No.: 2204-For/D/1/6M-7/93      Dated, Calcutta the 12th May, 1995  
From: Officer on Special Duty and Ex-officio Dy. Secy. to the  
Govt. of West Bengal

To : The Principal Chief Conservator of Forests, West Bengal

Sub : Management and Transfer of strip plantations.

Ref : Chief Conservator of Forest, Social Forestry, West Bengal's Memo No. 57/SFW/ 2M-22, dated 17.01.1995.

In continuation of this Department's G.O. No. 7354-For., Dated 02.08.1994 on the subject noted above, the undersigned is directed by order of the Governor to say that the Governor is further pleased to direct that the contents in Para 4B (ii) of this department Notification No. 2914-For, dated 22.07.1986 may be substituted as stated below :-

The beneficiary villages shall be identified by the Bhumi Sanskar Sthayee Samity as are situated nearest to the roadsides, canal bank, river bank, etc. The individual beneficiaries shall be selected by an executive committee of the beneficiary village, the composition of which shall be as follows:

- (a) Sabhapati or any member of the Bon-O-Bhumi Sanskar Sthayee Samity as may be nominated by the Sabhadhipati  
..... Member
- (b) Gram Pradhan or any member of local Gram Panchayet(s) as may be nominated by the Pradhan(s)..... Member
- (c) Elected representatives of the beneficiaries (not exceeding 6)..... Member
- (d) Concerned Beat Officer .....  
Member Secretary

The members of the executive committee shall elect the President in each meeting.

The above Committee while selecting individual

beneficiaries shall give preference to economically backward people and members of Scheduled Caste and Scheduled Tribes Communities.

The Strip plantation may be divided into sectors for allotment to the beneficiaries (individual/family/groups) for protection and maintenance of such plantation, keeping the number of trees the same as far as practicable in each sector.

2. Suitable instructions may be communicated to the concerned Chief Conservator of Forests, Conservator of Forests and Divisional Forest Officers.

Sd/—

(S. M. Chaki )

O.S.D. and Ex-Officio

Dy. Secy. to the Govt. of West Bengal

### **III. Notification No. 2098-For. Dated 14.05.2010**

Government of West Bengal

Forest Department

Forest Branch

Writers' Buildings, Kolkata – 700 001

No.2098-For.

Dated: 14.05.2010

#### NOTIFICATION

In partial modification of this Department's Notification No. 2914-For., for dated 22/07/1986 and No. 7534-For., dated 02/08/1994 the undersigned is directed by order of the Governor to say that the Governor is pleased to direct that contents in clauses (iv), (v), (x) and (xi) of item C below para 4 thereof may be substituted as stated below seriatim;

**Clause (IV)** The plantations will be harvested and disposed of on maturity by the Forest Officer in consultation with Ban-O-Bhumi Sanskar Sthayee Samiti of the Panchayet Samiti maintaining normal procedure.

- Clause (V)** Forest Officer shall deduct the direct cost of establishing, protecting, maintaining, harvesting plantation(s) from total sale proceed and remit the deducted amount to the government treasury as revenue. The cost of harvesting plantation(s) shall be deducted by the forest officer for adjustment through CRSP. He shall also deduct the cost of reforestation from total sale proceed and keep it in civil deposit for subsequent reforestation work at the same site.
- Clause (X)** Separate ledge account shall be maintained by the forest officer for the purpose of arriving at the balance income.
- Clause (XI)** The balance money standing to the credit of the said account shall be distributed in following manner:
- (a) 25% of the balance money shall be distributed amongst the selected beneficiaries. Where no beneficiary could be selected the 25% shall be transferred to Panchayet Samity for taking up developmental works in local area;
  - (b) 25% shall be transferred to Gram Panchayet for taking up developmental works in local area;
  - (c) Remaining 50% will be used by the forest department for taking up greening areas locally where no plantations exist.

By order of the Governor  
(Shila Nag)  
Joint Secretary to the Govt. of West Bengal

**2. Arabari Socio- economic Forest Complex- usufruct rights to fringe population**

Government of West Bengal  
FOREST DEPARTMENT  
FOREST BRANCH

No. 1118-For./D/6M

76/65 Calcutta, the 7<sup>th</sup> March, 1987

From : The Joint Secretary to the Government of West Bengal.  
To : The Chief Conservator of Forest, West Bengal.  
Sub : Arabari Social-Economic Forest Complex allowing usufructory rights to fringe population.

Ref: Correspondance resting with his U.O. No. 13255/CS/2h-630

1. The Forest Department has raised an experimental plantation since 1971-1972, under the name and style 'Socio-Economic Forest Complex' on the 1250 ha. of degraded forest lands in Arabari Research Range in the district of Midnapore. A special feature of this programme was the association of the fringe population with the process of raising, maintaining and protecting the plants. The participation of those local people has resulted in the spectacular achievement of regenerating the completely degraded sal forest sites which are prone to a very high degree of biotic interference. In order to foster in the public a feeling of attachment for the forests for the purpose of conservation, the Government has already decided to share 25% of the produce from the RDF plantations raised under the Social Forestry Project. The Government now deems it fit and proper to offer some incentive to the villagers whose efforts are responsible for the unique success of the project at Arabari based on the new technique of forest management with people's support.

2. After careful consideration of the matter, the undersigned is directed by order of the Gpovernor to say that the Governor has been pleased to decide, as a special case, that twenty five per cent (25%) of the yield of first harvesting of standard crops (sal and fast growing species) will be distributed free among the identified beneficiaries of this scheme (618 families) as usufructory benefits subject to the following terms and conditions :

**TERMS AND CONDITIONS**

- (i) The usufructory benefits @ 25% of the harvested yield will be allowed from first year's harvesting only pending a review of the matter after the first distribution is completed;
  - (ii) That such usufructory rights will be restricted only to the Principal Crops (sal and fast growing species);
  - (iii) The usufructory benefits will be allowed to the fringe population @ 25% from the net profits i.e. from the sales proceeds after recovery of costs for plantations, maintenance, harvesting, etc;
  - (iv) The State's share of the net profits should be submitted to public revenue prior to distribution of such usufructory benefits;
  - (v) That the list of beneficiaries comprising 618 families will have to be vetted by the Bon-O-Bhumi Sanskar Sthayee Samiti of the local Panchayat Samiti. The said Samiti will also supervise distribution of usufructory benefits.
3. The Chief Conservator of Forests, West Bengal is requested to submit a detailed report to the State Government on completion of distribution of usufructory benefits showing



therein the names of the beneficiaries, quantum of benefits against each of them, State's share of net profit deposited to public fund and percentage of recovery of plantation and harvesting cost, etc. for assessment and review.

4. This order issues with the concurrence of the Finance Department, vide their U.O. No. Group Aff/5456 dt. 23.07.1987 and No. 5485/Gr.A/II dt. 23.02.1987.
5. The Accountant General, West Bengal is being informed.

Sd/-  
Joint Secretary to the,  
Government of West Bengal

**3. Sanction of usufructs to FPCs— appropriation of 25% Sale Proceeds of Cashew and Timber for payment of usufructuary share**

Government of West Bengal  
Forest Department  
Forest Branch

No. 8527-For.D/1/1S-60/03 Calcutta, the 12th November, 1993

From : The Officer-on-Special Duty & Ex-officio  
Deputy Secretary to the Govt. of West Bengal

To : The Principal Chief Conservator of Forests,  
West Bengal

**Sub : Sanction of usufructs to the beneficiaries of F.P.C.s in Joint Forest Management— appropriation of 25% Sale Proceeds of Cashew and Timber for payment of usufructuary share**

With reference to his letter No. 8283/CS/2M-915, dated 17.6.93 on the above subject, the undersigned is directed by order of the Governor to say that the Governor has been pleased to direct that 25% of the net sale proceeds of Cashew & Timber as provided in Clause 4(iii)b and 4(v) of G.O. No. 5962-For.D/1S-16/88, dated 27.7.90 will be appropriated and credited to the head of Amount "8443-Civil Deposits-109-Forest Deposit' in the State Budget in order to facilitate in making payment to the beneficiaries in accordance with the provisions of the aforesaid G.O.

2. The Governor has further been pleased to authorise the D.F.O.s to operate the aforesaid head of account to make payment of 25% of the net sale proceeds of Cashew and Timber proportionately to all eligible members of the Forest Protection Committee or their nominee as per provision of the aforesaid G.O. This is in relaxation of the existing financial powers of D.F.O.s towards refund of revenue.
3. This order issues with the concurrence of the F.D. vide their U.O. No. 1808 Gr. 'N', dated 12.8.93 and U.O. No. Gr. 'N' 3942 dated 4.X.93.
4. The Accountant General, West Bengal and all concerned are being informed.

Sd/- S.M. Chaki

O.S.D. & Ex-officio Deputy Secretary  
to the Govt. of West Bengal

**4. Resolution on Eco-development Committees**

Resolution No. 3841-For/d/11M-795

Dated 26<sup>th</sup> June, 1996 on Eco-Development Committee

Whereas the Forest Department have taken up a massive

programme of wildlife conservation and management in the State and established a number of wildlife protected areas, i.e. sanctuaries and national parks, for this purpose.

And whereas successful implementation of the programme is dependent to a large extent on active participation and involvement of the local people.

Now, therefore, the Governor is pleased to decide that Eco-Development Committee (EDC) shall be constituted for the purpose of protection and development of wildlife-protected areas (sanctuaries and national parks) and members' activities, subject to observance of the conditions provided in this Resolution.

The composition, duties and functions, the usufructory benefits and restrictive measures pertaining to such committees shall be as follows:

**1. Composition :**

- (i) The Divisional Forest Officer/Officer in charge of the protected area (hereinafter referred to as Forest Officer), in consultation with the “Bon-O-Bhumi Sanskar Sthayee Samiti” of the concerned Panchayat Samiti, shall select members for constitution of the EDC within the framework of this Resolution.
- (ii) The members shall ordinarily be economically backward people living in the vicinity of the protected areas concerned. Every family living in the vicinity of the protected area shall, however, have the option of becoming a member of EDC if such family, including the female members, are interested in the work of protection.
- (iii) There shall normally be a joint membership of each household (i.e. husband becoming member, wife automatically becomes a member or vice versa). Either of the two can exercise the right to represent the

- household at any time in the Annual General Meeting.
- (iv) Constitution of the EDC will be approved by the Forest Officer on recommendation of the “Bon-O-Bhumi Sanskar Samiti” of the concerned Panchayat Samiti.
  - (v) The concerned Gram Panchayat(s) shall provide necessary support and help to such Committee(s) to ensure their smooth and proper functioning.
  - (vi) The “Bon-O-Bhumi Sanskar Samiti” of the respective Zilla Parishad will monitor, supervise and review the functions of the EDC.
  - (vii) Each EDC shall have an Executive Committee to carry out the various activities assigned to the Committee.
  - (viii) The composition of the Executive Committee shall be as follows:
    - (a) Sabhapati or any member of the “Bon-O-Bhumi Sanskar Samiti” of the local Panchayat Samiti as may be nominated by the Sabhapati ..... Member.
    - (b) Pradhan or any member of local Gram Panchayat as may be nominated by the Pradhan(s) ..... Member.
    - (c) Elected representative from amongst the members, not exceeding 10% of total membership— subject to a minimum number of 6 and maximum of 11. Not less than 30% of the elected members shall be women..... Member.
    - (iv) Concerned Beat Officer .....Member Convenor.
  - (ix) The members of the Executive Committee shall elect a Secretary from amongst the elected members, who will function as Joint Convenor.

- (x) If any inclusion or change in the EDC/Executive Committee is necessitated, after initial constitution, the Executive Committee shall make suitable recommendation to the Forest Officer duly endorsed by the “Bon-O-Bhumi Sanskar Samiti” of local Panchayat Samiti, for approval.
- (xi) The Beat Officer, as Member-Convenor, and the Secretary shall convene the meeting of the Executive Committee, Annual General Meeting and other meetings of the EDC;
- (xii) Quorum for each meeting of the Executive Committee shall be 50% of the elected members and for the Annual General Meeting, 30% of ordinary members.
- (m) A Chairperson shall be elected for every meeting of the EDC.

**2. FUNCTION :**

- (i) The Secretary of the EDC shall maintain a Register showing necessary particulars of the members of the EDC, e.g. name, father's/spouse's name, address, age, number of family members, name of the nominee, etc. The nomination forms duly filled in and approved by the Executive Committee should be pasted in the Register. Such Register is also to be maintained in the concerned Range Offices of the Forest Department for permanent record;
- (ii) The Secretary of the EDC shall maintain a “Minutes Book” wherein proceedings of the meetings of the Executive Committee held from time to time as well as the proceedings of the Annual General Meeting of the EDC will be recorded under the signature of the Member-Convenor and Joint Convenor.

- (iii) The EDC shall hold an Annual General Meeting once every year where activities of the EDC as well as details of distribution of usufructory and eco-development benefit are to be discussed besides electing representatives of the members to the Executive Committee. Concerned Range Officer shall be the observer in this meeting.
- (iv) Every EDC shall/will have an account in bank/post office maintaining a common fund by deposits from the members and/or other source. The fund will be operated jointly by the Beat Officer and the Secretary as per written resolution of the Executive Committees. Receipts and withdrawals from this Account shall be presented in every Annual General Meeting for approval.

**3. DUTIES:**

- A.
  - (i) To ensure protection of the forest and wildlife inside the forest and those straying outside, through members of the EDC jointly with Forest Department Staff;
  - (ii) To inform forest personnel about any person or persons attempting trespass and wilfully or maliciously damaging the forest(s) and/or wildlife therein;
  - (iii) To prevent such trespass, encroachment, grazing, fire, poaching, theft or damage jointly with Forest Department staff;
  - (iv) To approach or assist the Forest Department staff in apprehension of such person(s) committing any of the offences mentioned above.
- B.
  - (i) To assist Forest Department staff in smooth and timely execution of all Forestry works taken up in

- area protected by the EDC;
- (ii) To involve every member of the EDC in the matter of protection of forest and wildlife as well as other duties assigned to the EDC;
  - (iii) To assist the concerned forest officials and the Panchayet in the matter of selecting/engaging labourers required for forestry works.
- C. (i) To ensure implementation of eco-development programme so that the members of the EDC get maximum benefit;
- (ii) To ensure that eco-development funds provided by Govt. and usufructory benefits by Government are not in any way misused by any of the member(s) & Forest/Plantation sites are kept free from any encroachment whatsoever.
- D. (i) To prevent any action in contravention of provision of the Indian Forest Act, 1927 and the Wildlife (Protection) Act, 1972 as amended from time to time;
- (ii) To report about activities of a particular member which are found prejudicial and detrimental to the interest of forest/wildlife, to the concerned Beat Officer/Range Officer, which may result in cancellation of membership of the erring member;
  - (iii) To assist the forest officials to take action under Indian Forest Act, 1927, the Wildlife (Protection) Act, 1972 and the Rules made thereunder, against the offenders, including any erring members of the EDC.

**4. Eco-Development Activities:**

- (i) Microplans in respect of eco-development activities will

be drawn up in a participatory manner prior to commencement of the activities, involving the Range Officer and Beat Officer of the Forest Department and the members of the EDC. Need-based and site-specific work programme, out of a basket of options, will be chosen within specific monetary limits, both for community and individual benefit, for implementation. Every selected eco-development activity shall have direct or indirect linkage or relation with conservation of biodiversity and such linkage/relation is to be mentioned against each selected activity in the microplan.

- (ii) Protection provided to the wildlife-protected area against theft, grazing, fire, etc. would be considered as the involvement and contribution of the EDC. The forest officer may not release fund for village eco-development unless he is satisfied that contribution by the EDC, as stipulated above has been fulfilled.
- (iii) Members of the EDC shall share a percentage of investment for every village eco-development work in cash, labour and/or physical resources. Agreed cost sharing arrangement will be incorporated in the microplan.
- (iv) The microplan will be signed by Range Officer on behalf of the Forest Department and the Secretary on behalf of the EDC.

**5. USUFRUCTUARY BENEFITS:**

A. From Wildlife Protected Area:

- (i) Upon satisfaction of the State Government that collection and removal of certain items of forest products from identified zone(s) of a protected area is necessary for the improvement and management



of wildlife therein, the Chief Wildlife Warden may grant permission for such collection and removal. Members of the EDC shall be eligible for getting in equal proportion such forest products free of royalty but on payment of collection cost, when collected by Government agency, as follows:

- (a) 25% share of poles (up to 60 cm b.h.g. for teak and 90 cm b.h.g. for other species) obtained from drift and overwood removal;
  - (b) 100% share of firewood (obtained from drift and overwood removal), thatch/amlisho/other grass (obtained from firelines and fire prone zones), specified non-edible fruits, pods, flowers, seeds, decorative fungus and leaves.
- (ii) The members of the EDC will have to protect and manage the protected area to the satisfaction of the forest officer for a minimum period of one year to become eligible for 25% share of Government receipts on account of tourist and transport entry and photography and such other related activities in the protected area.
  - (iii) Usufruct sharing, as mentioned above, will be subject to restrictions imposed from time to time on wildlife management and other related consideration.

**B. From Non-Forest Area:**

- (i) Produce obtained from plantations raised on public lands as village eco-development activity will be shared as follows :
  - (a) 100% share of intercrop to identified members of EDC who raise the crop(s);

- (b) 100% share of thinning produce & firewood obtained from final harvest to each member of EDC in equal proportion;
- (c) The forest officer shall deduct the cost of re-forestation from the sale value of final harvest of timber and poles for deposit in the EDC fund. Balance amount will be distributed to each member of the EDC in equal proportion.
- (ii) Goods and services generated by community benefits oriented village eco-development activities will be enjoyed by each member of the EDC in equal proportion. Those generated by individuals benefit oriented eco-development activities will be enjoyed by the individual concerned.

**6. TERMINATION OF MEMBERSHIP, DISSOLUTION OF EDC, APPEAL ETC. :**

- (i) Failure to comply with any of the conditions laid down hereinbefore as well as contravention of provisions of the Indian Forest Act, 1927, Wildlife (Protection) Act, 1972 or any Rules made thereunder, may entail cancellation of individual membership and/or dissolution of the Executive Committee/or the EDC, as the case may be, by the officer of the Forest Department as stated in (ii) and (iii) below;
- (ii) The Forest Officer shall be entitled to take appropriate action including dissolution of any Executive Committee/EDC on the grounds stated above, on the recommendation of the “Bon-O-Bhumi Sanskar Samiti” of the Panchayet Samiti concerned;

- (iii) The concerned Range Officer may be authorised by the forest officer to take proper action including termination of an individual's membership on the above-mentioned grounds on the recommendation of the Executive Committee of the EDC;
- (iv) Appeal against any such penal action by the Range Officer may be preferred to the forest officer through the local Panchayat Samiti;
- (v) Appeal against any such penal action of the forest officer may be preferred to the concerned Circle Conservator of Forest or the Chief Conservator of Forests, as the case may be, through the concerned Panchayat Samiti and Zilla Parishad, whose decision shall be final.

**ORDER**

Order that the Resolution be published in the Calcutta Gazette and copy sent to all concerned.

By order of the Governor

Sd/-( S.M. Chaki )  
Dy. Secretary to the  
Govt. of West Bengal

**5. Resolution on JFM committees in Jalpaiguri, Coochbehar, Darjeeling (excluding DGHC areas), Malda, Murshidabad, Nadia, Uttar Dinajpur, Dakshin Dinajpur and Hooghly**

GOVERNMENT OF WEST BENGAL  
FOREST DEPARTMENT  
FOREST BRANCH

No. 5969-For

Dated: 03.10.2008

## **RESOLUTION**

Whereas the National Forestry Policy, 1988 envisages it as one of the essentials of forest management that the forest communities should be motivated to identify themselves with the development and protection of forests from which they derive benefits. National Forest Policy 1988 also recognises the symbiotic relationship between the tribal people and forests, and implores to associate the tribal people closely in the protection, regeneration and development of forests.

Whereas the National Forest Policy, 1988 envisages people's involvement in the development and protection of forests and whereas the requirements of fuelwood, fodder and small timber such as house-building material, of the tribals and other villagers living in and near the forests, are to be treated as first charge on forest produce.

And whereas “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006” also recognises the responsibility and authority of tribals in conservation of biodiversity and maintenance of ecological balance and thereby strengthening conservation regime of forests.

And whereas State of West Bengal has been the pioneer in development of Joint Forest Management which has now been acknowledged as a tool for management of forest resources universally and implemented successfully in the different states of the country.

And whereas, the Forest Department has taken up a massive programme for resuscitation of the degraded forests of the State as a whole for converting the areas into productive forests.

And whereas, active participation and involvement of local people are vital for generation, maintenance and protection of aforesaid forests/plantations and successful implementation of the programme.

In supersession of this department's resolution No. 2340-For dated 14<sup>th</sup> July 2004, 2731-For. dated 16<sup>th</sup> August 2004 and 2756-For. dated 17<sup>th</sup> August 2004, the Governor has been pleased to decide that Joint Forest Management Committees shall be constituted for the purpose of development of degraded forests and forests prone to forces of degradation in the districts of Jalpaiguri, Coochbehar, Darjeeling (excluding areas under Darjeeling Gorkha Hill Council), Malda, Murshidabad, Nadia, Uttar Dinajpur, Dakhin Dinajpur, Hooghly and direct that the composition, duties and functions, the usufructuary benefits and restrictive measure pertaining to such Joint Forest Management Committees shall be as following :

**1. COMPOSITION :**

(i) The Divisional Forest Officer in consultation with “Bon-O-Bhumi Sanskar Sthayee Samiti” of concerned Panchayat Samiti shall select beneficiaries for constitution of the Joint Forest Management Committee(s), within their jurisdiction and within the framework of this resolution.

(ii) The beneficiaries ordinarily shall be economically backward people living in the vicinity of the forest concerned. Every family living in the vicinity of the forests shall, however, have the option of becoming a member of the Joint Forest Management Committee if

- such family, including the female members, is interested in the work of protection.
- (iii) There shall be normally a joint membership for each household (i.e. if husband is a member, wife automatically becomes a member and vice versa). Either of the two can exercise rights to represent the household at any point.
  - (iv) Constitution of the Joint Forest Management Committee including the Executive Committee will be approved by the Divisional Forest Officer concerned on recommendation of the “Bon-O-Bhumi Sanskar Sthayee Samiti” of the concerned Panchayat Samiti.
  - (v) The concerned Gram Panchayat(s) shall extend necessary support and help to such committee(s) to ensure their smooth and proper functioning.

**2. EXECUTIVE COMMITTEE :**

- (i) Each Joint Forest Management Committees shall have an Executive Committee to carry out the various activities assigned to the Committee.
- (ii) The composition of the Executive Committee shall be as follows :
  - a. Sabhapati or any member of the “Bon-O-Bhumi Sanskar Sthayee Samiti” of the local Panchayat Samiti as may be nominated by the Sabhapati  
 .....  
 .....Member.
  - b. Gram Pradhan or any member of local Gram Panchayat(s) as may be nominated by the Pradhan/Chairman of the Municipality or any

councillor of the local Municipality as nominated by the Chairman of the said Municipality .....  
Member.

- c. Elected representative of the beneficiaries.....  
Member (Three number of members of the JFMC subject to the condition that at least one member will be woman and tribal).
  - d. Concerned Beat Officer or his nominee in the rank of Head Forest Guard/ Forest Guard/Ban Majdur/Ban Shramik ..... Member Secretary.
  - e. One Head Forest Guard/Forest Guard/Bank Majdur/Ban Shramik to be nominated by concerned Range Officer ..... Member.
- The members of the Executive Committee shall elect the President in each meeting.
- (iii) The “Bon-O-Bhumi Sanskar Sthayee Samiti” of the respective Zilla Parishad will monitor, supervise and review the functions of the Joint Forest Management Committees.
  - (iv) The Member Secretary shall convene the meetings of the Executive Committee as well as Joint Forest Management Committee, as per agreed procedure.
  - (v) The representatives of the beneficiaries to the Executive Committee shall be elected in each year in Annual General Meeting of the Committee, where the concerned Range Officer will be the observer.

- (vi) No member of the Executive Committee shall be elected or nominated for more than three years in succession.
- (vii) In order to ensure better coordination among the JFMCs and further consolidation of JFM practices, Coordination Committees of the JFMCs shall be constituted both at Beat & Range level. The composition and function of such coordination committees shall follow guideline to be prescribed by the Principal Chief Conservator of Forests.

**3. DUTIES OF EXECUTIVE COMMITTEE:**

- (i) The Executive Committee of Joint Forest Management Committee shall maintain a register showing the necessary particulars of beneficiaries who are members of the committee, i.e. name, father's name, address, age, number of family members, name of nominee, etc. Nomination forms duly filled in and approved by the Executive Committee should be pasted in the Register. Such Register is also to be maintained in the concerned Range Office of the Forest Department for permanent record.
- (ii) The Executive Committee of Joint Forest Management Committee shall maintain a "Minute Book" wherein proceedings of the meeting of the Executive Committee held from time to time as well as the proceedings of the Annual General Meeting of the Joint Forest Management Committee will be recorded under the signature of the President of the Committee and such Minute duly attested by the member secretary shall be sent to concerned Range Officer for record.



- (iii) The Executive Committee of Joint Forest Management Committee shall hold an Annual General Meeting once in every year where activities of Committee as well as details of distribution of usufructuary benefits are to be discussed, besides electing representatives of the beneficiaries to the Executive Committee.
- (iv) The Executive Committee shall meet at least once every two months and discuss issues related to ongoing forestry works, preparation and implementation of microplan and other emergent works etc.

**4. FUNCTIONS OF JOINT FOREST MANAGEMENT COMMITTEE/ EXECUTIVE COMMITTEE :**

- A. (i) To ensure protection of forest(s)/ plantation(s)/ wildlife through members of the committee.
- (ii) To protect the said forest(s)/plantation(s) with the members of the Committee.
- (iii) To inform forest personnel about any person or persons attempting trespass and wilfully or maliciously, damaging the said forest(s)/ plantation(s)/ wildlife or committing theft thereon.
- (iv) To prevent such trespass, encroachment, grazing, fire, poaching, theft or damage.
- (v) To apprehend or assist the forest personnel in apprehension of such person or persons committing any of the offences mentioned above.
- B. (i) To ensure smooth and timely execution of all forestry and fringe area development works taken up in the area by extending necessary help to the officials of Forest Department.

- (ii) To involve every member of the Committee in the matter of protection of forest(s) /plantation (s)/wildlife as well as other duties assigned to the Committee.
  - (iii) To assist the concerned Forest Officials in the matter of selection/engaging of labourers required for forestry work.
- C.
  - (i) To ensure smooth harvesting of the forest produce by the Forest Department.
  - (ii) To assist the concerned Forest Official in proper distribution of the earmarked portion of the net sale proceeds among the members of the Committee (as per list maintained by Sthayee Samiti).
  - (iii) To ensure that usufructuary rights allowed by the Govt. is not in any way misused by any of the members and forest/plantation sites are kept free from any encroachment whatsoever.
- D.
  - (i) To prevent any activities in contravention of the provisions of Indian Forest Act, 1927 and any Acts and Rules made thereunder and the Wildlife (Protection) Act, 1972 as amended from time to time.
  - (ii) To report about activities of particular member which are found prejudicial and detrimental to interest of a particular plantation and or/forest wildlife to the concerned Beat Officer/Range Officer which may result in cancellation of membership of the erring member.

- (iii) To assist the forest officials to take action or proceed under Indian Forest Act, 1927 and the Wildlife (Protection) Act, 1972 and any Acts and Rules made thereunder, against the offenders, including any erring members of the Committee found to be violating the Act or damaging the forest/plantation/wildlife.

**5. USUFRUCTUARY BENEFITS:**

- (i) The members will have to protect the forest and wildlife for at least 5 years to be eligible for sharing of usufructs under this programme.
- (ii) The members shall be entitled to collect following items free of royalty without causing any damage to forest.
  - a) Fallen twigs, grass, fruits (excluding cashew), flowers, mushroom, seeds, leaves and intercrops raised by JFMCs subject to any restrictions imposed from time to time, provided, however, such collection will not be allowed in Protected Areas.
  - b) Medicinal plants will be permitted to be collected by the JFMC members free strictly on the basis of approved microplans, except in Protected Areas.
  - c) Members of the JFMC will receive 25% of net sale proceeds of firewood and poles, which are harvested during thinning and cultural operations. The poles for the purpose of this order will be under 90 cm. g.b.h. for all species except Teak. For Teak the upper limit of g.b.h. is 60 cm.
  - d) Members of the JFMC will receive 15% of the net

sale proceeds of timber which is harvested at the time of final felling. Share of JFMCs would be equally allocated to all the JFMCs in the Forest Division proportionate to the strength of their members.

- (iii) Entire Sal seeds as collected shall have to be deposited with the West Bengal Tribal Development Cooperative Corporation Ltd., through the local LAMPS (where LAMPS are functioning) and LAMPS will pay the members, in approved tariff, against their individual collection.
- (iv) The concerned forest official will distribute to the eligible members their proportionate share of the usufructs from the harvesting after satisfactory performance of functions detailed hereinbefore.
- (v) The usufruct sharing will be subject to restrictions imposed from time to time on account of Silvicultural and Management requirements and from preservation of wildlife point of view.

**6. TERMINATION OF MEMBERSHIP, DISSOLUTION OF COMMITTEE, APPEALS ETC.**

- i) Failure to comply with any of the conditions laid down hereinbefore as well as contravention of provisions of the Indian Forest Act, 1927, Wildlife (Protection) Act, or Acts and/or Rules made thereunder, may entail cancellation of individual membership and/or dissolution of the Executive/Joint Forest Management Committee, as the case may be by the Officers of the Forest Department as stated below in (ii) and (iii) below :
- ii) The concerned Divisional Forest Officer shall be entitled to take appropriate action even dissolution of

any Executive/Joint Forest Management Committee on the grounds stated above, on the recommendation of the Bon-O-Bhumi Sanskar Sthayee Samiti, Panchayat Samiti.

- iii) The concerned Range Officer may be authorized by the Divisional Forest Officer to take proper action, even termination of an individual membership, on the above mentioned grounds, on the recommendation of the Executive Committee of Joint Forest Management Committee.
- iv) Appeal against any such penal action by the Range Officer may be preferred to the concerned Divisional Forest Officer through local Panchayat Samiti.
- v) Appeal against any such penal action by the Division Forest Officer may be preferred to the concerned Circle Conservator of Forests through the concerned Panchayat Samiti and Zilla Parishad, whose decision shall be final.

### **ORDER**

Ordered that the Resolution be published in the Calcutta Gazette and copy sent to all concerned.

By order of the Governor  
Sd/-  
( Smt. Shila Nag, IAS )  
Joint Secretary to the  
Government of West Bengal

### **6. Resolution on JFM Committees in Darjeeling Gorkha Hill Council Areas**

GOVERNMENT OF WEST BENGAL  
FOREST DEPARTMENT  
FOREST BRANCH

No. 5970-For

Dated: 03.10.2008

### **RESOLUTION**

Whereas the National Forestry Policy, 1988 envisages it as one of the essentials of forest management that the forest communities should be motivated to identify themselves with the development and protection of forests from which they derive benefits. National Forest Policy, 1988 also recognises the symbiotic relationship between the tribal people and forests, and implores to associate the tribal people closely in the protection, regeneration and development of forests.

Whereas the National Forest Policy, 1988 envisages people's involvement in the development and protection of forests and whereas the requirements of fuelwood, fodder and small timber such as house-building material, of the tribal and other villagers living in and near the forests, are to be treated as first charge on forest produce.

And whereas “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006” also recognises the responsibility and authority of tribals in conservation of biodiversity and maintenance of ecological balance and thereby strengthening conservation regime of forests.

And whereas State of West Bengal has been the pioneer in development of Joint Forest Management which has now been acknowledged as a tool for management of forest resources universally and implemented successfully in the different states of the country.

And whereas the Forest Department has taken up a massive

programme for resuscitation of the degraded forests of the State as a whole for converting the areas into productive forests.

And whereas, active participation and involvement of local people are vital for generation, maintenance and protection of aforesaid forests/plantations and successful implementation of the programme.

In supersession of this department's resolution No. 2757-For Dated 17<sup>th</sup> August 2004, the Governor has been pleased to decide that Joint Forest Management Committees shall be constituted for the purpose of development of degraded forests and forests prone to forces of degradation in Darjeeling Gorkha Hill Council Areas, and direct that the composition, duties and functions, the usufructuary benefits and restrictive measure pertaining to such Joint Forest Management Committees shall be follows:

**1. COMPOSITION:**

- (i) The Divisional Forest Officer/Divisional Manager, W.B. Forest Development Corporation Ltd. in consultation with the people living in the fringe areas of the forests shall select beneficiaries for constitution of the Joint Forest Management Committee(s), within their jurisdictions and within the framework of this resolution.
- (ii) The beneficiaries ordinarily shall be economically backward people living in the vicinity of the forest concerned. Every family living in the vicinity of the forests shall, however, have the option of becoming members of the Joint Forest Management Committee if such family, including the female members, is interested in the work of protection.
- (iii) There shall be normally a joint membership for each household (i.e. if husband is a member, wife

automatically becomes a member and vice versa). Either of the two can exercise rights to represent the household at any point.

- (iv) Constitution of the Joint Forest Management Committee including the Executive Committee will be approved by the Divisional Forest Officer / Divisional Manager, W.B. Forest Development Corporation Ltd. concerned in consultation with the Councilor in whose jurisdiction the JFMC area falls.
- (v) The concerned Councilors shall extend necessary support and help to such committee(s) to ensure their smooth and proper functioning.

**2. EXECUTIVE COMMITTEE :**

- (i) Each Joint Forest Management Committees shall have an Executive Committee to carry out the various activities assigned to the Committee.
- (ii) The composition of the Executive Committee shall be as follows :
  - a. Local Councilor of the D.G.H.C. or his authorised representative..... Member.
  - b. Elected representative of the beneficiaries ..... Member (Three number of members of the JFMC subject to the condition that at least one member will be woman and tribal).
  - c. Concerned Beat Officer/Dy.Range Manager ..... Member Secretary.
  - d. One Head Forest Guard/Forest Guard/Ban Majdur/Ban Shramik/Nigam Shramik to be



nominated by concerned Range Officer/Range Manager ..... Member.

The members of the Executive Committee shall elect the President in each meeting.

- (iii) The Range Officer/Range Manager in whose jurisdiction the JFMC occurs will monitor, supervise and review the functions of the Joint Forest Management Committee.
- (iv) The Member Secretary shall convene the meetings of the Executive Committee as well as Joint Forest Management Committee, as per agreed procedure.
- (v) The representatives of the beneficiaries to the Executive Committee shall be elected in each year in Annual General Meeting of the Committee, where the concerned Range Officer will be the observer.
- (vi) No member of the Executive Committee shall be elected or nominated for more than three years in succession.
- (vii) In order to ensure better coordination among the JFMCs and further consolidation of JFM practices, Coordination Committees of the JFMCs shall be constituted both at Beat and Range level. The composition and function of such coordination committees shall follow guideline to be prescribed by Principal Chief Conservator of Forests.

**3. DUTIES OF EXECUTIVE COMMITTEE:**

- (i) The Executive Committee of Joint Forest Management Committee shall maintain a register showing the necessary particulars of beneficiaries who are members of the committee, i.e. name, father's name, address, age,

number of family members, name of nominee, etc. Nomination forms duly filled in and approved by the Executive Committee should be pasted in the Register. Such Register is also to be maintained in the concerned Range Office of the Forest Department for permanent record.

- (ii) The Executive Committee of Joint Forest Management Committee shall maintain a “Minute Book” wherein proceedings of the meeting of the Executive Committee held from time to time as well as the proceedings of the Annual General Meeting of the Joint Forest Management Committee will be recorded under the signature of the President of the Committee and such Minute duly attested by the member secretary shall be sent to concerned Range Officer for record.
- (iii) The Executive Committee of Joint Forest Management Committee shall hold an Annual General Meeting once in every year where activities of Committee as well as details of distribution of usufructuary benefits are to be discussed, besides electing representatives of the beneficiaries to the Executive Committee.
- (iv) The Executive Committee shall meet at least once every two months and discuss issues related to ongoing forestry works, preparation and implementation of microplan and other emergent works etc.

**4. FUNCTIONS OF JOINT FOREST MANAGEMENT COMMITTEE/ EXECUTIVE COMMITTEE:**

- A. (i) To ensure protection of forest(s)/plantation

- (s)/wildlife through members of the committee.
- (ii) To protect the said forest(s)/plantation(s) with the members of the Committee.
  - (iii) To inform forest personnel about any person or persons attempting trespass and wilfully or maliciously, damaging the said forest(s)/plantation(s)/wildlife or committing theft thereon.
  - (iv) To prevent such trespass, encroachment, grazing, fire, poaching, theft or damage.
  - (v) To apprehend or assist the forest personnel in apprehension of such person or persons committing any of the offences mentioned above.
- B.
- (i) To ensure smooth and timely execution of all forestry and fringe area development works taken up in the area by extending necessary help to the officials of Forest Department.
  - (ii) To involve every member of the Committee in the matter of protection of forest(s)/plantation (s)/wildlife as well as other duties assigned to the Committee.
  - (iii) To assist the concerned Forest Officials in the matter of selection/engaging of labourers required for forestry work.
- C.
- (i) To ensure smooth harvesting of the forest produce by the Forest Department.
  - (ii) To assist the concerned Forest Official in proper distribution of the earmarked portion of the net sale

proceeds among the members of the Committee (as per list maintained by Sthayee Samity).

- (iii) To ensure that usufructuary rights allowed by the Govt. is not in any way misused by any of the members and forest/plantation sites are kept free from any encroachment whatsoever.
- D.
- (i) To prevent any activities in contravention of the provisions of Indian Forest Act, 1927 and any Acts and Rules made thereunder and the Wildlife (Protection) Act, 1972 as amended from time to time.
  - (ii) To report about activities of particular member which are found prejudicial and detrimental to the interest of a particular plantation and or/forest wildlife to the concerned Beat Officer/Range Officer which may result in cancellation of membership of the erring member.
  - (iii) To assist the Forest Officials to take action or proceed under Indian Forest Act, 1927 and the Wildlife (Protection) Act, 1972 and any Acts and Rules made thereunder, against the offenders, including may erring members of the Committee found to be violating the Act or damaging the forest/plantation/wildlife.

**5. USUFRUCTUARY BENEFITS:**

- (i) The members will have to protect the forest and wildlife for at least 5 years to be eligible for sharing of usufructs under this programme.

- (ii) The members shall be entitled to collect following items free of royalty without causing any damage to forest.
  - a) Fallen twigs, grass, fruits (excluding cashew), flowers, mushroom, seeds, leaves and intercrops raised by JFMCs subject to any restrictions imposed from time to time, provided, however, such collection will not be allowed in Protected Areas.
  - b) Medicinal plants will be permitted to be collected by the JFMC members free strictly on the basis of approved microplans, except in Protected Areas.
  - c) Members of JFMC will receive 25% of net sale proceeds of firewood and poles, which are harvested during thinning and cultural operations. The poles for the purpose of this order will be under 90 cm, g.b.h. for all species except Teak. For Teak the upper limit of g.b.h. is 60 cm.
- (iii) Entire Sal seeds as collected shall have to be deposited with the West Bengal Tribal Development Cooperative Corporation Ltd., through the local LAMPS (where LAMPS are functioning) and LAMPS will pay the members, in approved tariff, against their individual collection.
- (iv) The concerned forest official will distribute to the eligible members their proportionate share of the usufructs from the harvesting after satisfactory performance of functions detailed hereinbefore.
- (v) The usufruct sharing will be subject to restrictions imposed from time to time on account of Silvicultural

and Management requirements and from preservation of wildlife point of view.

**6. TERMINATION OF MEMBERSHIP, DISSOLUTION OF COMMITTEE, APPEALS ETC. :**

- (i) Failure to comply with any of the conditions laid down hereinbefore as well as contravention of provisions of the Indian Forest Act, 1927, Wildlife (Protection) Act, or Acts and/or Rules made thereunder, may entail cancellation of individual membership and/or dissolution of the Executive/Joint Forest Management Committee, as the case may be, by the Officers of the Forest Department as stated below in (ii) and (iii) below :
- (ii) The concerned Divisional Forest Officer shall be entitled to take appropriate action, even dissolution of any Executive/Joint Forest Management Committee on the grounds stated above, on the recommendation of the Bon-O-Bhumi Sanskar Sthayee Samiti, Panchayat Samiti.
- (iii) The concerned Range Officer may be authorized by the Divisional Forest Officer to take proper action, even termination of an individual membership, on the above mentioned grounds, on the recommendation of the Executive Committee of Joint Forest Management Committee.
- (iv) Appeal against any such penal action by the Range Officer may be preferred to the concerned Divisional Forest Officer through local Panchayat Samiti.
- e) Appeal against any such penal action by the Division

Forest Officer may be preferred to the concerned Circle Conservator of Forests through the concerned Panchayat Samiti and Zilla Parishad, whose decision shall be final.

### **ORDER**

Ordered that the Resolution be published in the Calcutta Gazette and copy sent to all concerned.

By order of the Governor  
Sd/-  
( Smt. Shila Nag, IAS )  
Joint Secretary to the  
Government of West Bengal

### **7. Resolution on JFM Committees in the districts of South West Bengal**

GOVERNMENT OF WEST BENGAL  
FOREST DEPARTMENT  
FOREST BRANCH

No. 5971-For

Dated: 03.10.2008

### **RESOLUTION**

Whereas the National Forestry Policy, 1988 envisages it as one of the essentials of forest management that the forest communities should be motivated to identify themselves with the development and protection of forests from which they derive benefits. National Forest Policy, 1988 also recognises the symbiotic relationship between the tribal people and forests, and implores to associate the tribal people closely in the protection,

regeneration and development of forests.

Whereas the National Forest Policy, 1988 envisages people's involvement in the development and protection of forests and whereas the requirements of fuelwood, fodder and small timber such as house-building material, of the tribals and other villagers living in and near the forests, are to be treated as first charge on forest produce.

And whereas "The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006" also recognises the responsibility and authority of tribals in conservation of biodiversity and maintenance of ecological balance and thereby strengthening conservation regime of forests.

And whereas State of West Bengal has been the pioneer in development of Joint Forest Management which has now been acknowledged as a tool for management of forest resources universally and implemented successfully in the different states of the country.

And whereas the Forest Department has taken up a massive programme for resuscitation of the degraded forests of the State as a whole for converting the areas into productive forests.

And whereas active participation and involvement of local people are vital for generation, maintenance and protection of aforesaid forests/plantations and successful implementation of the programme.

In supersession of all previous resolutions in this regard, the Governor has been pleased to decide that Joint Forest Management Committees shall be constituted for the purpose of development of degraded forests and forests prone to forces of degradation in



districts of South West Bengal, namely, Purba Medinipur, Paschim Medinipur, Bankura, Purulia, Burdwan and Birbhum, North 24 Parganas, South 24 Parganas and direct that composition, duties and functions, the usufructuary benefits and restrictive measures pertaining to such Joint Forest Management Committees shall be follows :

**1. COMPOSITION :**

- (i) The Divisional Forest Officer in consultation with “Bon-O-Bhumi Sanskar Sthayee Samiti” of concerned Panchayat Samiti shall select beneficiaries for constitution of the Joint Forest Management Committee(s), within their jurisdiction and within the framework of this resolution.
- (ii) The beneficiaries ordinarily shall be economically backward people living in the vicinity of the forest concerned. Every family living in the vicinity of the forests shall, however, have the option of becoming a member of the Joint Forest Management Committee if such family, including the female members, is interested in the work of protection.
- (iii) There shall be normally a joint membership for each household (i.e. if husband is a member, wife automatically becomes a member and vice versa). Either of the two can exercise rights to represent the household at any point.
- (iv) Constitution of the Joint Forest Management Committee including the Executive Committee will be approved by the Divisional Forest Officer concerned on recommendation of the “Bon-O-Bhumi Sanskar Sthayee Samiti” of the concerned Panchayat Samity.

- (v) The concerned Gram Panchayat(s) shall extend necessary support and help to such committee(s) to ensure their smooth and proper functioning.

**2. EXECUTIVE COMMITTEE :**

- (i) Each Joint Forest Management Committee shall have an Executive Committee to carry out the various activities assigned to the Committee.
- (ii) The composition of the Executive Committee shall be as follows :
  - a) Karmadhakhya or any member of the “Bon-O-Bhumi Sanskar Sthayee Samiti” of the Local Panchayat Samity as may be nominated by the Karmadhyakhya ..... Member.
  - b) Gram Pradhan or any member of local Gram Panchayat(s) as may be nominated by the Pradhan ..... Member.
  - c) Elected representative of the beneficiaries .....Member

(Three number of members of the JFMC subject to the condition that at least one member will be woman and tribal).

  - d) Concerned Beat Officer or his nominee in the rank of Head Forest Guard/ Forest Guard/Ban Majdur/Ban Shramik ..... Member Secretary.
  - e) One Head Forest Guard/Forest Guard/Ban Majdur/Ban Shramik to be nominated by concerned Range Officer .....

Member. The members of the Executive Committee shall elect the President in each meeting.

- (iii) The Member Secretary shall convene the meetings of the Executive Committee as well as Joint Forest Management Committee as per agreed procedure.
- (iv) The representatives of the beneficiaries to the Executive Committee shall be elected in each year in Annual General Meeting of the Committee, where the concerned Range Officer will be the observer.
- (v) No member of the Executive Committee shall be elected or nominated for more than three years in succession.
- (vi) The “Bon-O-Bhumi Sanskar Sthayee Samiti” of the respective Zilla Parishad will monitor, supervise and review functions of the Joint Forest Management Committees.
- (vii) In order to ensure better coordination among the JFMCs and further consolidation of JFM practices, Coordination Committees of the JFMCs shall be constituted both at Beat & Range level. The composition and function of such coordination committees shall follow guideline to be prescribed by Principal Chief Conservator of Forests.

**3. DUTIES OF EXECUTIVE COMMITTEE :**

- (i) The Executive Committee of Joint Forest Management Committee shall maintain a register showing the necessary particulars of beneficiaries who are members of the committee, i.e. name, father's name, address, age, number of family members, name of nominee, etc. Nomination forms duly filled in and approved by the

Executive Committee should be pasted in the Register. Such Register is also to be maintained in the concerned Range Office of the Forest Department for permanent record.

- (ii) The Executive Committee of Joint Forest Management Committee shall maintain a “Minute Book” wherein proceedings of the meeting of the Executive Committee held from time to time as well as the proceedings of the Annual General Meeting of the Joint Forest Management Committee will be recorded under the signature of the President of the Committee and such Minute duly attested by the member secretary shall be sent to concerned Range Officer for record.
- (iii) The Executive Committee of Joint Forest Management Committee shall hold an Annual General Meeting once in every year where activities of Committee as well as details of distribution of usufructuary benefits are to be discussed, besides electing representatives of the beneficiaries to the Executive Committee.
- (iv) The Executive Committee shall meet at least once every two months and discuss issues related to ongoing forestry works, preparation and implementation of microplan and other emergent works etc.

**4. FUNCTIONS OF JOINT FOREST MANAGEMENT COMMITTEE/EXECUTIVE COMMITTEE:**

- A. (i) To ensure protection of forest(s)/ plantation(s)/ wildlife through members of the committee.

- (ii) To protect the said forest(s)/plantation(s) with the members of the Committee.
  - (iii) To inform forest personnel about any person or persons attempting trespass and wilfully or maliciously, damaging the said forest(s)/plantation(s)/ wildlife or committing theft thereon.
  - (iv) To prevent such trespass, encroachment, grazing, fire, poaching, theft or damage.
  - (v) To apprehend or assist the forest personnel in apprehension of such person or persons committing any of the offences mentioned above.
- B.
- (i) To ensure smooth and timely execution of all forestry and fringe area development works taken up in the area by extending necessary help to the officials of Forest Department.
  - (ii) To involve every member of the Committee in the matter of protection of forest(s)/plantation(s)/ wildlife as well as other duties assigned to the Committee.
  - (iii) To assist the concerned Forest Officials in the matter of selection/engaging of labourers required for forestry work.
- C.
- (i) To ensure smooth harvesting of the forest produce by the Forest Department.
  - (ii) To assist the concerned Forest Official in proper distribution of the earmarked portion of the net sale proceeds among the members of the Committee (as per list maintained by Sthayee Samity).

- (iii) To ensure that usufructuary rights allowed by the Govt. is not in any way misused by any of the members and forest/plantation sites are kept free from any encroachment whatsoever.
- D. (i) To prevent any activities in contravention of the provisions of Indian Forest Act, 1927 and any Acts and Rules made thereunder and the Wildlife (Protection) Act, 1972 as amended from time to time.
- (ii) To report about activities of particular member which are found prejudicial and detrimental to the interest of a particular plantation and or/forest wildlife to the concerned Beat Officer/Range Officer which may result in cancellation of membership of the erring member.
- (iii) To assist the forest officials to take action or proceed under Indian Forest Act, 1927 and the Wildlife (Protection) Act, 1972 and any Acts and Rules made thereunder, against the offenders, including may erring members of the Committee found to be violating the Act or damaging the forest/ plantation/wildlife.

**5. USUFRUCTUARY BENEFITS:**

- (i) The members will have to protect the forest and wildlife for at least 5 years to be eligible for sharing of usufructs under this programme.
- (ii) The members shall be entitled to collect following items free of royalty without causing any damage to forest.

- a) Fallen twigs, grass, fruits (excluding cashew), flowers, mushroom, seeds, leaves and intercrops raised by JFMCs subject to any restrictions imposed from time to time, provided, however, such collection will not be allowed in Protected Areas.
  - b) Medicinal plants will be permitted to be collected by the JFMC members free strictly on the basis of approved microplans, except in Protected Areas.
  - c) Members of JFMC will receive 25% of net sale proceeds of firewood and poles, which are harvested during coppice felling coupe operations, thinning and cultural operations. The poles for the purpose of this order will be under 90 cm. g.b.h. for all species except Teak. For Teak the upper limit of g.b.h. is 60 cm.
- (iii) Entire Sal seeds as collected shall have to be deposited with the West Bengal Tribal Development Cooperative Corporation Ltd., through the local LAMPS (where LAMPS are functioning) and LAMPS will pay the members, in approved tariff, against their individual collection.
  - (iv) The concerned forest official will distribute to the eligible members their proportionate share of the usufructs from the harvesting after satisfactory performance of functions detailed hereinbefore.
  - (v) The usufruct sharing will be subject to restrictions imposed from time to time on account of Silvicultural and Management requirements and from preservation of wildlife point of view.

**6. TERMINATION OF MEMBERSHIP, DISSOLUTION OF COMMITTEE, APPEALS ETC. :**

- (i) Failure to comply with any of the conditions laid down hereinbefore as well as contravention of provisions of the Indian Forest Act, 1927, Wildlife (Protection) Act, or Acts and/or Rules made thereunder, may entail cancellation of individual membership and/or dissolution of the Executive/Joint Forest Management Committee, as the case may be, by the Officers of the Forest Department as stated in (ii) and (iii) below:
- (ii) The concerned Divisional Forest Officer shall be entitled to take appropriate action, even dissolution of any Executive/Joint Forest Management Committee, on the grounds stated above, on the recommendation of the Bon-O-Bhumi Sanskar Sthayee Samiti, Panchayat Samiti.
- (iii) The concerned Range Officer may be authorized by the Divisional Forest Officer to take proper action, even termination of an individual membership, on the above mentioned grounds, on the recommendation of the Executive Committee of Joint Forest Management Committee.
- (iv) Appeal against any such penal action by the Range Officer may be preferred to the concerned Divisional Forest Officer through local Panchayat Samiti.
- (v) Appeal against any such penal action by the Division Forest Officer may be preferred to the concerned Circle Conservator of Forests through the concerned Panchayat Samiti and Zilla Parishad, whose decision shall be final.



## **ORDER**

Ordered that the Resolution be published in the Calcutta Gazette and copy sent to all concerned.

By order of the Governor  
Sd/-  
( Smt. Shila Nag, IAS )  
Joint Secretary to the  
Government of West Bengal

## **CHAPTER 6** **CITES and India**<sup>94</sup>

CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

CITES was drafted as a result of a resolution adopted in 1963 at a meeting of members of IUCN (The World Conservation Union). The text of the Convention was finally agreed at a meeting of representatives of 80 countries in Washington DC., United States of America, on 3 March 1973 and on 1 July 1975 CITES entered in force. The original of the Convention was deposited with the Depository Government in the Chinese, English, French, Russian and Spanish languages, each version being equally authentic.

CITES is an international agreement to which States (countries) adhere voluntarily. States that have agreed to be bound by the Convention ('joined' CITES) are known as Parties. Although CITES is legally binding on the Parties – in other words they have to implement the Convention – it does not take the place of national laws. Rather it provides a framework to be respected by

each Party, which has to adopt its own domestic legislation to ensure that CITES is implemented at the national level.

For many years CITES has been among the conservation agreements with the largest membership, with now 175 Parties.

India ratified CITES in 1976 and has played an active role since. The third meeting of the Conference of the Parties was hosted by the Government of India in 1981 at New Delhi. It was described then “as the best attended as well as hosted Conference of the Parties”. It was for this meeting that the CITES logo was designed in India, which was then adopted unanimously by the Parties. India's role in the working of the Convention received further recognition when it was elected to chair the Standing Committee, the most important committee of CITES. In fact, from 1981 to 1987 India had the unique distinction of being elected for three consecutive terms in the same capacity; no other country has had this honor so far.

#### Text of the Convention

### **Convention on International Trade in Endangered Species of Wild Fauna and Flora**

Signed at Washington, D.C., on 3 March 1973

Amended at Bonn, on 22 June 1979

The Contracting States,

Recognizing that wild fauna and flora in their many beautiful and varied forms are an irreplaceable part of the natural systems of the earth which must be protected for this and the generations to come;

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<sup>94</sup> From resource material compiled by TRAFFIC India for a workshop on curbing illegal wildlife trade

Conscious of the ever-growing value of wild fauna and flora from aesthetic, scientific, cultural, recreational and economic points of view;

Recognizing that peoples and States are and should be the best protectors of their own wild fauna and flora;

Recognizing, in addition, that international co-operation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade;

Convinced of the urgency of taking appropriate measures to this end; Have agreed as follows:

## **Article I** **Definitions**

For the purpose of the present Convention, unless the context otherwise requires:

- (a) "Species" means any species, subspecies, or geographically separate population thereof;
- (b) "Specimen" means:
  - (I) any animal or plant, whether alive or dead;
  - (ii) in the case of an animal: for species included in Appendices I and II, any readily recognizable part or derivative thereof; and for species included in Appendix III, any readily recognizable part or derivative thereof specified in Appendix III in relation to the species; and (iii) in the case of a plant: for species included in Appendix I, any readily recognizable part or derivative thereof; and for species included in Appendices II and III, any readily recognizable part or derivative thereof specified in Appendices II and III in relation to the species;
- (c) "Trade" means export, re-export, import and introduction from the sea; (d) "Re-export" means export of any specimen that has previously been imported; (e) "Introduction from the sea" means transportation into a

State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State;

- (f) "Scientific Authority" means a national scientific authority designated in accordance with Article IX;
- (g) "Management Authority" means a national management authority designated in accordance with Article IX;
- (h) "Party" means a State for which the present Convention has entered into force.

## **Article II**

### **Fundamental Principles**

1. Appendix I shall include all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.
2. Appendix II shall include:
  - (a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and
  - (b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.
3. Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the co-operation of other Parties in the control of trade.

4. The Parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.

**Article III**  
**Regulation of Trade in Specimens of Species**  
**Included in Appendix I**

1. All trade in specimens of species included in Appendix I shall be in accordance with the provisions of this Article.
2. The export of any specimen of a species included in Appendix I shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:
  - (a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;
  - (b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora;
  - (c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and
  - (d) a Management Authority of the State of export is satisfied that an import permit has been granted for the specimen.
3. The import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate. An import permit shall only be granted when the following conditions have been met:
  - (a) a Scientific Authority of the State of import has advised

that the import will be for purposes which are not detrimental to the survival of the species involved;

- (b) a Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and
  - (c) a Management Authority of the State of import is satisfied that the specimen is not to be used for primarily commercial purposes.
4. The re-export of any specimen of a species included in Appendix I shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:
- (a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention;
  - (b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and
  - (c) a Management Authority of the State of re-export is satisfied that an import permit has been granted for any living specimen.
5. The introduction from the sea of any specimen of a species included in Appendix I shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:
- (a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved;

- (b) a Management Authority of the State of introduction is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and
- (c) a Management Authority of the State of introduction is satisfied that the specimen is not to be used for primarily commercial purposes.

**Article IV**  
**Regulation of Trade in Specimens of Species**  
**Included in Appendix II**

1. All trade in specimens of species included in Appendix II shall be in accordance with the provisions of this Article.
  2. The export of any specimen of a species included in Appendix II shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:
    - (a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;
    - (b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and
    - (c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.
3. A Scientific Authority in each Party shall monitor both the export permits granted by that State for specimens of species included in Appendix II and the actual exports of such specimens. Whenever a Scientific Authority determines that the export of specimens of any such species should be limited in order to maintain that species throughout its range at a level

consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I, the Scientific Authority shall advise the appropriate Management Authority of suitable measures to be taken to limit the grant of export permits for specimens of that species.

4. The import of any specimen of a species included in Appendix II shall require the prior presentation of either an export permit or a re-export certificate.
5. The re-export of any specimen of a species included in Appendix II shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:
  - (a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention; and
  - (b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.
6. The introduction from the sea of any specimen of a species included in Appendix II shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:
  - (a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved; and
  - (b) a Management Authority of the State of introduction is



satisfied that any living specimen will be so handled as to minimize the risk of injury, damage to health or cruel treatment.

7. Certificates referred to in paragraph 6 of this Article may be granted on the advice of a Scientific Authority, in consultation with other national scientific authorities or, when appropriate, international scientific authorities, in respect of periods not exceeding one year for total numbers of specimens to be introduced in such periods.

**Article V**  
**Regulation of Trade in Specimens of Species Included in Appendix III**

1. All trade in specimens of species included in Appendix III shall be in accordance with the provisions of this Article.
2. The export of any specimen of a species included in Appendix III from any State which has included that species in Appendix III shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:
  - (a) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and
  - (b) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.
3. The import of any specimen of a species included in Appendix III shall require, except in circumstances to which paragraph 4 of this Article applies, the prior presentation of a certificate of origin and, where the import is from a State which has

included that species in Appendix III, an export permit.

4. In the case of re-export, a certificate granted by the Management Authority of the State of re-export that the specimen was processed in that State or is being re-exported shall be accepted by the State of import as evidence that the provisions of the present Convention have been complied with in respect of the specimen concerned.

## **Article VI**

### **Permits and Certificates**

1. Permits and certificates granted under the provisions of Articles III, IV, and V shall be in accordance with the provisions of this Article.
2. An export permit shall contain the information specified in the model set forth in Appendix IV, and may only be used for export within a period of six months from the date on which it was granted.
3. Each permit or certificate shall contain the title of the present Convention, the name and any identifying stamp of the Management Authority granting it and a control number assigned by the Management Authority.
4. Any copies of a permit or certificate issued by a Management Authority shall be clearly marked as copies only and no such copy may be used in place of the original, except to the extent endorsed thereon.
5. A separate permit or certificate shall be required for each consignment of specimens.
6. A Management Authority of the State of import of any specimen shall cancel and retain the export permit or re-export certificate and any corresponding import permit presented in respect of the import of that specimen.

7. Where appropriate and feasible a Management Authority may affix a mark upon any specimen to assist in identifying the specimen. For these purposes "mark" means any indelible imprint, lead seal or other suitable means of identifying a specimen, designed in such a way as to render its imitation by unauthorized persons as difficult as possible.

**Article VII**  
**Exemptions and Other Special**  
**Provisions Relating to Trade**

1. The provisions of Articles III, IV and V shall not apply to the transit or transshipment of specimens through or in the territory of a Party while the specimens remain in Customs control.
2. Where a Management Authority of the State of export or re-export is satisfied that a specimen was acquired before the provisions of the present Convention applied to that specimen, the provisions of Articles III, IV and V shall not apply to that specimen where the Management Authority issues a certificate to that effect.
3. The provisions of Articles III, IV and V shall not apply to specimens that are personal or household effects. This exemption shall not apply where:
  - (a) in the case of specimens of a species included in Appendix I, they were acquired by the owner outside his State of usual residence, and are being imported into that State; or
  - (b) in the case of specimens of species included in Appendix II:
    - (i) they were acquired by the owner outside his State of usual residence and in a State where removal from the wild occurred;

- (ii) they are being imported into the owner's State of usual residence; and
  - (iii) the State where removal from the wild occurred requires the prior grant of export permits before any export of such specimens; unless a Management Authority is satisfied that the specimens were acquired before the provisions of the present Convention applied to such specimens.
- 4. Specimens of an animal species included in Appendix I bred in captivity for commercial purposes, or of a plant species included in Appendix I artificially propagated for commercial purposes, shall be deemed to be specimens of species included in Appendix II.
- 5. Where a Management Authority of the State of export is satisfied that any specimen of an animal species was bred in captivity or any specimen of a plant species was artificially propagated, or is a part of such an animal or plant or was derived therefrom, a certificate by that Management Authority to that effect shall be accepted in lieu of any of the permits or certificates required under the provisions of Article III, IV or V.
- 6. The provisions of Articles III, IV and V shall not apply to the non-commercial loan, donation or exchange between scientists or scientific institutions registered by a Management Authority of their State, of herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material which carry a label issued or approved by a Management Authority.
- 7. A Management Authority of any State may waive the requirements of Articles III, IV and V and allow the movement without permits or certificates of specimens which form part of a travelling zoo, circus, menagerie, plant

exhibition or other travelling exhibition provided that:

- (a) the exporter or importer registers full details of such specimens with that Management Authority;
- (b) the specimens are in either of the categories specified in paragraph 2 or 5 of this Article; and (c) the Management Authority is satisfied that any living specimen will be so transported and cared for as to minimize the risk of injury, damage to health or cruel treatment.

### **Article VIII Measures to Be Taken by the Parties**

1. The Parties shall take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof. These shall include measures:
  - (a) to penalize trade in, or possession of, such specimens, or both; and
  - (b) to provide for the confiscation or return to the State of export of such specimens.
2. In addition to the measures taken under paragraph 1 of this Article, a Party may, when it deems it necessary, provide for any method of internal reimbursement for expenses incurred as a result of the confiscation of a specimen traded in violation of the measures taken in the application of the provisions of the present Convention.
3. As far as possible, the Parties shall ensure that specimens shall pass through any formalities required for trade with a minimum of delay. To facilitate such passage, a Party may designate ports of exit and ports of entry at which specimens must be presented for clearance. The Parties shall ensure further that all living specimens, during any period of transit, holding or shipment, are properly cared for so as to minimize the risk of injury, damage to health or cruel treatment.

4. Where a living specimen is confiscated as a result of measures referred to in paragraph 1 of this Article:
  - (a) the specimen shall be entrusted to a Management Authority of the State of confiscation;
  - (b) the Management Authority shall, after consultation with the State of export, return the specimen to that State at the expense of that State, or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purposes of the present Convention; and
  - (c) the Management Authority may obtain the advice of a Scientific Authority, or may, whenever it considers it desirable, consult the Secretariat in order to facilitate the decision under sub-paragraph (b) of this paragraph, including the choice of a rescue centre or other place.
5. A rescue centre as referred to in paragraph 4 of this Article means an institution designated by a Management Authority to look after the welfare of living specimens, particularly those that have been confiscated.
6. Each Party shall maintain records of trade in specimens of species included in Appendices I, II and III which shall cover:
  - (a) the names and addresses of exporters and importers; and
  - (b) the number and type of permits and certificates granted; the States with which such trade occurred; the numbers or quantities and types of specimens, names of species as included in Appendices I, II and III and, where applicable, the size and sex of the specimens in question.
7. Each Party shall prepare periodic reports on its implementation of the present Convention and shall transmit to the Secretariat:
  - (a) an annual report containing a summary of the information specified in sub-paragraph (b) of

paragraph 6 of this Article; and

- (b) a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of the present Convention.
8. The information referred to in paragraph 7 of this Article shall be available to the public where this is not inconsistent with the law of the Party concerned.

### **Article IX Management and Scientific Authorities**

1. Each Party shall designate for the purposes of the present Convention:
  - (a) one or more Management Authorities competent to grant permits or certificates on behalf of that Party; and
  - (b) one or more Scientific Authorities.
2. A State depositing an instrument of ratification, acceptance, approval or accession shall at that time inform the Depositary Government of the name and address of the Management Authority authorized to communicate with other Parties and with the Secretariat.
3. Any changes in the designations or authorizations under the provisions of this Article shall be communicated by the Party concerned to the Secretariat for transmission to all other Parties.
4. Any Management Authority referred to in paragraph 2 of this Article shall, if so requested by the Secretariat or the Management Authority of another Party, communicate to it impression of stamps, seals or other devices used to authenticate permits or certificates.

**Article X**  
**Trade with States not Party to the Convention**

Where export or re-export is to, or import is from, a State not a Party to the present Convention, comparable documentation issued by the competent authorities in that State which substantially conforms with the requirements of the present Convention for permits and certificates may be accepted in lieu thereof by any Party.

**Article XI**  
**Conference of the Parties**

1. The Secretariat shall call a meeting of the Conference of the Parties not later than two years after the entry into force of the present Convention.
2. Thereafter the Secretariat shall convene regular meetings at least once every two years, unless the Conference decides otherwise, and extraordinary meetings at any time on the written request of at least one-third of the Parties.
3. At meetings, whether regular or extraordinary, the Parties shall review the implementation of the present Convention and may:
  - (a) make such provision as may be necessary to enable the Secretariat to carry out its duties, and adopt financial provisions;
  - (b) consider and adopt amendments to Appendices I and II in accordance with
  - (c) review the progress made towards the restoration and conservation of the species included in Appendices I, II and III;
  - (d) receive and consider any reports presented by the Secretariat or by any Party; and
  - (e) where appropriate, make recommendations for improving the effectiveness of the present Convention.



4. At each regular meeting, the Parties may determine the time and venue of the next regular meeting to be held in accordance with the provisions of paragraph 2 of this Article.
5. At any meeting, the Parties may determine and adopt rules of procedure for the meeting.
6. The United Nations, its Specialized Agencies and the International Atomic Energy Agency, as well as any State not a Party to the present Convention, may be represented at meetings of the Conference by observers, who shall have the right to participate but not to vote.
7. Anybody or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties present object:
  - (a) international agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and
  - (b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located. Once admitted, these observers shall have the right to participate but not to vote.

## **Article XII**

### **The Secretariat**

1. Upon entry into force of the present Convention, a Secretariat shall be provided by the Executive Director of the United Nations Environment Programme. To the extent and in the manner he considers appropriate, he may be assisted by suitable inter-governmental or non-governmental international or national agencies and bodies technically qualified in protection, conservation and management of

wild fauna and flora.

2. The functions of the Secretariat shall be:
  - (a) to arrange for and service meetings of the Parties;
  - (b) to perform the functions entrusted to it under the provisions of Articles XV and XVI of the present Convention;
  - (c) to undertake scientific and technical studies in accordance with programmes authorized by the Conference of the Parties as will contribute to the implementation of the present Convention, including studies concerning standards for appropriate preparation and shipment of living specimens and the means of identifying specimens;
  - (d) to study the reports of Parties and to request from Parties such further information with respect thereto as it deems necessary to ensure implementation of the present Convention;
  - (e) to invite the attention of the Parties to any matter pertaining to the aims of the present Convention;
  - (f) to publish periodically and distribute to the Parties current editions of Appendices I, II and III together with any information which will facilitate identification of specimens of species included in those Appendices;
  - (g) to prepare annual reports to the Parties on its work and on the implementation of the present Convention and such other reports as meetings of the Parties may request;
  - (h) to make recommendations for the implementation of the aims and provisions of the present Convention, including the exchange of information of a scientific or technical nature;
  - (i) to perform any other function as may be entrusted to it by the Parties.

**Article XIII**  
**International Measures**

1. When the Secretariat in the light of information received is satisfied that any species included in Appendix I or II is being affected adversely by trade in specimens of that species or that the provisions of the present Convention are not being effectively implemented, it shall communicate such information to the authorized Management Authority of the Party or Parties concerned.
2. When any Party receives a communication as indicated in paragraph 1 of this Article, it shall, as soon as possible, inform the Secretariat of any relevant facts insofar as its laws permit and, where appropriate, propose remedial action. Where the Party considers that an inquiry is desirable, such inquiry may be carried out by one or more persons expressly authorized by the Party.
3. The information provided by the Party or resulting from any inquiry as specified in paragraph 2 of this Article shall be reviewed by the next Conference of the Parties which may make whatever recommendations it deems appropriate.

**Article XIV**  
**Effect on Domestic Legislation and International Conventions**

1. The provisions of the present Convention shall in no way affect the right of Parties to adopt:
  - (a) stricter domestic measures regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof; or
  - (b) domestic measures restricting or prohibiting trade, taking, possession or transport of species not included in Appendix I, II or III.

2. The provisions of the present Convention shall in no way affect the provisions of any domestic measures or the obligations of Parties deriving from any treaty, convention, or international agreement relating to other aspects of trade, taking, possession or transport of specimens which is in force or subsequently may enter into force for any Party including any measure pertaining to the Customs, public health, veterinary or plant quarantine fields.
3. The provisions of the present Convention shall in no way affect the provisions of, or the obligations deriving from, any treaty, convention or international agreement concluded or which may be concluded between States creating a union or regional trade agreement establishing or maintaining a common external Customs control and removing Customs control between the parties thereto insofar as they relate to trade among the States members of that union or agreement.
4. A State party to the present Convention, which is also a party to any other treaty, convention or international agreement which is in force at the time of the coming into force of the present Convention and under the provisions of which protection is afforded to marine species included in Appendix II, shall be relieved of the obligations imposed on it under the provisions of the present Convention with respect to trade in specimens of species included in Appendix II that are taken by ships registered in that State and in accordance with the provisions of such other treaty, convention or international agreement.
5. Notwithstanding the provisions of Articles III, IV and V, any export of a specimen taken in accordance with paragraph 4 of this Article shall only require a certificate from a Management Authority of the State of introduction to the effect that the specimen was taken in accordance with the provisions of the other treaty, convention or international agreement in question.

6. Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

#### **Article XV**

##### **Amendments to Appendices I and II**

1. The following provisions shall apply in relation to amendments to Appendices I and II at meetings of the Conference of the Parties:
  - (a) Any Party may propose an amendment to Appendix I or II for consideration at the next meeting. The text of the proposed amendment shall be communicated to the Secretariat at least 150 days before the meeting. The Secretariat shall consult the other Parties and interested bodies on the amendment in accordance with the provisions of sub-paragraphs (b) and (c) of paragraph 2 of this Article and shall communicate the response to all Parties not later than 30 days before the meeting.
  - (b) Amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.
  - (c) Amendments adopted at a meeting shall enter into force 90 days after that meeting for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

2. The following provisions shall apply in relation to amendments to Appendices I and II between meetings of the Conference of the Parties:
  - (a) Any Party may propose an amendment to Appendix I or II for consideration between meetings by the postal procedures set forth in this paragraph.
  - (b) For marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties. It shall also consult inter-governmental bodies having a function in relation to those species especially with a view to obtaining scientific data these bodies may be able to provide and to ensuring co-ordination with any conservation measures enforced by such bodies. The Secretariat shall communicate the views expressed and data provided by these bodies and its own findings and recommendations to the Parties as soon as possible.
  - (c) For species other than marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties, and, as soon as possible thereafter, its own recommendations.
  - (d) Any Party may, within 60 days of the date on which the Secretariat communicated its recommendations to the Parties under sub-paragraph (b) or (c) of this paragraph, transmit to the Secretariat any comments on the proposed amendment together with any relevant scientific data and information.
  - (e) The Secretariat shall communicate the replies received together with its own recommendations to the Parties as soon as possible. (f) If no objection to the proposed amendment is received by the Secretariat within 30 days of the date the replies and recommendations were

- communicated under the provisions of sub-paragraph (e) of this paragraph, the amendment shall enter into force 90 days later for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.
- (g) If an objection by any Party is received by the Secretariat, the proposed amendment shall be submitted to a postal vote in accordance with the provisions of sub-paragraphs (h) , (i) and (j) of this paragraph.
  - (h) The Secretariat shall notify the Parties that notification of objection has been received.
  - (i) Unless the Secretariat receives the votes for, against or in abstention from at least one-half of the Parties within 60 days of the date of notification under sub- paragraph (h) of this paragraph, the proposed amendment shall be referred to the next meeting of the Conference for further consideration.
  - (j) Provided that votes are received from one-half of the Parties, the amendment shall be adopted by a two-thirds majority of Parties casting an affirmative or negative vote.
  - (k) The Secretariat shall notify all Parties of the result of the vote.
  - (l) If the proposed amendment is adopted it shall enter into force 90 days after the date of the notification by the Secretariat of its acceptance for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.
3. During the period of 90 days provided for by sub-paragraph (c) of paragraph 1 or sub-paragraph (l) of paragraph 2 of this Article any Party may by notification in writing to the Depositary Government make a reservation with respect

to the amendment. Until such reservation is withdrawn the Party shall be treated as a State not a Party to the present Convention with respect to trade in the species concerned.

## **Article XVI**

### **Appendix III and Amendments thereto**

1. Any Party may at any time submit to the Secretariat a list of species which it identifies as being subject to regulation within its jurisdiction for the purpose mentioned in paragraph 3 of Article II. Appendix III shall include the names of the Parties submitting the species for inclusion therein, the scientific names of the species so submitted, and any parts or derivatives of the animals or plants concerned that are specified in relation to the species for the purposes of subparagraph (b) of Article I.
2. Each list submitted under the provisions of paragraph 1 of this Article shall be communicated to the Parties by the Secretariat as soon as possible after receiving it. The list shall take effect as part of Appendix III 90 days after the date of such communication. At any time after the communication of such list, any Party may by notification in writing to the Depositary Government enter a reservation with respect to any species or any parts or derivatives, and until such reservation is withdrawn, the State shall be treated as a State not a Party to the present Convention with respect to trade in the species or part or derivative concerned.
3. A Party which has submitted a species for inclusion in Appendix III may withdraw it at any time by notification to the Secretariat which shall communicate the withdrawal to all Parties. The withdrawal shall take effect 30 days after the date of such communication.
4. Any Party submitting a list under the provisions of paragraph



1 of this Article shall submit to the Secretariat a copy of all domestic laws and regulations applicable to the protection of such species, together with any interpretations which the Party may deem appropriate or the Secretariat may request. The Party shall, for as long as the species in question is included in Appendix III, submit any amendments of such laws and regulations or any interpretations as they are adopted.

## **Article XVII**

### **Amendment of the Convention**

1. An extraordinary meeting of the Conference of the Parties shall be convened by the Secretariat on the written request of at least one-third of the Parties to consider and adopt amendments to the present Convention. Such amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.
2. The text of any proposed amendment shall be communicated by the Secretariat to all Parties at least 90 days before the meeting.
3. An amendment shall enter into force for the Parties which have accepted it 60 days after two-thirds of the Parties have deposited an instrument of acceptance of the amendment with the Depositary Government. Thereafter, the amendment shall enter into force for any other Party 60 days after that Party deposits its instrument of acceptance of the amendment.

**Article XVIII**  
**Resolution of Disputes**

1. Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of the present Convention shall be subject to negotiation between the Parties involved in the dispute.
2. If the dispute cannot be resolved in accordance with paragraph 1 of this Article, the Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague, and the Parties submitting the dispute shall be bound by the arbitral decision.

**Article XIX**  
**Signature**

The present Convention shall be open for signature at Washington until 30th April 1973 and thereafter at Berne until 31st December 1974.

**Article XX**  
**Ratification, Acceptance, Approval**

The present Convention shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Swiss Confederation which shall be the Depositary Government.

**Article XXI**  
**Accession**

The present Convention shall be open indefinitely for accession. Instruments of accession shall be deposited with the Depositary Government.

**Article XXII**  
**Entry into Force**

1. The present Convention shall enter into force 90 days after the date of deposit of the tenth instrument of ratification, acceptance, approval or accession, with the Depositary Government.
2. For each State which ratifies, accepts or approves the present Convention or accedes thereto after the deposit of the tenth instrument of ratification, acceptance, approval or accession, the present Convention shall enter into force 90 days after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

**Article XXIII**  
**Reservations**

1. The provisions of the present Convention shall not be subject to general reservations. Specific reservations may be entered in accordance with the provisions of this Article and Articles XV and XVI.
2. Any State may, on depositing its instrument of ratification, acceptance, approval or accession, enter a specific reservation with regard to:
  - (a) any species included in Appendix I, II or III; or (b) any parts or derivatives specified in relation to a species included in Appendix III.

3. Until a Party withdraws its reservation entered under the provisions of this Article, it shall be treated as a State not a Party to the present Convention with respect to trade in the particular species or parts or derivatives specified in such reservation.

#### **Article XXIV Denunciation**

Any Party may denounce the present Convention by written notification to the Depositary Government at any time. The denunciation shall take effect twelve months after the Depositary Government has received the notification.

#### **Article XXV Depositary**

1. The original of the present Convention, in the Chinese, English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited with the Depositary Government, which shall transmit certified copies thereof to all States that have signed it or deposited instruments of accession to it.
2. The Depositary Government shall inform all signatory and acceding States and the Secretariat of signatures, deposit of instruments of ratification, acceptance, approval or accession, entry into force of the present Convention, amendments thereto, entry and withdrawal of reservations and notifications of denunciation.
3. As soon as the present Convention enters into force, a certified copy thereof shall be transmitted by the Depositary Government to the Secretariat of the United Nations for

registration and publication in accordance with Article 102 of the Charter of the United Nations.

In witness whereof the undersigned Plenipotentiaries, being duly authorized to that effect, have signed the present Convention.

Done at Washington this third day of March, One Thousand Nine Hundred and Seventy three.

INDIAN SPECIES IN THE APPENDICES OF CITES <sup>95</sup>				
APPENDIX I				
FAUNA MAMMALIA				
Order	Family	Species	Common Name	Remarks
PRIMATES	Cercopithecidae	Macaca silenus	Lion tailed macaque	Presbytis entellus Presbytis geei Presbytis pileatus
		Semnopithecus entellus Trachypithecus geei Trachypithecus pileatus	Common langur Golden langur Capped langur	
	Hylobatidae	Hylobates hoolock	White browed gibbon or the Hoolock	
LAGOMQ-	Leporidae	Caprolagus hispidus	Hispid Hare	
RPHA	Platanistidae	Platanista gangetica	Gangetic dolphin	Includes synonym physeter macrocephalus
CETACEA	Physeteridae	Physeter catodon	Sperm whale	
	Phocoenidae	Neophocaena phocaenoide	Little India porpoise	
	Delphinidae	Sousa plumbea	Plumbeous dolphin	
	Balaenopteridae	Balaenopterae spp. Megaptera novaeangliae	Whale	
CARNIVOR	Canidae	Canis lupus pallipes	Indian wolfe	Before 16.2.95 in App II
		Canis lupus chanco	Tibetan wolf	
	Procyonidae	Ailurus fulgens	Red panda or Cat bear	Selenarctos
	Ursidae	Ursus thibetan	Malayan sun bear Himalayan black bear	thibetanus

Order	Faily	Species	Common Name	Remarks
	Mustelidae Viverridae	Ursus arctos isabellinus melursus ursinus Lutra Lutra Prionodon pardicolor	Red panda or Cat bear Malayan sun bear Himalayan black bear Himalayan brown bear Sloth bear Common or Indian otter Spotted Linsang or Tiger civet	1,2,3,4,5, earlier in Genus Fells
	Felidae	Acinonyx jubatus  1. Prionailurus bengalensis bengalensis 2. Caracal caracal 3. Pardofelis marmorata 4. Prionailurus rubiginosa 5. Catopuma temmincki Neofelis nebulosa Panthera leo persica Panthera pardus Panthera tigris Uncia uncia	Cheetah or Hunting leopard  Leopard cat CaracaL Marble cat Rusty spotted cat Golden cat Clouded leopard Asiatic lion Leopard or panther	
PROBOSCI DEA	Elephantidae	Elephas maximus	Asian elephant	E. Hemionus Khur
SIRENIA	Dugongidae	Dugong dugon	Seacow or Dugong	
PERISSO- DACTYLA	Equidae	Equus onager khur	Indian wild ass one- horned rhinoceros	
ARTIODAC TYLA	Rhinocerotidae	Rhnceros unicornis	Pygmy hog	
	Suidae	Sus salvanius	Himalayan musk deer	
	Moschidae	Moschus moschiferus	Swamp deer or Barasingha Hangul	
	Cervidae	Cervus duvauceli Cervus elaphus hanglu	or Kashmir stag Sangai or Brow- antlered deer or thamin	
	Bovida	Cervus eldii  Bos gaurus frontalis Bos mutus grunniens Capra falconeri Capricornis sumatraensis Naemorhedus goral goral Ovis ammon hodgsonii	Indian bison or gaur Wild yak Suleman markhor Serow Grey goral Nayan or Tibetan Argali or Great Tibetan Sheep Shapu or Urial Tibetan antelope or Chiru	
		Ovis vignei Pantholops hodgsoni		

<sup>95</sup> Resource material compiled by TRAFFIC India

**AVES**

<b>Order</b>	<b>Family</b>	<b>Species</b>	<b>Common Name</b>	<b>Remarks</b>
PELECANIFORMES	Pelecanidae	Pelecanus crispus	Dalmatian pelican	Ciconia cicoconla boycian
	Fregatidae	Fregata andrewsi	Christmas island frigate bird or Andrews frigate bird	
CICONIFORMES	iconiidae	Ciconia boyciana	Eastern white stork	
ANSERIFORMES	Anatidae	Cairina scutulata	Whitewinged woodduck	
	Accipitridae	Rhodonessa caryophyllacea	Pinkheaded duck	
		Haliaeetus albicilla	Whitetailed sea eagle	
FALCONIFORMES	Falconidae	Aquila heliaca	Lagger falcon	
		Falco jugger	Shaheen falcon or	
		Falco peregrinus	Peregrine falcon	
GALLIFORMES	Phasianidae	Catreus wallichi	Cheer pheasant	
		Crossoptilon crossoptilon	White eared pheasant	
		Lophophorus impejanus	Himalayan monal	
		Lophophorus sclateri	Sclaters monal	
		Syrmaticus humae	Hume's bar-backed pheasant	
		Tetraogallus tibetanus	Tibetan snowcock	
		Tragopan melanocephalus	Western tragopan	
		Tragopan blythii	Blyth's tragopan	
		Grus leucogeranus	Siberian white crane	
		Grus monacha	Hooded crane	
GRUIFORMES	Gruidae	Grus nigricollis	Blacknecked crane	
		Chlamydotis undulata	Houbara bustard	
		Ardeotis nigriceps	Indian bustard	
	Otididae	Eupodotis bengalensis	Bengal florican	

**APPENDIX II  
FAUNA  
MAMMALIA**

<b>Order</b>	<b>Family</b>	<b>Species</b>	<b>Common Name</b>	<b>Remarks</b>
CHIROPTER	Pteropodidae	Pteropus faunulus	Fruit bats	
PRIMATES	Lorisidae	Pteropus giganteus	-do-	
		Pteropus melanotus	-do-	
	Loris tardigradus	Slender loris		
	Nycticebus coucang	Slow loris		
Cerocopithecidae	Macaca arctoides (speciosa)	Stump tailed macaque		
	Macaca assamensis	Assamese Macaque		
			Crab eating macaque	

Order	Family	Species	Common Name	Remarks
		Macaca fascicularis (Irus umbrosa) Macaca mulatta Macaca nemestrina Macaca radiata Presbytis johni Presbytis phayrei	Rhesus macaque Pig tailed macaque Bonnet macaque Nilgiri langur Leaf monkey	
PHOLIDOTA	Manidae	Maniscrassicaudata Manis pentadactyla	Indian Pangolin Chinese pangolin	
RODENTIA	Sciuridae	Rafufa indica Ratufa bicolor	Giant Squirrel -do- -do-	
CETACEA	Delphinidae	Ratufa macroura Delphinus delphis Orcaella brevirostris Legenonhynchus spp. Peponocephala electra Pseudorca crassidens	Common dolphin Snub-fin dolphin Broad beaked dolphin Melon head dolphin False killer whale	
	Physeteridae	Stenella spp.	Bridled dolphin	
	Ziphiidae	Tursiops truncatus (aduncus) Kogia spp. Indopacetus pacificus Mesoplodon spp.	Bottle nose dolphin Pigmy sperm whale Longman's breaked whale Breaked whale	
CARNIVOR	Canidae	Cuon alpinus Aonyx (Amblonyx) cineria	Asian wild dog or Dhole Clawless otter	
	Mustelidae			
	Viverridae	Lutra perspicillata	Smooth coated otter	
	Felidae	Cynogale bennetti Felis libyca Felis viverrina Felis chaus Felis manul	Desert cat Fishing cat Jungle cat Pallas's cat Lynx	
PERISSODACTYLA	Equidae	Equus hemious (Kiang) Budorcas taxicolor	Tibetan wild ass	
ARTIODACTYLA	Bovidae	Ovis ammon polii	Takin Marcopolo's sheep	

### AVES

CICONIFORMES	Ciconiidae	Ciconia nigra Platalea leucorodia Phoenicopterus minor Phoenicopterus minor Sarkidiornis melanotos	Blackstork White spoonbill Greater flamingo Lesser flamingo Comb duck or Nakta Vultures, Kites Harriers, Eagles, Buzzards, Hawks and Eaglescon	Excluding species covered in App I
ANSERIFORMES	Threskiornithidae			
FALCONIFORMES	Phoenicopteridae			
	Anatidae			
	Accipitridae			



Order	Family	Species	Common Name	Remarks
GALLIFORMES	Falconidae	Falconidae spp.	Eagles Falcons	Except spp. covered in App I
GRUIFORMES	Pandionidae Phasianidae	Pandion haliaetus Gallus sonneratii Ithaginis cruentus Polyplectron bicalcaratum	Osprey Grey jungle fowl Blood pheasant Peacock pheasant	
PSITTACIFORMES	Gruidae Otididae	Grus grus Grus antiqua Otis tarda Anthopoides virgo Sypheotides indica Otis trax orientalis	Common crane Sarus crane Great bustard Demoiselle crane Likh or lesser florican Eastern little bustard	
PSTRIGIFORMES	Psittacidae	Psittacula eupatria P. alexandri P. fasciata P. abbotti  P. caniceps P. derbyana P. longicauda  P. cyanocephala P. roseata  P. intermedia P. himalayana  P. finschii	Large Indian parakeet Red breasted parakeet Andaman red breasted parakeet Blyths Nicobar parakeet Lord Derby's parakeet Andaman red cheeked Parakeet Blossomheaded parakeet Eastern blossomheaded parakeet Rothschild's parakeet Himalayan slatyheaded parakeet Eastern statyheaded parakeet	
STRIGIFORMES	Tytonidae strigidae	P. columboides Loriculus vernalis  Tytonidae spp. Strigidae spp.	Bluewinged parakeet Indian lorikeet Barn grass owl Owls	
CORACIIFORMES	Bucerotidae	Aceors narcondami Anthracoceros coronatus Buceros malabaricus Buceros rhinoceros	Narcondam hornbill Malabar Pied Hornbill Indian Pied Hornbill	
PASSRIFORMES	Strunidae	Gracula religiosa	Hill Myna	

### REPTILIA

Order	Family	Species	Common Name	Remarks	
TESTUDINA	Emyidae	Kachuga spp. (K. dhongoka, K. smithi, K. sylhetensis K. tentoria	Dhoor or dhongoka Terrapin Chapant or Smith's Terrapin Deccan Sawback Terrapin	Except th species included in Appendix I       In App I before 16.2.95	
		Testudinidae	Geochelone elegans Geochelone emys Geochelone elongata Geochelone travancorica		Indian starred tortoise Assam land tortoise Yellow tortoise Red nosed tortoise Travancorica tortoise
	Dermochelyida		Lissernys punctata		India flap shelled turtle
	Trionychidae		Chitra sp. (Chitra indica)		The Chitra turtle
	SAURIA	Agamidae	Uromastyx hardwickii		Spinytailed lizard or Sanda Indian chameleon Water Lizard
Chamelenoidea		Chamaeleo zeylanicus			
Varanidae		Varanus salvator			
SERPENTES	Boidae	Phthon reticulatus Eryx conicus Eryx Johnii	Regal python Common sand boas Red or blunt-tailed sand boas		
		Colubridae	Elachistodon westermanii Ptyas mucosus	Indian egg eating snake Rat snake	
	Elapidae	Naja kaouthia Naja naja Naja oxiana Ophiophagus hannah	Monocellate cobra Binocellate Cobra Black cobra King cobra		

### ELASMOBRANCHII

ORECTOLO BI-FORMES	Rhinocodontida e	Rhincodon typus	Whale shark	
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### AMPHIBIA

ANURA	Ranidae	Rana hexadactyla Rana tigrina	Six fingered frog Indian bull frog	
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### INCECTA

LEPIDOPTERA	Papilionidae	Bhutanitis spp. Ornithoptera spp. (Sensu D' Abrera) Parnassius apollo Teinopalpus spp. Trogonoptera spp. (Sensu D' Abrera) Trodes spp. (Sensu D Abrera)	The bird wings The snow appollo Kesar-I-Hind The bird wings  The bird wings	
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## MOLLUSCA

VENEROID A	Tridacnidae	Tridacnidae spp. Hippopus hippopus	Giant clams Horses hoof clam	
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## PHYLUM CNIDARIA

### CLASS ANTHOZOA (CORALS, SEA ANEMONES)

HELIOPORACEA	Blue corals	Helioporidae spp. (includes only the species Heliopora coerulea. Fossils are not subject to the provisions of the convention.)		
STOLONIFERA TUBIPORIDAE	Organ-pipe corals	Tubiporidae spp. (Fossils are not subject to the provisions of the convention.)		
ANTIPATHARIA	Black corals	ANTIPATHARIA spp.		
SCLERACTINIA	Stony corals	SCLERACTINIA spp. (Fossils are not subject to the provisions of the Convention)		

## CLASS HYDROZOA

### (SEA FERNS, FIRE CORALS, STINGING MEDUSAE)

MILLEPORINA milleporidae	Fire corals	Milleporidae spp. (fossils are not subject to the provisions of the convention.)		
STYLASTERINA Stylasteridae	Lace corals	Stylasteridae spp. (Fossils are not subject to the provisions of the Convention)		

## FLORA

### (PLANTS)

Order	Species	Common Name	Remarks
APOCYNACEAE	Rauvolfia serpentina #	Sarpagandha	
ASCLEPIADACEAE	Ceropegia spp.#1	Ceropegias	
ARAUCARIACEAE	Frerea Indica #1	Shindal makundi	
BERBERIDACEAE	Araucaria araucana # 1	Monkey puzzle tree	
BERBERIDACEAE	Podophyllum hexandrum (emodi) = 427 #	Indian podophyllum	

Order	Species	Common Name	Remarks
CACTACEAE	Cactaceae spp °608 #	Cactus	Cultivated in India
CYATHEACE AE	Cyathea spp. = 439 #1	Tree ferns	
CYCADACEE	Cycadaceae spp. # 1	Cycads	Excluding cycas beddomei which is in App I
DIOSCOREA CEAE	Dioscorea deltoidea # 1	Elephant foot	
DROSERACE AE	Dionaea muscipula # 1		
EUPHORBIA CEAE	Euphorbia spp.* -115 °609#1	Euphorbias	
LEGUMINOS AE	Pterocarpus santalinus # 7	Red sanders	16.2.95 onwards
LILIACEAE	Aloe spp. *-116 #	Aloes	Aloe vera also referred as aloe barbadensis excluded from App II
ORCHIDACE AE	Orchidaceae spp. * = 463 #8	Orchids	Excluding specie covered in App.
SCROPHULA RIACEAE	Picrorhiza kurrooa # 3	Picrorhiza, kutki	18.9.97 onwards
TAXACEAE	Taxus wallichiana = 470 # 1	Common yew or Birmi leaves	16.2.95 onwards
THYMELAE ACEAE (Aquilariaceae)	Aquilaria malaccensis # 1	Agarwood	16.2.95 onwards
VALERIANA CEAE	Nardostachys grandiflora #3	Jatamansi / Spikenard	18.9.97 onwards

**NOTE :**

- (i) Following taxa have been deleted from Appendix II of convention w.e.f. 19.7.2000.  
Ceropegia spp., Frerea indica and Cyatheaceae spp. with the exception of cyathea spp (Including Alsophila, Nephelea, Sphaeropteris, Trichipteris)
- (ii) Araucaria araucana (Population of Argentina) has been transferred from Appendix II to Appendix I of convention w.e.f. 19.7.2000.

**APPENDIX - III**

**FAUNA  
MAMMALIA**

Order	Family	Species	Common Name	Remarks
RODENTIA	Sciuridae	Marmota caudata Marmota himalayana	Marmot Marmot	
CARNIVOR A	Canidae	Canis aureus	Jackal	
		Vulpes vulpes bengalensis	Common fox	
		Vulpes vulpes griffithi	Red fox	
	Vulpes vulpes montana	Hill fox		
		Vulpes vulpes pusilla (leucopus)	Desert fox	
	Mustelidae	Martes flavigula (gwartkinsi)	Marten	
		Martes foina intermediae	Marten	
		Mustela altaica	Weasel	
		Mustela erminea ferghanae	Ermine	
		Mustela kathiah	Weasel	
		Mustela sibirica	Weasel	
	Viverridae	Arctictis binturong	Binturong or bear cat	
		Paguma larvata	Himalayan palm civet	
		Paradoxurus hermaphroditus	Common palm civet	
		Paradoxurus jerdoni	Brown palm civet	
		Viverra megaspila (civettina)	Malabar civet	
		Viverricula zibetha	Large Indian civet	
		Viverricula Indica	Small Indian civet	
	Herpestidae	Herpestes javanicus	Mongoose	
		Herpestes auropunctatus		
		Herpestes edwardsii	Mongoose	
		Herpestes brachyurus	Mongoose	
		Herpestes fuscus	Mongoose	
		Herpestes smithii		
ARTIODACT YLA	Bovidae	Herpestes urva	Black buck	
		Herpestes vitticollis	Wild buffal	
		Antilope cervicapra		
		Bubalus arnee (Bubalis)		

**AVES**

gALLIFORME S	Phasianidae	Tragopan satyra	Satyr tragopan antelope	App III for Nepal
COLUMBIFORMES	Columbidae	Columba livia	Indian black rock pigeon	App III for Ghana
PSITTACIFORMES	Psittacidae	Psittacidae	Rose ringed parakeet	-do-
PASSERIFORMES	Estrildidae	Estrildidae	White throated munia	-do-

**REPTILLA**

SERPENTES	Colubridae	Atretium schistocum Cerberus rhyncops xenochrophis piscator	Olivaceous keelback Dog faced water snake Checkedred keelback	Formerly in Genus Natrix
	Viperidae	Vipera russellii	Russel's viper	

**FLORA**

RODENTIA	GNETACEAE	Gnetum montanum#1	Kat bhaluka	
	MAGNOLIACEAE	Magnolia liliifera		
	AE	var.obovata#1		
	PODDOCARPA	Podocarpus neriifolius#1		
	CEAScluridae	Marmota caudata	Marmot	
		Marmota himalayana	Marmot	
CARNIVOR A	Candidae	Canis aureus	Jackal	App III for Nepal -do- -do-
		Vulpes vulpes bengalensis	Common fox	
	Vulpes vulpes griffithi	Red fox		
	Vulpes vulpes montana	Hill fox		
		Vulpes vulpes pusilla (leucopus)	Desert fox	
	Mustelidae	Martes flavigula (gwartkinsi)	Marten	
		Martes foina intermediae	Marten	
		Mustla altaica	Weasel	
		Mustela erminea ferghanae	Ermine	
		Mustela kathiah	Weasel Weasel	
		Mustela sibirica		
	Viverridae	Arctictis binturong	Binturong or bear cat	
		Paguma larvata	Himalayan palm civet	
		Paradoxurus hermaphroditus	Common palm civet	
		Paradoxurus jerdoni	Brown palm civet	
		Viverra megaspila (civettina)	Malabar civet	
		Viverricula zibetha	Large Indian civet	
	Herpestidae	Viverricula Indica	Small Indian civet	
		Herpestes javanicus	Mongoose	
		Herpestes auropunctatus		
		Herpestes edwardsii	Mongoose	
		Herpestes brachyurus	Mongoose	
		Herpestes fuscus	Mongoose	
		Herpestes smithii		
ARTIODAC TYLA	Bovidae	Herpestes urva	Black buck	
		Herpestes vitticollis		

NOTE :

- # 1. Designates all parts and derivatives, except :
  - a) Seeds, spores and pollen (including pollinia);
  - b) Seedling or tissue cultures obtained in vitro, in solid or liquid media, transported in sterile containers and
  - c) Cut flowers of artificially propagated plants.
- # 2. Designates all parts and derivatives, except;
  - a) Seeds and Pollen;
  - b) Seedling or tissue culture obtained in vitro, in solid or liquid media, transported in sterile containers;
  - c) Cut flowers of artificially propagated plants; and
  - d) Chemical derivatives and finished pharmaceutical products.
- # 3. Designates whole and sliced roots and parts of roots, excluding manufactured parts or derivatives such as powders, pills, extracts, tonics, teas and confectionary.
- # 4. Designates all parts and derivatives, except;
  - a) Seeds, except those from Mexican cacti originating in Mexico, and pollen,
  - b) Seedling or tissue cultures obtained in vitro, in solid or liquid media, transported in sterile containers;
  - c) Cut flowers of artificially propagated plants;
  - d) Fruits and parts and derivatives thereof naturalized or artificially propagated plant and e) Separate stem joints (pads) and parts and derivatives thereof of naturalized artificially propagated plants of the genus *Opuntia* subgenus *Opuntia*.
- # 5. Designates logs, sawn wood and veneer sheets.
- # 6. Designates logs, sawn wood, veneer sheets and Ply wood.

- #7. Designates logs; wood-chips and unprocessed broken material.
- #8. Designates all parts and derivatives, except;
  - a) Seeds and pollen (including pollinia);
  - b) Seeding or tissue cultures obtained in vitro, in solid or liquid media, transported in sterile containers;
  - c) Cut flowers of artificially propagated plants; and
  - d) Fruits and parts and derivatives thereof of artificially propagated plants of the genus *Vanilla*.
- #9. Designates all parts and derivatives except those bearing a label "Produced from *Hoodia* spp. material obtained through controlled harvesting and production in collaboration with the CITES Management Authorities of Botswana/Namibia/South Africa under agreement no. BW/NA/ZA xxxxxx", and
- #10. Designates all parts and derivatives except :
  - a) Seeds and pollen; and
  - b) finished pharmaceutical products.



CHAPTER 7

**T.N. GODAVARMAN THIRUMULKPAD  
VERSUS  
UNION OF INDIA & ORS.**

J.S. Verma and B.N. Kirpal, JJ.

(In WP (C) No. 202/95 with WP (C) No. 171/96 decided on  
12.12.1996)

**All on going activity within any forest in any State throughout the country, without prior permission of Central Govt., must stop forthwith - Running of saw mills including veneer or plywood mills and mining of any mineral, being non-forest purposes, not permissible without prior approval of Central Government and must stop forthwith - Felling of trees in Tirap and Changlang in State of Arunachal Pradesh to be totally banned - Felling of trees in all other forest to remain suspended in accordance with working plan of State Govt., as approved by Central Government - Movement of cut trees and timber from any of the seven North-Eastern States to any other State to be completely banned - All the States must constitute Expert Committees and submit reports to the Supreme Court - Specific directions for states of J & K, U.P. and W.B. and T.N. also issued - Notwithstanding the closure of any saw mills or other wood-based industry pursuant to this order, the workers employed in such units will continue to be paid their full emoluments due and shall not be retrenched or removed from service for this reason - Ministry of Railways to file an affidavit giving full particulars including the extent of wood consumed by them, the source of supply of wood, and the steps taken by them to find alternatives to the use of wood - These orders and directions to continue till further orders of the Court and will**

**operate and be complied with by all concerned, notwithstanding any order at variance, made or which may be made hereafter, by any authority including the Central or state Government or any court (including High Court) or Tribunal**

### **ORDER**

In view of the great significance of the points involved in these matters, relating to the protection and conservation of the forests throughout the country, it was considered necessary that the Central Government as well as the Governments of all the States are heard. Accordingly, notice was issued to all of them. We have heard the learned Attorney General for the Union of India, learned counsel appearing for the States and the parties/applicants and, in addition the learned Amicus Curiae, Shri H.N. Salve, assisted by Sarvashri U.U. Lalit, Mahendra Vyas and P.K. Manohar. After hearing all the learned counsel, who have rendered very able assistance to the court, we have formed the opinion that the matters require a further in-depth hearing to examine all the aspects relating to the National Forest Policy. For this purpose, several points which emerged during the course of the hearing require further study by the learned counsel, and, therefore, we defer the continuation of this hearing for sometime to enable the learned counsel to further study these points.

However, we are of the opinion that certain interim directions are necessary at this stage in respect of some aspects. We have heard the learned Attorney General and the other learned counsel on these aspects.

It has emerged at the hearing, that there is a misconception in certain quarters about the true scope of the Forest (Conservation) Act, 1980 (for short the 'Act') and the meaning of the word "forest" used therein. There is also a resulting misconception about the

need of prior approval of the Central government, as required by Section 2 of the Act, in respect of certain activities in the forest area which are more often of a commercial nature. It is necessary to clarify that position.

The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance: and therefore, the provisions made therein for the conservation of forests and for matters connected herewith must apply to all forests irrespective of the nature of ownership or classification thereof. The word “forest” must be understood according to its dictionary meaning. This description covers all statutorily 'recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(1) of the Forest Conservation Act. The term 'forest land’, occurring in Section 2, will not only include “Forest” as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof. This aspect has been made abundantly clear in the decisions of this court in *Ambica Quarry Works and ors. Versus State of Gujarat and ors.* (1987 (1) SCC 213). *Rural Litigation and Entitlement Kendra versus State of U.P.* (1989 Suppl. (1) SCC 504), and recently in the order dated 29th November, 1996 in *W.P. (c) No. 749/95 (Supreme Court Monitoring Committee Vs. Mussorie Dehradun Development Authority and ors.)*. The earlier decision of this Court in *State of Bihar Vs. Banshi Ram Modi and Ors.* (1985 (3) SCC 643) has, therefore, to be understood in the light of these subsequent decisions. We consider it necessary to reiterate this settled position emerging from the decisions of this court to dispel the

doubt, if any, in the perception of any State Government or authority. This has become necessary also because of the stand taken on behalf of the State of Rajasthan, even at this late stage, relating to permissions granted for mining in such area which is clearly contrary to the decisions of this court. It is reasonable to assume that any State Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay.

We further direct as under:-

**I. GENERAL**

1. In view of the meaning of the word “forest” in the Act, it is obvious that prior approval of the Central Government is required for any non-forest activity within the area of any 'forest'. In accordance with Section 2 of the Act, all on-going activity within any forest in any State throughout the country, without the prior approval of the Central Government, must cease forthwith. It is, therefore, clear that the running of saw mills of any kind including veneer or plywood mills, and mining of any mineral are non-forest purposes and are, therefore, not permissible without prior approval of the Central Government. Accordingly, any such activity is prima facie violation of the provisions of the Forest Conservation Act, 1980. Every State Government must promptly ensure total cessation of all such activities forthwith.

2. In addition to the above, in the tropical wet evergreen forests of Tirap and Changlang in the State of Arunachal Pradesh, there would be a complete ban, on felling of any kind of trees therein because of their particular significance to maintain ecological balance needed to preserve bio-diversity. All saw mills veneer mills and plywood mills in Tirap and Changlang in Arunachal Pradesh and within a distance of 100 kms from its

border, in Assam, should also be closed, immediately. The state Governments of Arunachal Pradesh and Assam must ensure compliance of this direction.

3. The felling of trees in all forests is to remain suspended except in accordance with the Working Plans of the State Governments, as approved by the Central Government. In the absence of any working plan in any particular state, such as Arunachal Pradesh, where the permit system exists, the felling under the permits can be done only by the Forest Department of the State Government or the State Forest Corporation.

4. There shall be a complete ban on the movement of cut trees and timber (or veneer) from any of the seven North -Eastern States to any other State of the country either by rail, road or water-ways. The Indian Railways and the State Governments are directed to take all measures necessary to ensure strict compliance of this direction. This ban will not apply to the movement of certified timber required for defence or other Government purposes. This ban will also not affect felling in any private Plantation comprising of trees planted in any area which is not a forest.

5. Each State Government should constitute within one month an expert committee to:

- (i) Identify areas which are 'forests' irrespective of whether they are so notified, recognized or classified under any law, and irrespective of the ownership of the land of such forest;
- (ii) Identify areas which were earlier forests but stand degraded, denuded or cleared; and
- (iii) Identify areas covered by plantation trees belonging to the Government and those belonging to private persons

6. Each State Government should within two months file a report regarding:-

- (i) the number of saw mills, veneer and plywood mills actually operating within the state, with particulars of their real ownership;
- (ii) the licensed and actual capacity of these mills for stock and sawing;
- (iii) their proximity to the nearest forest;
- (iv) their source of timber

7. Each State Government should constitute within one month, an Expert Committee to assess:

- (i) the sustainable capacity of the forests of the State qua saw mills and timber based industry;
- (ii) the number of existing saw mills which can safely be sustained in the State;
- (iii) the optimum distance from the forest, qua that state, at which the saw mill should be located.

8. The Expert Committees so constituted should be requested to give its report within one month of being constituted.

9. Each State Government would constitute a Committee comprising of the Principal Chief Conservator of Forests and another senior officer to oversee the compliance of this order and file status reports.

## **II. FOR THE STATE OF JAMMU & KASHMIR**

1. There will be no felling of trees permitted in any 'forest', public or private. This ban will not affect felling in any private plantations comprising of trees planted by private persons or the Social Forestry Department of the State of Jammu & Kashmir and in such plantations, felling will be strictly in accordance with law.

2. In 'forests', the State Government may either departmentally or through the State Forest Corporation remove fallen trees or fell and remove diseased or dry standing timber, and that only from areas other than those notified under the Jammu & Kashmir Wild life (Protection) Act, 1978 or any other law banning such felling or removal of trees.

3. For this purpose, the State Government will constitute an Expert Committee comprising of a representative being an IFS officer posted in the State of Jammu & Kashmir, a representative of the State Government, and two private experts of eminence and the Managing Director of the State Forest Corporation (as Member Secretary) who will fix the qualitative and quantitative norms for the felling of fallen trees, diseased and dry standing trees. The State shall ensure that the trees so felled and removed by it are strictly in accordance with these norms.

4. Any felling of trees in forest or otherwise or any clearance of land for execution of projects, shall be in strict compliance with the Jammu & Kashmir Forest Conversation Act, 1990 and any other laws applying thereto. However, any trees so felled, and the disposal of such trees shall be done exclusively by the State Forest Corporation and no private agency will be permitted to deal with this aspect. This direction will also cover the submerged areas of the THEIN Dam.

5. All timber obtained, as aforesaid or otherwise, shall be utilized within the State, preferably to meet the timber and fuel wood requirements of the local people, the Government and other local institutions.

6. The movement of trees or timber (sawn or otherwise) from the State shall, for the present, stand suspended, except for the use

of DGS & D. Railways and Defence. Any such movement for such use will: -

- a) be effected after due certification, consignment-wise made by the Managing Director of the State Corporation which will include certification that the timber has come from State Forest Corporation sources: and
- b) be undertaken by either the Corporation itself, the Jammu & Kashmir Forest Department or the receiving agency.

7. The State of Jammu & Kashmir will file, preferably within one month from today, a detailed affidavit specifying the quantity of timber held by private persons purchased from State Forest Corporation Depots for transport outside the State (other than for consumption by the DGS & D Railways and Defence) Further directions in this regard may be considered after the affidavit is filed.

8. No saw mill, veneer or plywood mill would be permitted to operate in this state at a distance of less than 8 kms from the boundary of any demarcated forest areas. Any existing mill falling in this belt should be relocated forthwith.

### **III. FOR THE STATE OF HIMACHAL PRADESH AND THE HILL REGIONS OF THE STATES OF UTTAR PRADESH AND WEST BENGAL.**

1. There will be no felling of trees permitted in any forest, public or private. This ban will not affect felling in any private plantation comprising of trees planted in any area which is not a 'forest', and which has not been converted from an earlier 'forest'.



This ban will not apply to permits granted to the right holders for their bonafide personal use in Himachal Pradesh.

2. In a 'forest', the State Government may either departmentally or through the State Forest Corporation remove fallen trees or fell and remove diseased or dry standing timber from areas other than those notified under Section 18 or Section 35 of the Wild life Protection Act, 1972 or, any other Act banning such falling or removal of trees.

3. For this purpose, the State Government is to constitute an expert committee comprising a representative from MoEF, a representative of the State Government, two private experts of eminence and the MD of the State Forest Corporation (as Member Secretary), who will fix the qualitative and quantitative norms for the felling of fallen trees and diseased and standing timber. The State shall ensure that the trees so felled and removed are in accordance with these norms.

4. Felling of trees in any forest or any clearance of forest land in execution of projects shall be in strict conformity with the Forest Conservation Act, 1980 and any other laws applying thereto. Moreover, any trees so felled, and the disposal of such trees shall be done exclusively by the State Forest Corporation and no private agency is to be involved in any aspect thereof.

#### **IV. FOR THE STATE OF TAMIL NADU**

1. There will be a complete ban on felling of trees in all 'forest areas'. This will however not apply to:-

- (a) trees which have been planted and grown, and are not of spontaneous growth, and
- (b) are in areas which were not forests earlier but were cleared for any reason.

2. The State Government, within four weeks from today, is to constitute a committee for identifying all 'forests'.

3. Those tribals who are part of the social forestry programme in respect of patta lands, other than forests, may continue to grow and cut according to the Government Scheme provided that they grow and cut trees in accordance with the law applicable.

4. In so far as the plantations (tea, coffee, cardamom etc.) are concerned, it is directed as under:

(a) The felling of shade trees in these plantations will be -

(i) limited to trees which have been planted, and not those which have grown spontaneously.

(ii) limited to the species identified in the TANTEA report:

(iii) in accordance with the recommendations of (including to the extent recommended by) TANTEA: and

(iv) under the supervision of the statutory committee constituted by the State Government.

(b) In so far as the fuel trees planted by the plantations for fuel wood outside the forest area are concerned, the State Government is directed to obtain within four weeks, a report from TANTEA as was done in the case of Shade trees, and the further action for felling them will be as per that report. Meanwhile, eucalyptus and Wattle trees in such area may be felled by them for their own use as permitted by the statutory committee.

- (c) the State Government is directed to ascertain and identify those areas of the plantation which are a 'forest' and are not in active use as a plantation. No felling of any trees is however to be permitted in these areas, and sub-paras (b) and (c) above will not apply to such areas
- (d) There will be no further expansion of the plantations in a manner so as to involve encroachment upon (by way of clearing or otherwise) of 'forests'.

5. As far as the trees already cut, prior to the interim orders of this court dated December 11, 1995 are concerned, the same may be permitted to be removed provided they were not so felled from Janmam Land. The State Government would verify these trees and mark them suitably to ensure that this order is duly complied with. For the present, this is being permitted as a one time measure.

6. In so far as felling of any trees in Janmam Lands is concerned (whether in plantations or otherwise) the ban on felling will operate subject to any order made in the Civil Appeal Nos. 367 to 375 of 1977 of C.A. Nos. 1344-45 of 1976. After the order is made in those will on the I.As pending therein, if necessary, this aspect may be re-examined.

7. This order is to operate and to be implemented notwithstanding any order at variance, made or which may be made by any Government or any authority tribunal or court, including the High Court.

The earlier orders made in these matters shall be read, modified wherever necessary to this extent. This order is to continue until further order. This order will operate and be complied with by all

concerned, notwithstanding any order at variance, made or which may be made hereafter, by any authority, including the Central or any State Government or any court (including High Court) or Tribunal

We also direct that notwithstanding the closure of any saw mills or other wood-based industry pursuant to this order, the workers employed in such units will continue to be paid their full emoluments due and shall not be retrenched or removed from service for this reason.

We are informed that the Railway authorities are still using wooden sleepers for laying tracks. The Ministry of Railways will file an affidavit giving full particulars in this regard including the extent of wood consumed by them, the source of supply of wood, and the steps taken by them to find alternatives to the use of wood.

I.A Nos. 7,9,10,11,12,13 and 14 in Writ Petition (civil) No. 202 of 1995 and I.A. Nos. 1,3,4,5,6,7,8 & 10 in Writ Petition (civil) No. 171 of 1996 are disposed of accordingly.

**ORDER**

I.A. No. 548  
(Dated: 14.2.2000)

(Order prohibiting removal of dead, dying, diseased, drift wood and grasses from National Park and Sanctuaries)

UPON hearing the counsel, the Court made the following

I.A. No. 548 (filed by Mr. P.K. Manohar, Adv.): An application has been filed through the Amicus Curiae in Court, inter alia, praying for clarification that the order dated 12th

December, 1996 contained a ban against the removal of any fallen trees or removal of any diseased or dry standing tree from the areas notified under Section 18 or 35 of the Wildlife Protection Act, 1972. Let the same be taken on record.

Issue notice to all the respondents. In the meantime, we restrain respondents Nos. 2 to 32 from ordering the removal of dead, diseased, dying or wind-fallen trees, drift wood and grasses, etc. from any National Park or Game Sanctuary or forest. If any order to this effect has already been passed by any of the respondent- States, the operation of the same shall stand immediately stayed.

Reply be filed within three weeks.

The Union of India will also indicate in its reply affidavit as to what safeguards or steps should be taken in relation to such trees.

The Registry should communicate this order of stay to the Chief Secretaries of all the States immediately without payment of process fee.

### **ORDER**

**Dated: 22.09.2000**

**Re: Felling and regeneration**

We have heard the learned counsel for the parties at some length. The concern of the State of Madhya Pradesh is that they should be permitted to do the felling as per the working plans while the concern of the Amicus Curiae and the Central Government is that regeneration should take place.

Pursuant to the order dated 28th February, 2000 passed by this Court, a discussion took place between Shri O.P. Oberoi, Inspector General of Forests & Special secretary, on the one hand

and Shri K.S. Sharma, Chief Secretary, Madhya Pradesh on the other. This discussion took place on 11th April, 2000 and the brief records in respect thereof have been filed in Court.

With regard to lifting/ban on felling of trees from land other than Government forest land, it is recorded in these minutes that the State of Madhya Pradesh was revising the Rules for transit of forest produce and felling of trees from private areas. This court was to be approached for lifting the ban only after the process of revision of these Rules is completed. The Advocate General for the State of Madhya Pradesh informs us that within a month these Rules will be finalized and placed before this Court after which further orders will be passed.

In regard to felling of trees from Government forests as per the approved working plans, it is recorded in the minutes as follows:

**“After felling is done in a particular area as per the approved working plans, prescriptions given in the working plans are required to be properly implemented to ensure the regeneration. However, in Madhya Pradesh at times, though felling has been done as per the approved working plans, necessary prescriptions which ensure regeneration, have not been implemented, perhaps, due to non-availability of sufficient funds. As per the working plans in the last three years, the corresponding prescription for regeneration has not been implemented. It was agreed that in future, no felling, even as per the approved working plans shall be done for any area in respect of which sufficient budgetary provisions have not been made for implementation of prescriptions given in the working plans for regeneration. IGF & SS mentioned that in respect of areas where felling has been done in last three years and the corresponding prescriptions for regeneration have somehow not been implemented, a phased programme for three years**

**may be prepared. Allocation of adequate budget provisions for implementation of the same may be made by the State Government. Chief Secretary, MP informed that State has 208 of the country's forest area, hence, it should be provided central assistance on prorata basis to enable the State Govt. to implement the various prescriptions of the working plans. He also mentioned that if forests are not worked as per working plans, it may lead to their degradation. IGF & SS has advised that the State Govt. may utilize funds already provided under the Central Sponsored Schemes and Central Sector Schemes and prepare suitable proposals which would be considered by the Ministry on merits."**

**From the aforesaid, it is evident that the felling is far in excess of what would be justified with reference to the regeneration, and the main cause in respect thereof – is non-availability of sufficient funds. Even with regard to the felling of trees as**

Two questions immediately arise for consideration. One is with regard to the implementation of the working plans in so far as felling is concerned and the second is with regard to the regeneration of forests. It is quite obvious that the two activities must co-exist. There cannot be felling without regeneration because that will over a period of time only result in the forests vanishing. There has been shortfall with regard to the regeneration and as a result thereof forest cover is depleting. That shortfall has to be made up and for the future such felling has to be done which will ensure that there is at least no further depletion of the forest cover, and that the targets for increase in forest cover, as contemplated in the working plans, are met. In other words, regeneration should be commensurate with the felling, and to the extent stipulated in the working plans. The working plans were approved by the Central Government. It is, therefore, for the Central Government primarily

to ensure the implementation thereof. In view of what is contained in the minutes, we feel it would be appropriate to hold that the States of Madhya Pradesh is at liberty to approach the Ministry of Environment & Forests for permission to carry out any further felling in accordance with the working plans, and any permission which is granted hereafter will be effective and the orders of this court will not stand in the way of carrying out the felling to the extent so permitted. A report, however, will be filed in court within three weeks of any such permission being granted so as to enable the court to oversee whether any orders are called for.

We are sure that the Central Government will deal with any such request made by the State expeditiously, and keeping in mind all factors including the principle of sustainable development.

As far as regeneration of the forest is concerned, it is quite evident that the State of Madhya Pradesh does not have the funds required for carrying out the task nor there is any likelihood of their being able to raise finances in respect thereof.

A suggestion has been mooted to the effect that for regeneration of forest, there should be a joint venture between the State of Madhya Pradesh and the Central Government whereby the working capital, in whole or substantially the whole, can be provided by the Central Government and the regeneration of degraded forests carried out. Such a venture can be on a commercial basis which will be not only profitable to both the State and the Centre but, what is more important, it will hopefully generate lot of employment opportunities for the local population. This aspect should be looked into and a plan finalized and implemented preferably within a period of eight weeks from today. The final decision so taken may be intimated to the Court by way of an affidavit.

It is to be borne in mind that taking an overall view is important for the country that in certain areas where natural forest



exist, the same should be preserved. The political boundaries are drawn for various considerations but as far as the environment is concerned one has to take a holistic view and in that view of the matter one cannot overlook the fact that even though the national average of the forest cover is low, even that low figure is there because of the higher percentage of the forest cover in the Hill States and in the State of Madhya Pradesh and in North Eastern States. Majority of the States in India fall short of national average as far as the forest cover is concerned. For the benefit of the said States also may for the benefit of the whole region, it is important that there should not be any further depletion of the forest cover in these sensitive areas of Madhya Pradesh and in the Himalayas and the other sensitive areas like the Western Ghats etc. In order to ensure the preservation and regeneration of forests in these areas, the Central Government should consider whether the deficient States should not be asked to contribute towards the preservation of the existing forest cover and compensation/incentive given to the forest-rich States to preserve and regenerate forest. In a sense, there should be a partnership of all the States to ensure the maintenance and improvement of the forest cover. This suggestion should be considered by a Committee of the Secretary (Finance) and Secretary, Ministry of Environment & Forests in consultation with the Chief Secretaries of all the States and a report submitted preferably within eight weeks.

We further direct that the Central Government should call for the particulars from each State and then reconsider the working plans which have been approved and carry out such modifications as it may deem proper so as to ensure that the regeneration is commensurate with the felling of the trees. The particulars will be called for by the Central Government within two weeks, the said particulars will be supplied by the States concerned within four weeks thereafter and a report submitted by the Central Government to this Court within eight weeks.

### **Re: Regularisation of encroachments**

The learned Amicus Curiae has brought to our notice a request which has been made by the State of Madhya Pradesh to the Central Government for regularization of encroachments. As per the aforesaid minutes dated 11th April, 2000 to which the Chief Secretary, Madhya Pradesh was a party, one of the important condition for regularization of encroachment is the carrying out of compensatory afforestation over the equivalent land. The proposal for regularization is for the period 1.1.1977 to 25.10.1980. One cannot shut eyes to the fact that there would be encroachment thereafter.

Experience has shown that whenever regularization takes place subject to imposition of conditions such as compensatory afforestation, the regularization becomes effective without the conditions ever been fulfilled.

In our opinion, it will be more appropriate that the conditions imposed in relation to regularizations are required to be fulfilled first before any regularisation is granted. The result of this would be that the regularisation would be deferred but the fulfilment of the conditions ensuring inter alia compensatory afforestation would be ensured. This is a matter to be considered by the Central Government.

In other words, the eligibility condition for permission to grant regularisation of the encroachments would be the fulfilment beforehand of conditions under the Guidelines, especially in regard to compensatory afforestation.

The request of the State of Madhya Pradesh should be considered by the Ministry of Environment & Forests and a decision taken within eight weeks.

### **Re: Authority competent to write a CR of Forest Deptt. Officer**

The question which arises for consideration is as to who is

the authority competent to write a confidential report with regard to an officer belonging to the Forest Department.

The Indian Forest Service is one of the All India Services. The officers selected on the basis of an All India Competitive Examination, like the officers belonging to the Indian Administrative Service, are then deployed in different States. That becomes the cadre for them.

In the State of Madhya Pradesh, persons belonging to the Indian Forest Service are also deployed, just as they are deployed to other States. In the Forest Department in the State, the lowest rung for a direct recruit belonging to the Indian Forest Service is the post of Assistant Conservator of Forests. Below the Assistant Conservator of Forests are three levels starting with that of a Guard, Forester and Range Forest Officer. These three lowest rungs are manned by officers belonging to the State Forest Service. Recruitment to the post of Assistant Conservator of Forests is made partly by promotion from an officer belonging to the State Forest Department (being a Range Forest Officer) and partly, as already noticed, by direct recruitment to the Indian Forest Service.

The hierarchy in the Indian Forest Service is that above the Assistant Conservator of Forests in the Divisional Forest Officer, thereafter on promotion a person becomes Conservator of Forests, then Chief Conservator of Forests followed by Additional Principal Chief Conservator of Forests and at the pinnacle of the pyramid is the Principal Chief Conservator of Forests.

The practice which has been adopted so far in the State of Madhya Pradesh and possibly in some other States also, is that the confidential reports of the officers belonging to the Forest Department holding any of the posts between that of a Guard and the Principal Chief Conservator of Forests is not written by the superiors within the same Service but is written by the officers belonging to the office of the District Collector and superior officers on the civil side.

For writing of the confidential reports, the Central Government has, under Section 3 of the All India Services Act, 1951, framed All India Services (Confidential Rolls) Rules 1970. According to Rule 2(e), the 'reporting authority' is defined as follows :

"reporting authority means the authority who was, during the period for which the confidential report is written, immediately superior to the member of the service and such other authority as may be specially empowered in this behalf by the Government."

The 'reviewing authority' is defined in Rule 2(f) as follows:

"reviewing authority' means the authority who was, during the period for which the confidential report is written, immediately superior to the reporting authority and such other authority as may be specifically empowered in this behalf by the Government;"

It seems that Rule 2(e) had been interpreted by the State to mean that the confidential report of an officer could be written by a person who is superior to him and also by such other officer who may be specified in this behalf. In view of the latter portion of said Rule 2(e), the State Government have authorised officers of Service other than of the Forest Department to write the confidential reports. In this manner, in effect, the administrative control of officers belonging to the Forest Department is not within the Department itself.

The aforesaid Rule 2(e) came up for consideration before this Court, in State of Haryana vs. Shri P.C. Wadhwa, IPS Inspector General of Police & Ant., 1987 (2) SCR 1030. While interpreting the said Rule 2(e), this Court at page 1035 observed as follows:

"In this connection, it may be pointed out that it is not disputed that the conjunction 'and' occurring in clauses (e), (f) and (a) should be read as 'or'. Under clause (e), the 'reporting authority' may be either immediately superior to the member of the Service or such other

authority as may be specifically empowered in this behalf by the Government. The expression 'immediately superior' obviously indicates that the reporting authority should be the immediate superior officer in the same Service to which the member of the Service belongs. The position is the same as in the cases of 'reviewing authority' and 'accepting authority'. SO, under the first part of clause (e), the reporting authority of the respondent could be a person who is immediately superior to him in the Police Service....."

It appears to us, and which is logical, that upto the officer of the rank of Additional Principal Chief Conservator of Forests the reporting authority has to be the immediately superior officer within the Forest Department. For example, for the Assistant Conservator of Forests, the reporting authority can only be the Divisional Forest Officer and for him the reporting authority would be the Conservator of Forests for whom the reporting authority has to be the Chief Conservator of Forests and his reporting authority would be Additional Principal Chief Conservator of Forests and lastly his reporting authority would be the Principal Chief Conservator of Forests. Likewise the reviewing authority would also be the person within the same Department. It is only in case of the Principal Chief Conservator of Forests that the reporting authority will be a person other than one belonging to the Service because there is no one superior to the Principal Chief Conservator of Forests within the Service. As far as he is concerned, the reporting authority would be a person who is familiar with the work of Principal Chief Conservator of Forests and that will be the person to whom he reports and who is superior to him in rank and hierarchy.

We, therefore, direct the State of Madhya Pradesh to pass appropriate orders enumerating the reporting authorities in the manner indicated hereinabove.

## **ORDER**

**(Dated: 9.5.2002)**

(Order constituting the Central Empowered Committee for monitoring the implementation of the Hon.ble Supreme Court.s orders in the Forest Matter)

- (1) It is submitted that till the Central Government constitutes a statutory agency as contemplated by Section 3 of the Environment (Protection) Act, 1986, it is necessary and expedient that an authority be constituted at the national level to be called Central Empowered Committee (hereinafter the Empowered Committee) for monitoring of implementation of Hon.ble Court.s orders and to place the non-compliance cases before it, including in respect of encroachment removals, implementations of working plans, compensatory afforestation, plantations and other conservation issues.
- (2) The Empowered Committee shall comprise of a Chairman to be nominated by Ministry of Environment and Forest (MoEF) in consultation with the Amicus Curiae. It will have one nominee of the MoEF, and two NGOs (also to be nominated in consultation with the Amicus Curiae). Shri M.K. Jiwrajka will be its Member-Secretary. The persons so appointed (other than the nominee of the Ministry) shall not be removed without leave of the Court.
- (3) Pending interlocutory applications in these two writ petitions as well as the reports and affidavits filed by the States in response to the orders made by the Court shall be examined by the Committee, and their recommendations will be placed before Hon.ble Court for orders.

- (4) Any individual having any grievance against any steps taken by the Government or any other authority in purported compliance with the orders passed by this Hon.ble Court will be at liberty to move the Committee for seeking suitable relief. The Committee may dispose of such applications in conformity with the orders passed by Hon.ble Court. Any application which cannot be appropriately disposed of by the Committee may be referred by it to this Hon.ble Court.
- (5) The Committee shall have the power to:
  - (a) Call for any documents from any person or the Government of the Union or the State or any other official.
  - (b) Summon any person and receive evidence from such person on oath either on affidavit or otherwise.
  - (c) Seek assistance/presence of any person(s)/ official(s) required by it in relation to its work.
- (6) The Committee may decide its own procedure for dealing with applications and other issues. Union of India shall provide suitable and adequate office accommodation for the Committee. The expenditure incurred on the working of the Committee including salary/remuneration (to the extent not payable by the Government) to the members and supporting staff, may be met out of income accruing to the Special Investigating Team (SIT). Necessary procedure for this may be formulated by the Committee in consultation with the SIT.
- (7) The Committee is empowered to co-opt one or more persons as its members or as special invitees for dealing with specific issues. While dealing with issues pertaining to a particular State, wherever feasible, the Chief Secretary and Principal Chief Conservator of Forests of the State shall be co-opted as special invitees.

- (8) The Committee shall submit quarterly reports to the Hon.ble Court. It will be at liberty to seek clarifications/modifications needed by it from Hon.ble Court.

I.A. No. 295 is disposed of in the aforesaid terms

## **ORDER**

**(Dated: 29.10.2002)**

(Order imposing ban for setting new saw-mills in North-eastern States for five years and all unlicensed saw mills operating in the States of Maharashtra and Uttar Pradesh were ordered to be closed down on the basis of the Report/ Recommendations of the CEC)

### **MONITORING REPORT (FIRST) OF THE CENTRAL EMPOWERED COMMITTEE**

We have perused the First Monitoring Report of the Central Empowered Committee. Three suggestions have been made in the said Report. First is that the ban with regard to issue of license for establishment of new saw-mills or establishment of new wood-based industries in the north-eastern states should be extended by a further period of five years. The second prayer is that the High Powered Committee may be allowed to dispose of all the assets of the defaulting units who have not paid the penalty imposed by the said Committee on the wood-based units in north-eastern states. It is stated that only a small fraction of the penalty imposed has so far been realized. The other recommendation is that the ban of issuing further permission or license to all unlicensed saw-mills, veneer any plywood industries now



imposed in the State of Maharashtra and in the State of Uttar Pradesh should be extended to all other states in India.

Despite notice, there is no opposition to this Report. Affidavit has been filed by the Union of India accepting this Report.

We, accordingly, direct as follows:

- (1) The ban imposed with regard to the opening of the new saw-mills and other wood-based industries by this Court's order dated 15th January, 1998 in the State of Nagaland is extended by a further period of five years.
- (2) The High Powered Committee is allowed to dispose of the assets on such defaulting units, including plants, machinery, land, shed, timber and timber products who have not paid the penalty imposed by the High Powered Committee of the wood-based units of north-eastern states. This will be subject to such orders which may be passed by the Central Empowered Committee.

No State or Union Territory shall permit any unlicensed saw-mills, veneer, plywood industry to operate and they are directed to close all such unlicensed unit forthwith. No State Government or Union Territory will permit the opening of any saw-mills, veneer or plywood industry without prior permission of the Central Empowered Committee. The Chief Secretary of each State will ensure strict compliance of this direction. There shall also be no relaxation of rules with regard to the grant of licence without previous concurrence of or grant of licences.

**ORDER**  
I.A. No. 566  
(Dated: 29.10.2002)

**(Regarding Compensatory Afforestation, setting up of  
Compensatory Afforestation Fund, charging of Net Present  
Value of forest land diverted for non-forest use under Forest  
(Conservation) Act, 1980)**

On 23rd November, 2001, Mr. Kirit N. Raval, the learned Additional Solicitor General during the hearing of the IA Nos. 419 and 420 had placed on record a statement showing the position of the cases approved for diverting forest area for non-forest purposes, compensatory afforestation stipulated and what was actually done, funds to be received and were actually received and utilised. This Court then issued notices to the defaulting States which had recorded poor progress in utilization of the said funds and had not submitted quarterly progress reports.

The order of 23rd November, 2001 envisaged a scheme being formulated by the Ministry of Environment & Forest, inter alia, for ensuring proper utilization of the funds for compensatory afforestation in respect of permission granted for user .agency of forest land.

The Central Empowered Committee examined this question while dealing with I.A. No. 566 and after notice of all State Governments and hearing the learned counsel has submitted a Report dated 5th September 2002. The Report, inter alia, provides that there should be a change in the manner in which the funds are released by the State Government relating to compensatory afforestation. It has, therefore, been observed in this Report by the Central Empowered Committee that it is desirable to create a separate fund for compensatory afforestation wherein all

the monies received from the user-agencies are to be deposited and subsequently released directly to the implementing agencies as and when required. The funds received from a particular state would be utilised in the same State.

There was also consensus amongst the States and the Union Territories that the funds for compensatory afforestation which were to be recovered from the user-agencies as well as the unutilized funds lying with the States should be transferred to such a fund. This fund will not be part of general revenues of the Union, of the States or part of the Consolidated Fund of India.

The said Report of the Central Empowered Committee contemplates the involvement of user-agencies for compensatory afforestation. The report also refers to the permissible activities under compensatory afforestation, adequate compensation to be received for loss of forest land and funds for catchment area treatment plant. The Committee has also made eight recommendations. Copy of the Report of September, 2002 of the Central Empowered Committee was given to the counsel for the parties. An affidavit on behalf of Union of India in response to the said Report has been filed. In paragraph 5 of the same, it is being submitted by the Ministry of Environment & Forest that it accepts the recommendations of the Central Empowered Committee in principle. It is, further, mentioned in this affidavit that major institutional reorganization of the present mechanism has to be undertaken and that it was proposed that comprehensive rules would be framed which will inter alia also relate to the procedure and compensation. It is also proposed that there will be a body for the management of the Compensatory Afforestation Funds (CAF). The proposal in this affidavit of the Union of India is that the said body of management would be composed of a Director General and Special Secretary who will be the ex-officio Chairman and Inspector General of Forest who will be the ex-

officio Member Secretary. Comprehensive rules etc will be placed before this Court for examination.

No other States has filed any response to the said Report of the Central Empowered Committee, It is, therefore, presumed that the State Governments are not opposed to the said Report and like Union of India, they have accepted the same.

We have examined the said Report and are of the opinion that it merits acceptance by us as well. As recommended by the Central Empowered Committee we direct as follows:

- (a) The Union of India shall within eight weeks from today frame comprehensive rules with regard to the Constitution of a body and management of the compensatory afforestation funds in concurrence with the Central Empowered Committee. These rules shall be filed in this Court within eight weeks from today. Necessary notification constituting this body will be issued simultaneously.
- (b) Compensatory Afforestation Funds which have not yet been realized as well as the unspent funds already realized by the States shall be transferred to the said body within six months of its constitution by the respective states and the user-agencies.
- (c) In addition to above, while according transfer under Forest Conservation Act, 1980 for change in user-agency from all non-forest purposes, the user agency shall also pay into the said fund the net value of the forest land diverted for non-forest purposes. The present value is to be recovered at the rate of Rs. 5.80 lakhs per hectare to Rs. 9.20 lakhs per hectare of forest land depending upon the quantity and density of the land in question converted for non-forest use. This will be subject to upward revision by the Ministry of Environment & Forest in consultation with Central

Empowered Committee as and when necessary.

- (d) A 'Compensatory Afforestation Fund'. shall be created in which all the monies received from the user-agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value of forest land, Catchment Area Treatment Plan Funds, etc shall be deposited. The rules, procedure and composition of the body for management of the Compensatory Afforestation Fund shall be finalised by the Ministry of Environment & Forests with the concurrence of Central Empowered Committee within one month.
- (e) The funds received from the user . agencies in cases where forest land diverted falls within Protected Areas i.e. area notified under Section 18, 26A or 35 of the Wild Life (Protection) Act, 1972 for undertaking activities related to protection of bio-diversity, wildlife etc. shall also be deposited in this Fund. Such monies shall be used exclusively for undertaking protection and conservation activities in protected areas of the respective States / Union Territories.
- (f) The amount received on account of compensatory afforestation but not spent or any balance amount lying with the States/Union Territories or any amount that is yet to be recovered from the user-agency shall also be deposited in this Fund.
- (g) Besides artificial regeneration (plantations), the fund shall also be utilised for undertaking assisted natural regeneration, protection of forests and other related activities. For this purpose, site specific plans should be prepared and implemented in a time bound manner.
- (h) The user agencies especially the large public sector undertaking such as Power Grid Corporation, N. T. P. C., etc which frequently require forest land for their projects should also be involve in undertaking compensatory

afforestation by establishing Special Purpose Vehicle. Whereas the private sector user agencies may be involved in monitoring and most importantly, in protection of compensatory afforestation. Necessary procedure for this purpose would be laid down by the Ministry of Environment & Forests with the concurrence of the Central Empowered Committee.

- (I) Plantations must use local and indigenous species since exotics have long term negative impacts on the environment.
- (j) An independent system of concurrent monitoring and evaluation shall be evolved and implemented through the Compensatory Afforestation Fund to ensure effective and proper utilization of funds.

Place it before a Bench of which Hon.ble Mr. Justice Y. K. Sabharwal and Hon.ble Mr. Arijit Pasayat are members for examination of the Rule

**CENTRAL EMPOWERED COMMITTEE  
CONSTITUTED BY THE HON.BLE SUPREME COURT  
OF INDIA  
IN WRIT PETITIONS NO. 202/95 AND 171/96**

No. 1-1/CEC/2002-03  
Notification No. 2

Date : 14.6.2002  
DATED: 14-6-2002

**RULES AND PROCEDURE  
Applications**

1. Any individual shall be at liberty to move the Central Empowered Committee, hereinafter referred to as the Committee, by filing an application for seeking suitable relief against any action taken by the Central / State Governments or any other authority

- a. in respect of deforestation, encroachments, working of the wood based industries, Working Plans, compensatory afforestation, plantations, regeneration, illegal felling and transportation of timber, illegal mining in forest area, and any other conservation issues; and
  - b. the implementation of the Forest (Conservation) Act, 1980, Indian Forest Act, 1927, Wild Life (Protection) Act, 1972 including the respective Rules, Regulations and Guidelines framed thereunder on which the Hon.ble Supreme Court of India has passed orders in Writ Petitions no. 202/95 and 171/96.
2. All applications should be addressed to:  
The Member Secretary Central Empowered Committee Constituted by the Hon.ble Supreme Court of India Room No.106, Paryavaran Bhawan, C.G.O. Complex Lodi Road, New Delhi . 110003
3. Every application shall set out the name, description and complete postal address of the applicant(s) and the respondent(s). It should be typed in double space on a full-scape (legal size paper) and shall setforth in chronological order and in consecutively numbered paragraphs, all relevant facts, grounds and relief claimed and shall be signed by the applicant or his Advocate.
4. Six copies of the application shall be filed and it shall be accompanied by copies of such documents as are in the possession of the applicant and shall be supported by a duly attested affidavit of the applicant and all pages of the application shall be numbered.
5. A copy of the application shall be sent by the applicant to all the respondents and photocopy of postal or

courier receipt as proof of the same shall be filed along with the application.

6. Every application shall have an index.

### **Proceedings**

7. After receipt of the application, as soon as it is feasible, a notice of hearing shall be issued to all the parties through counsel, Central Government, State Governments or any other authority, electronic mode, or through any other means. The notice shall specify the date and place of hearing before the Committee.
8. Where there are a number of applications in which common issues have been raised and similar reliefs are sought, the Committee may issue notice to all parties or through public notice/advertisement. The Committee in such cases may determine as to who shall bear the cost of such publication.
9. The respondents shall be at a liberty to file written objections to the application in the form of a counter affidavit with proof of service of advance copy to the applicant. The counter affidavit shall give a parwise reply on merits and no general replies or denials would be entertained. In cases where the respondent(s) is an office of the Central Government, the State Government, Government Undertaking or any authority owned, managed or controlled by the Central / State Government, the counter affidavit, shall be signed by the Head of the Department, Authority or the Undertaking.
10. The Committee shall have the powers to:
  - a. Call for any documents from any person or the Government of the Union or the State or any other official;



- b. Summon any person and receive evidence from such person on oath either on affidavit or otherwise;
  - c. Seek assistance / presence of any person(s) / official(s) required by it in relation to its work.
11. A quorum comprising minimum of three members will be competent to hear applications and pass orders.
  12. The Committee may undertake field visits, public hearings, meeting with officials and NGO.s through one or more of its members or Special Invitees or through such Central Government / State Government officials, institutions, experts, NGO.s and others.
  13. The Committee may pass interim order(s) so as to meet the ends of justice, which shall operate for a period of 90 days from the date of the issue of the order by which time the application shall be finally adjudicated. However, if no final order(s) is passed within 90 days, the interim order shall cease to operate unless extended by the Committee for reasons to be recorded in writing.
  14. The Committee shall pass appropriate orders in writing after giving opportunity of hearing the parties.
  15. The orders passed by the Committee shall be in conformity with the orders passed by the Hon.ble Supreme Court of India. In other cases, the Committee shall place its recommendations before the Hon.ble Supreme Court of India for passing appropriate clarifications or orders.
  16. The Committee shall submit Quarterly Progress Reports to the Hon.ble Supreme Court of India.
  17. All orders passed by the Committee shall be authenticated by the Member Secretary and bear the seal of the Committee.
  18. In respect of the I. A..s, reports and affidavits referred

to the Committee by the Hon.ble Supreme Court of India, the Committee will follow the procedure as stated above.

(M.K.Jiwrajka)  
Member Secretary

**Distribution:**

1. Registrar, Supreme Court ( attention PIL Cell).
2. Attorney General of India.
3. Solicitor General of India and Amicus Curiae in Writ Petition (Civil) No. 202/95.
4. Shri P. V.Jayakrishnan, Chairman Central Empowered Committee.
5. Shri N. K.Joshi, Additional Director General of Forests, Ministry of Environment & Forests & Member,Central Empowered Committee.
6. Shri Valmik Thapar, . Member Central Empowered Committee.
7. Shri Mahendra Vyas, . Member Central Empowered Committee.
8. PS to MEF.
9. Secretary, Ministry of Environment & Forests, Government of India.
10. Director General of Forests & Special Secretary, MOEF.
11. Chairman High Power Committee for the North-Eastern Region.
12. Chairman Special Investigation Team.
13. All officers of DIG and above level, MoEF.
14. Regional Chief Conservators of Forests, MoEF (all).
15. Secretaries to Government of India (all ministries).

16. Administrators / Chief Secretaries (all States / UTs).
17. Principal Chief Conservators of Forests, (all States/ UTs).
18. Secretaries (Forests) (all States / UTs).

This Notification should be given wide publicity & circulated to all concerned.

## CHAPTER 8

### CAMPA GUIDELINES

**Ministry of Environment and Forests, Government of India**

**The Guidelines on State Compensatory Afforestation  
Fund Management and Planning Authority  
(State CAMPA)**

Dated 2<sup>nd</sup> July 2009

**Guidelines on State Compensatory Afforestation Fund  
Management and  
Planning Authority (State CAMPA)**

#### **Introduction**

Guidelines for establishing CAMPAs in the States/UTs and putting in place a funding mechanism for enhancing forest and tree cover and conservation and management of wildlife by utilising funds received towards Compensatory Afforestation, Net Present Value (NPV), etc., currently available with the Adhoc CAMPA.

The guidelines, prepared are, by and large, in line with the discussions held in the meeting of the Chief Secretaries, have the objective to assist the States/UT's for setting up the requisite mechanism and are in consonance with the directions issued from time to time by the Hon'ble Supreme Court.

These guidelines have desired flexibility; therefore the States/UTs would be able to notify the State level CAMPAs keeping in view specific conditions prevailing there.

### **Overarching Objectives and Core Principles**

1. An Authority to be known as the “State Compensatory Afforestation Fund Management and Planning Authority” (State CAMPA) is intended as an instrument to accelerate activities for preservation of natural forests, management of wildlife, infrastructure development in the sector and other allied works.
2. The State CAMPA would presently receive monies collected from user agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, Net Present Value (NPV) and all other amounts recovered from such agencies under the Forest (Conservation) Act, 1980 and presently lying with the Adhoc CAMPA.
3. The State CAMPA would administer the amount received from the Adhoc CAMPA and utilize the monies collected for undertaking compensatory afforestation, assisted natural regeneration, conservation and protection of forests, infrastructure development, wildlife conservation and protection and other related activities and for matters connected therewith or incidental thereto.
4. State CAMPA would serve as a common repository of

funds accruing on account of compensatory afforestation and NPV. It would deploy funds as per guidelines governing the use of funds for conservation, protection and management of forests. The amounts would also be deployed for wildlife preservation and enhancement of wildlife habitats.

5. State CAMPA would provide an integrated framework for utilizing multiple sources of funding and activities relating to protection and management of forests and wildlife. Its prime task would be regenerating natural forests and building up the institution engaged in this work in the State Forest Department including training of the forest officials of various levels with an emphasis on training of the staff at cutting edge level (forest range level). The amount received by it will also be utilized for providing residential accommodation to the field staff and necessary machines and equipments to them. These include appropriate arrangement for their conveyance during inspections and protection duty. In short, the department would be modernized to protect and regenerate the forests and wildlife habitat.
6. The State CAMPA may decide to utilize a minor part of its funds for contractual engagement of personnel wherever there is shortage of personnel. This should be done cautiously to avoid recurring revenue expenditure on the State Government. It may also take up State-specific activity relevant to the State, in keeping with the core objectives.
7. The State CAMPA would also promote a voluntary movement of youth and students for supporting conservation activities initiated/ongoing in the State Forest Department.

8. Aims and Objectives

State CAMPA shall seek to promote:

- a. conservation, protection, regeneration and management of existing natural forests;
- b. conservation, protection and management of wildlife and its habitat within and outside protected areas including the consolidation of the protected areas;
- c. compensatory afforestation;
- d. environmental services, which include:-
  - i. **Provision of goods** such as wood, non-timber forest products, fuel, fodder and water, and provision of services such as grazing, tourism, wildlife protection and life support;
  - ii. **Regulating services** such as climate regulation, disease control, flood moderation, detoxification, carbon sequestration and health of soils, air and water regimes;
  - iii. **Non-material benefits** obtained from ecosystems, spiritual, recreational, aesthetic, inspirational, educational and symbolic; and
  - iv. **Supporting such other services** necessary for the production of ecosystem services, biodiversity, nutrient cycling and primary production.
- e. Research, training and capacity building.

9. The Functions of State CAMPA shall include, inter alia—

- I. Funding, overseeing and promoting compensatory

afforestation done in lieu of diversion of forest land for non-forestry use under the Forest (Conservation) Act, 1980

- ii. Overseeing forest and wildlife conservation and protection works within forest areas undertaken and financed under the programme.
- iii. Maintaining a separate account in respect of the funds received for conservation and protection of Protected Areas.
- iv. Creating transparency for the programme and mobilizing citizens support; and
- v. earmarking up to two percent of the funds for monitoring and evaluation.

#### 10. Establishment of a State CAMPA

The State Government may establish the Compensatory Afforestation Fund Management and Planning Authority (State CAMPA) in the State. There shall be credited into the account of State CAMPA—

- 1) Ssdgsd
  - i. Amount transferred to it by the ad-hoc CAMPA.
  - ii. Receipt of all monies from user agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, Net Present Value (NPV), Catchment Area Treatment Plan or any money for compliance of conditions stipulated by the Central Government while according approval under the provisions of the Forest (Conservation) Act, 1980;

- iii. The unspent funds already realized by States from user agencies and not transferred yet to the Adhoc Compensatory Afforestation Fund Management and Planning Authority for crediting into the Fund by respective States;
  - iv. The funds recoverable from user agencies in cases where forest land diverted falls within the protected areas, that is, areas notified under sections 18, 26A or 35 of the Wildlife (Protection) Act, 1972 for undertaking activities relating to the protection of biodiversity and wildlife, which would be maintained under a separate head; and
  - v. Net Present Value of the forest land diverted for non-forestry purposes, collected under the Forest (Conservation) Act, 1980 and the rules and the guidelines made thereunder and in pursuance of the judgment of the Supreme Court dated the 29th October 2002 from user agencies. And
- 2) The State Government may also credit to the State CAMPA—
- a) Grants or aid received if any;
  - b) Any loan taken by the Authority or any borrowings made by it; and
  - c) Any other sums received by the Authority by way of benefaction, gift or donations.
- 3) The monies received in the State CAMPA shall be kept in interest-bearing account(s) in nationalized bank(s) and periodically withdrawn for the works as per the Annual Plan of Operations (APOs) approved by the Steering Committee.



11. Utilization of the money: The money available with the state CAMPA shall be utilized for meeting–
- i. Expenditure towards the development, maintenance and protection of forests and wildlife management as per the approved APO;
  - ii. The non-recurring as well as recurring expenditure for the management of the State CAMPA, including the salary and allowances payable to its officers and other employees, by utilizing a part of the income from interest received by on funds invested by State CAMPA, but excluding income from funds recoverable from the user agencies in cases where forest land diverted falls within the protected areas, that is, areas notified under sections 18, 26A or 35 of the Wildlife (Protection) Act, 1972 for undertaking activities related to protection of biodiversity and wildlife;
  - iii. The expenditure incurred on monitoring and evaluation subject to overall ceiling of 2% of the amount to be spent every year; and
  - iv. Disbursement on such other projects related to forest conservation.

12. Disbursement of funds:

1. The money received for compensatory Afforestation, additional compensatory afforestation, penal

compensatory afforestation, Catchment Area Treatment Plan and for any other site specific schemes may be used as per site-specific schemes submitted by the State along with the approved proposals for diversion of forest land under the Forest (Conservation) Act, 1980.

2. After receipt of the money, State CAMPA shall accomplish the afforestation for which money is deposited in the Compensatory Afforestation Fund within a period of one year or two growing seasons after project completion, as may be appropriate.
  3. The money received on account of Net Present Value (NPV) shall be used for natural assisted regeneration, forest management, protection, infrastructure development, wildlife protection and management, supply of wood and other forest produce saving devices and other allied activities.
  4. Monies realized from the user agencies in pursuance of the Hon'ble Supreme Court's orders or decision taken by the National Board for Wildlife involving cases of diversion of forest land in protected areas shall form a distinct corpus and shall be used exclusively for undertaking protection and conservation activities in protected areas of the State.
  5. State CAMPA shall release monies to the field officers in predetermined installments as per the Annual Plan of Operation (APO) finalized.
13. State CAMPA shall consist of a Governing Body, a Steering Committee and an Executive Committee.

14. (1) The Governing body of the state CAMPA shall consist of the following:

- |       |   |             |
|-------|---|-------------|
| i.    | Chief Minister –                            | Chairperson |
| ii.   | Minister of Forests –                       | Member      |
| iii.  | Minister of Finance –                       | Member;     |
| iv.   | Minister of Planning –                      | Member;     |
| v.    | Chief Secretary –                           | Member      |
| vi.   | Principal Secretary (Finance) -             | Member      |
| vii.  | Principal Secretary<br>(Planning) –         | Member      |
| viii. | Principal Chief Conservator<br>of Forests – | Member      |
| ix.   | Chief Wildlife Warden –                     | Member      |
| x.    | Secretary (Forests) –<br>Secretary          | Member      |

The Governing Body shall lay down the broad policy framework for the functioning of State level CAMPA and review its working from time to time.

14.(2) The Steering Committee of State CAMPA shall consist of the following:

- |       |  |             |
|-------|--|-------------|
| i.    | Chief Secretary –  | Chairperson |
| ii.   | Principal Chief Conservator<br>of Forests –                    | Member      |
| iii.  | Principal Secretary (Forests) –                                | Member      |
| iv.   | Principal Secretary (Finance) –                                | Member      |
| v.    | Principal Secretary (Planning) –                               | Member      |
| vi.   | Chief Wildlife Warden –  | Member      |
| vii.  | Nodal Officer –  | Member      |
| viii. | A representative of the Ministry<br>of Environment & Forests – | Member      |

- ix. Two eminent NGO's to be nominated by the State Government for a period of 2 years at a time who shall be eligible for re-nomination. Member
- x. Chief Conservator of Forests (Plan/Schemes) – Member Secretary

14. (3) The Steering Committee shall–

- i. Lay down and / or approve rules and procedures for the functioning of the body and its Executive Committee, subject to the overarching objectives and core principles of State CAMPA;
- ii. Monitor the progress of the utilization of funds released by the State CAMPA;
- iii. Approve the Annual Plan of Operation (APO) prepared by the Executive Committee;
- iv. Approve the annual reports and audited accounts of the State CAMPA;
- v. Ensure inter-departmental coordination;
- vi. Meet at least once in six months.

15. (1) The Executive Committee shall consist of the following:

- I. Principal Chief Conservator of Forests – Chairperson
- ii. Chief Wildlife Warden – Member
- iii. Chief Conservator of Forests (Plan/Schemes) – Member
- iv. Financial Controller/Financial Adviser in the O/o the Principal Chief Conservator

- of Forests – Member
  - v. Two eminent NGO's to be nominated by the State Government for a period of 2 years at a time who shall be eligible for re-nomination – Member
  - vi. Nodal Officer - Member Secretary
15. (2) The State level Executive Committee shall –
- i. Take all steps for giving effect to the State CAMPA and overarching objectives and core principles, in accordance with rules and procedures approved by the Steering Committee and the approved APO;
  - ii. Prepare the APO of the State for various activities, submit it to the Steering Committee before end of December for each financial year, and obtain the Steering Committee's concurrence for release of funds, while giving break-up of the proposed activities and estimated costs;
  - iii. Supervise the works being implemented in the State out of the funds released from the State CAMPA;
  - iv. Be responsible for proper auditing of both receipt and expenditure of funds;
  - v. Develop the code for maintenance of the account at the implementing agency level;
  - vi. Submit reports to the Steering Committee for review / consideration; and
  - vii. Prepare Annual Report by end-June for each financial year.

16. Accounting Procedure
- i. State CAMPA shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year showing the estimated receipts and expenditure of the State CAMPA.
  - ii. State CAMPA shall adopt financial regulations and procedures, in particular the procedure for approval and implementing the APO.
  - iii. State CAMPA shall maintain proper accounts and other relevant record and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Accountant General concerned.
  - iv. The accounts of the State CAMPA shall be audited by the Accountant General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Accountant General.
  - v. The Accountant General and any other person appointed by him in connection with the audit of the accounts of the State CAMPA shall have the same rights and privileges and authority in connection with such audit as the Accountant General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the State CAMPA.
  - vi. The accounts of the State CAMPA as certified by the Accountant General or any other person

appointed by him in this behalf together with the audit report thereon and annual report, shall be forwarded annually to the State Government, the MoE&F and the Adhoc CAMPA by the State CAMPA.

- vii. The State Government and the MoE&F shall have the power to conduct special audit or performance audit of the State CAMPA.
- viii. The Annual Report shall provide, inter alia, for--
  - (i) The details of various works done and the amount spent;
  - (ii) The details of the amount received by the State CAMPA from various sources; and
  - (iii) The observations made in the audit report.

#### 17. Monitoring and evaluation of the works

- i. An independent system for concurrent monitoring and evaluation of the works implemented in the States utilizing the funds available shall be evolved and implemented to ensure effective and proper utilization of funds.
- ii. The National CAMPA advisory council shall have the powers to order special inspection and financial audit of works executed by the State CAMPA with utilizing CAMPA money.
- iii. If satisfied that the funds released are not being utilized properly, the National CAMPA advisory council as well as the State level Steering Committee shall have the power to withhold or suspend the release of remaining funds or part thereof.

18. National CAMPA Advisory Council A National CAMPA Advisory Council shall be established. It will
- i. Lay down broad guidelines for State CAMPA;
  - ii. Regularly monitor and evaluate, in consultation with states, projects being undertaken by state CAMPAs.
  - iii. Facilitate scientific, technological and other assistance that may be required by state CAMPAs
  - iv. Make recommendations to state CAMPAs based on a review of their plans and programmes.
  - v. Provide a mechanism to state CAMPAs to resolve issues of an interstate or Centre-state character.

The composition of the Council shall be as follows:

- I. Minister of Environment and Forests : Chairperson
- ii. Three PCCF's by rotation with a term of one year each: Member
- iii. Two environmentalist / conservationists / scientists / economists / social scientists with a non-renewable term of two years. Member
- iv. Director General Forests & Special Secretary, MoE&F: Member
- v. IG (Forest Conservation), MoE&F : Member Secretary

The existing establishment of adhoc CAMPA would be utilized as secretariat to the National CAMPA Advisory Council.



The expenditure will be met out of the provision kept for Monitoring and Evaluation of the programme.

19. In addition to the above out of the interest received / accrued so far with the Ad hoc CAMPA, a suitable amount, with the permission of the Supreme Court, will be retained by the Adhoc CAMPA and will be utilized as per the specific schemes as approved by the National CAMPA Advisory Council. These will include monitoring and evaluation of schemes implemented in the States or the UTs utilizing CAMPA money, setting up of institutes, societies, center of excellence in the field of forest and wildlife, pilot schemes, standardization of codes/ guidelines, etc., for the sector.