

ASSAM FOREST PROTECTION FORCE ACT, 1986

22 of 1987

[22nd December, 1987]

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An Act to provide for the constitution and regulation of a force called the Assam Forest Protection Force for the better protection and security of the Forests, Forest Produce and Wild Life of Assam. It is hereby enacted in the Thirty-Seventh Year of the Republic of India as follows :

1. Short title, extent and commencement :-

(1) This Act may be called the Assam Forest Protection Force Act, 1986.

(2) It extends to the whole of Assam,

(3) It shall come into force at once.

2. Definitions :-

In this Act, unless the context otherwise requires;

(a) "Governor" means the Governor of Assam.

(b) "Government" means the State Government of Assam.

(c) "Force" means the Assam Forest Protection Force under Section 3.

(d) "Forests" means Reserved Forests, Protected Forests, Village Forests, "Proposed Reserved Forests where preliminary notification has duly been published in the Assam Gazette, unclassified State Forests so constituted or defined under the Assam Forest Regulation of 1891, any area recorded as forests in the Government records and also areas under various Social Forestry Plantations.

(e) "Forest Produce" includes

(i) timber, charcoal, caoutchouc, catchu, wood oil, resin, natural varnish bark, lac, myrabolams, rhinoceros horns and anything found in or brought from a forest:

(ii) trees and leaves, fruits and all other parts or produce, not hereinbefore mentioned, of trees;

(iii) plants not being trees (including grass creepers, reeds and moss) and all parts or produce of such plants;

(iv) wild animals and skins, tusks and horns, bones other than rhinoceros horn, silk, cocoons, honey, wax and all other parts or produce of animals;

(v) peat, surface soil, rock and minerals (including limestone, leterite, mineral and all produce of mines or quarries);

(f) "Forest Officer" means any person appointed by name or as holding an office by or under the orders of the Government to be a Chief Conservator, Additional Chief Conservator of Forests.

Conservator, Deputy Conservator, Assistant Conservator of Forests, a Wildlife Warden, Forest Ranger, Deputy Ranger. Game Keeper. Forester. Forest Guard, Head Game Watcher, Game Watcher. Mohout, Boatman or to discharge any function to a Forest Officer under the Assam Forest Regulation of 1891, and the Wildlife (Protection) Act, 1972;

(g) "Chief Conservator of Forests" means the Chief Conservator of Forest appointed under Section 4;

(h) "Member of the Force" means a person appointed to the Force other than a supervisory officer;

(i) "Supervisory Officer" means any of the officers appointed under Section 4 and includes any other officer appointed by the Government as a supervisory officer of the Force;

(j) "Prescribed" means prescribed by rules made under this Act.

(k) "Wildlife" includes any animals, bees, butterflies, crustacea, fish a moth, and aquatic or land vegetation which forms part of any habitat.

3. Constitution of the Force :-

(1) There shall be constituted as maintained by the Government a Force to be called the Assam Forest Protection Force for the better protection and security of Forests, Forest Produce a Wildlife owned by the Government.

(2) The Force so constituted shall consist of such number of supervisory officers and members of the Force who shall receive such pay and other remunerations as may be prescribed.

4. Appointment and power of Supervisory Officers :-

The Government may appoint a person to be the Chief Conservator of Forests and may appoint other persons to be the Additional Chief Conservator, Conservator, Commandant, Deputy Commandant, Assistant Commandant of the Force as may be required from time to time.

5. Appointment of the members of the Force :-

(a) The appointment of the members of the Force shall rest with the Chief Conservator of Forests who shall exercise that power in accordance with the Rule made under this Act:

Provided that the power of appointment under this Section may also be exercised by such other Supervisory Officer, not below the rank of an Additional Chief Conservator as the Government may by order specify in (his behalf.

(b) The designation and rank of the members of the Force shall be regulated by Rules made under this Act and at the time of initial constitution shall comprise of,

(i) Company Commander/ Inspector.

(ii) Platoon Commander/ Sub-Inspector.

(iii) Havildar.

(iv) Constable.

6. Certificate of the Member of the Force :-

(1) Every member of the Force shall receive on his appointment a certificate in the form specified in the Schedule under the seal of the Chief Conservator of Forests or such other Forest Officer as the Chief Conservator of Forests may specify in this behalf by virtue of which the person holding such certificate shall be vested with the power of a member of the Force.

(2) Such certificate shall cease to have effect whenever the person named in it ceases to be a Member of the Force.

7. Superintendence, Central Administration of the Force :-

(1) The Superintendence of the Force shall vest in the Government and subject thereto the Administration of the Force shall vest in the Chief Conservator of Forests and shall be carried on by him in accordance with the provisions of this Act and Rules made thereunder.

(2) Subject to the provision of sub-section (1), the administration of the Force, within such local limits as may be prescribed, shall be carried on by other supervisory officers in accordance with the provisions of the Act and or any Rules made thereunder and every supervisory officer placed in charge of the protection and security of Forests. Forest Produce and Wildlife shall, subject to any directions that may be given by the Government in this behalf, discharge his functions under the general supervisions, direction and control of the concerning Forest Officer of the territory.

8. Dismissal, Removal etc. of Members of the Force :-

Subject to the provision of Article 311 of the Constitution and to such rules as the Government may under this Act make, any Supervisory officer may

(i) dismiss, suspend or reduce in rank any member of the Force whom he thinks remiss or negligent in the discharge of his duty or unfit for the same; or

(ii) award any or more of the following punishments to any member of the Force who discharges his duty in a careless or negligent manner or who by any act of his own renders himself unfit for the discharge thereof, namely;

(a) fine to any amount not exceeding seven days pay or reduction in pay scale:

(b) drill, extra guard, fatigue or other duty;

(c) removal from any office of distinction or deprivation of any special emolument:

(d) other punishment/ punishments as may be deemed fit and proper.

9. Appeal and revision :-

(1) Member of the Force aggrieved by an order made under Section 8 may, within 30 (thirty) days from the date on which the order is communicated to him, prefer an appeal against the order to such authority as may be prescribed, and subject to the provision of sub-section (3). the decision of the said authority thereon shall be final;

Provided that the prescribed authority may entertain the appeal after the expiry of the said period of 30 days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) In disposing of an appeal, the prescribed authority shall follow such procedure as may be prescribed.

(3) The Government may call for and examine the records of any proceeding under Section 8 or under sub-section (2) of this section, and may make such inquiry off cause such inquiry to be made and subject to the provision of this Act may pass such order thereon as it thinks fit:

Provided that no order imposing an enhanced penalty under sub-section (2) or sub-section (3) shall be made unless a reasonable opportunity of being heard has been given to the person affected by such order.

10. Duties of Member of the Force :-

It shall be the duty of every supervisory officer and members of the Force

- (a) to promptly obey and execute all orders lawfully issued to him by his superior authority;
- (b) to protect and safeguard the Forests, Forest Produce and Wildlife of the State of Assam;
- (c) to protect and safeguard other properties owned by the Forest Department of the State Government of Assam;
- (d) to do any other act conducive to the better protection and security of Forests, Forest Produce and Wildlife referred to in Clauses (b) and (c) above.

11. Power to arrest without warrant :-

(1) Any supervisory officer or member of the Force, may without any order from a Magistrate and without a warrant arrest any person, who has been concerned in or against whom a reasonable suspicion exist of his having been concerned in or who is found taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence relating to

- (i) Forest, Forest Produce and Wildlife of the State of Assam;
- (ii) Property belonging to the Forest Department of the State Government of Assam;

(2) If any person is found trespassing or squatting in any Reserved Forest, plantations and premises, owned by the Forest Department, National Parks and Wildlife Sanctuaries, he may, without prejudice to any other proceedings which may be taken against him, be removed from such areas by any supervisory officer or member of the Force.

12. Power to search without warrant :-

(1) Whenever any supervisory officer, or any member of the force,

not below the prescribed rank, has reason to believe that any such offence as is referred to in Section 11 has been or is being committed and that a search warrant cannot be obtained without affording the offender an opportunity of escaping or concealing evidence of the offence, he may detain an offender and search his person and belongings forthwith and if he thinks proper, arrest any person whom he has reason to believe to have committed the offence.

(2) The provision of the Code of Criminal Procedure 1973. relating to the searches under that Code shall, so far as may be. apply to searches under this section.

13. Procedure to be followed after arrest :-

Any supervisory officer or member of the Force making an arrest under this Act shall, without unnecessarily delay, make over or send the person so arrested to a Magistrate having jurisdiction in the case.

14. Powers to use fire arms as provided in Chapters XI and XII of Cr.P.C :-

In order to prevent commission of any offence and in order to make effective search, the officers and the other members of the Force will have the right to use minimum necessary force including use of fire arms as provided in Chapters XI and XII of the Code of Criminal Procedure 1973.

15. Officers and Members of the Force to be considered always on duty and liable to be employed anywhere in the State of Assam :-

(a) Every Supervisory Officer and member of the Force shall for the purpose of this Act be considered to be always on duty, and shall, at any time, be liable to be employed at any place within the State of Assam.

(2) No Supervisory Officer or member of the Force shall engage himself in any employment or office other than his duties under this Act.

16. Responsibilities of the Members of the Force during suspension :-

A member of the Force shall not by reason of his suspension from office cease to be member of the Force and he shall during mat period be subject to the same responsibilities, discipline and

penalties to which he would have been subject if he were on duty.

17. Surrender of Certificates, arms etc. by persons ceasing to be Members of the Force :-

(1) Every person who for any reason ceases to be a member of the Force, shall forthwith surrender to any supervisory officer empowered to receive the same, his certificate of appointment, the arms, accoutrements, clothing and other articles which have been furnished to him for the performance of duties as a member of the Force.

(2) Any person who wilfully neglects or refuses to surrender his certificates or appointment or the arms, accoutrements, clothing, and other articles furnished to him as required by sub-section (1) shall, on conviction be punished with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees or both.

(3) Nothing in this section shall be deemed to apply to any article, which under the orders of the Chief Conservator of Forests, has become property of the person to whom the same was furnished.

18. Penalties for neglect of duty etc :-

(1) Without prejudice to the provisions contained in Section 8. every member of the Force who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by a supervisory officer, or who shall withdraw from the duties of his office without permission, or who. being absent on leave, fails, without reasonable cause, to report himself for duty on the expiration of the leave, or who engages himself without authority in any employment other than his duty as a member of the Force, or who shall be guilty of cowardice, shall on conviction be punished with imprisonment for a term which may extend to six months.

(2) Notwithstanding anything contained in the Code of Criminal Procedure 1973, offence punishable under this section shall be cognizable.

(3) Nothing contained in this section shall be construed to prevent any member of the Force from being prosecuted under any other law for any offence made punishable by that law, or for being liable under any such law to any other or higher penalty or punishment

than is provided for such offence under this section:

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

19. Application of Act 22 of 1922 to Officers and Members of the Force :-

The Police (Incitement to Disaffection) Act. 1922, shall apply to the supervisory officer and member of the Force as it applies to the members of the Police Force.

20. Protection of acts of Officers and Members of the Force :-

(1) In any suit or proceeding against any supervisory officer or member of the Force for any act done by him in the discharge of his duties, it shall be lawful for him to plead that such act was done by him under the order of a competent authority.

(2) Any such plea may be proved by the production of the order directing the act, and if it is so proved, the supervisory officer or the member of the Force shall thereupon be discharged from any liabilities in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such order.

(3) Notwithstanding anything contained in any law for the time being in force, any legal proceeding, whether civil or criminal, which may lawfully be brought against any supervisory officer or the member of the Force or anything done or intended to be done under the powers conferred by or in pursuance of any provision of this Act or the Rules thereunder shall be commenced within three months after the act complained of having been committed and otherwise, and notice in writing of such proceeding and of the cause thereof shall be given to the person concerned and his supervisory officer at least month before the commencement of such proceeding.

(4) For prosecution of any officer or member of the Force sanction as required under Section 197 of the Code of Criminal Procedure, 1973 will be necessary.

21. Power to make rules :-

(1) The Government may. by Notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for

(a) regulating the classes, ranks, grades, pay and remunerations of supervisory officers and member of the Force and their conditions of service in the Force;

(b) regulating the powers and duties of supervisory officers and member of the Force authorised to exercise any functions by or under this Act;

(c) fixing the period of service for supervisory officers and members of the Force;

(d) prescribing the description and quantity of arms accountrements, clothing and other necessary articles to be furnished to the member of the Force;

(e) prescribing the places of residences of the Force;

(f) institutions, managements and regulation of any fund or any purpose connected with the administration of the force;

(g) regulating the punishment and prescribing the authorities to whom appeal shall be referred from orders of punishment and the procedure to be followed for the disposal of such appeals;

(h) any other matter which has to be or may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Assam while it is in session for total period of 30 days which may be comprised of one session or two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the State Assembly agrees in making any modification in the rule or agrees that the rules should not be made, the rules 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 amendment shall be without prejudice to the validity of anything previously done under that rule.