

Indian Forest (Goa Amendment) Act, 1988

15 of 1989

[05 July 1989]

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Indian Forest (Goa Amendment) Act, 1988

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AN ACT

further to amend the Indian Forest Act, 1927.

Be it enacted by the Legislative Assembly of Goa in the Thirty-eighth Year of the Republic of India as follows:-

1. Short title and commencement :-

(1) This Act may be called the Indian Forest (Goa Amendment) Act, 1988.

(2) It shall come into force at once.

2. Amendment of section 41 :-

In the Indian Forest Act, 1927 (Central Act 16 of 1927) (hereinafter referred to as the "principal Act") in section 41,-

(i) in clause (h), after the words "sawpits", the words "saw mills and sawing contrivances" shall be inserted;

(ii) after clause (h), the following clause, shall be inserted, namely:-

"(ha.)- regulating by grant of licences within specified limits, the converting or cutting of timber in a saw mill and sawing contrivances and prescribe fees and conditions subject to which such licences may be granted".

3. Amendment of section 42 :-

In the principal Act, in section 42, for the words "six months" and "five hundred rupees", the words "one year" and "one thousand rupees", shall be substituted, respectively.

4. Amendment of section 51 :-

In section 51 of the principal Act,-

(i) in sub-section (1), after clause (d), the following clause shall be inserted, namely:-

¹[(e) omitted]

(ii) in sub-section (2), for the words "six months" and "five hundred rupees", the words "one year" and "one thousand rupees" shall be substituted, respectively.

1 Clause "e" omitted by (Goa Act No. 2 of 1990) (5-3-1990). Original clause read as follow : "any other matter which is to be, or

may be, prescribed or in respect of which provision is to be or may be, made by rules"

5. Amendment of section 52 :-

In the principal Act, in section 52.-

(i) in sub-section (1), for the words "or cattle" the figures and words, "cattle, vehicles or any contrivances used" shall be substituted;

(ii) after sub-section (1), the following sub-section shall be inserted namely:-

"(1A) Any Forest Officer or police officer may, if he has reason to believe that a vehicle or cart has been or is being used for the transport of forest produce in respect of which there is a reason to believe that a forest offence has been or is being committed, require the driver or other person in charge of such vehicle or cart to stop the vehicle or cart and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle or cart and inspect all records relating to the forest produce carried, which are in the possession of such driver or other person in charge of the vehicle or cart or any other person in the vehicle or cart";

(iii) for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) Every officer seizing any property under this section, shall place on such property or the receptacle of vehicle (if any) in which it is contained, a mark indicating that the same has been so seized and make a report of such seizure.

(a) where the offence on account of which the seizure has been made, is in respect of timber, firewood, charcoal or any forest produce which is the property of Government, to the concerned authorized officer under section 61A; and

(b) in other cases, 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 superior officer.

6. Amendment of section 53 :-

In section 53 of the principal Act, for the words and figures "or cattle under section 52, may release", the words, figures and letters "vehicle, cattle, or any other contrivance under section 52, may, subject to the provision of section 61G release" shall be substituted.

7. Amendment of section 56 :-

In section 56 of the principal Act,-

(i) for the words "has been confiscated", the words "has been forfeited" shall be substituted;

(ii) for the words "in any other case, may be disposed", the words, figures and letters "in any other case may, subject to provisions of section 61G, be disposed" shall be substituted.

8. Amendment of section 57 :-

In section 57 of the principal Act,-

(i) after the words "that an offence has been committed", the words, figures and letters "subject to the provisions of section 61G", shall be inserted;

(ii) for the words "to be confiscated", the words and figures "to be forfeited to the Government together with tools, boats, vehicles,

carts or cattle and other articles used in committing the offence" shall be substituted;

(iii) for the words "one month", the figures and words "45 days" shall be substituted.

9. Amendment of section 58 :-

For section 58 of the principal Act, the following section shall be substituted, namely:-

"58. Procedure as to perishable property seized under section 52.- The Forest Officer who made the seizure under section 52 may, notwithstanding anything contained in this Act or any other law, sell the property if it is 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 and shall report every such sale to his superior officer".

10. Amendment of section 59 :-

In section 59 of the principal Act, for the words "one month", the words and figures "45 days" shall be substituted.

11. Amendment of section 60 :-

In section 60 of the principal Act, for the word "confiscation", the words ²[confiscation or forfeiture] shall be substituted.

2 Substituted in place of word " forfeiture" by (Goa Act No. 2 of 1990) (5-3-1990).

12. Amendment of section 61 :-

In section 61 of the principal Act, for the words and figures "under section 52", the words and figures "under section 52 which is not the property of the Government and the withdrawal of any charge made in respect of such property", shall be substituted.

13. Insertion of new sections 61A, 61B, 61C, 61D, 61E, 61F and 61G :-

After section 61 of the principal Act, the following sections shall be inserted, namely:-

"61A. Confiscation by Forest Officer in certain cases.-

(1) Notwithstanding anything contained in the foregoing provisions of this chapter or any other law for the time being in force, where a forest offence is believed to have been committed in respect of forest produce which is the property of the Government, the officer seizing the property under sub-section (1) of section 52 shall, without any unreasonable delay, produce it, together with all tools, ropes, chains, boats, vehicles, carts and cattle used in committing such offence before an officer authorized by the Government in this behalf, by notification in the Official Gazette, not being below the rank of an Assistant Conservator of Forest (hereinafter referred to as the "authorized officer").

(2) Where an authorized officer seizes under sub-section (1) of section 52, any forest produce which is the property of the Government or any such property is produced before the authorized officer under sub-section (1) and once he is satisfied that a forest offence has been committed in respect of such property, such authorized officer may, whether or not a prosecution is instituted for the commission of such forest offence, order confiscation of the property so seized together with all tools, ropes, chains, boats, vehicles, carts, cattle, and other contrivances used in the commission of such offence.

(3) Where the authorized officer, after passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may, order the confiscated property or any part thereof to be sold by public auction.

(4) Where any confiscated property is sold as aforesaid, the proceeds thereof, after deduction of the expenses of such auction or other incidental expenses relating thereto, shall, where the order of confiscation made under section 61A is set aside or annulled by

an order under section 61C or 61D, be paid to the owner thereof or to the person from whom it was seized as may be specified in such order.

61B. Issue of showcause notice before confiscation under section 61A.-

(1) No order confiscating any forest produce or tools, ropes, chains, boats, vehicles, carts, cattle or any contrivances shall be made under section 61A except after notice in writing to the person from whom it was seized and considering his objection, if any: Provided that, no order confiscating a motor vehicle shall be made except, after giving a notice in writing to the registered owner thereof, if in the opinion of the authorized officer it is practicable to do so and considering his objections, if any.

(2) Without prejudice to the provisions of sub-section (1), no order shall be made under section 61A, if the owner of the tools, ropes, chains, boats, vehicles, carts, cattle or any other contrivances, proves to the satisfaction of the authorized officer that it was used in carrying forest produce without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the tool, rope, chain, boat, vehicle, cart and cattle or any other contrivance and that each of them has taken all reasonable and necessary precautions against such use.

61C. Revision.-

Any Forest Officer not below the rank of Deputy Conservator of

Forest specially empowered by the Government in this behalf, by notification in the Official Gazette, may, before the expiry of ninety days from the date of the order of the authorized officer under section 61A, give notice and call for and examine the records of that order and may make such enquiry or cause such enquiry to be made and may pass such order as he deems fit:

Provided that, no such order prejudicial to a person shall be passed under this section without giving him, an opportunity of being heard.

61D. Appeal.-

(1) Any person aggrieved by any order passed under section 41, 61A or section 61C, may within forty-five days from the date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area in which the property to which the order relates has been seized and the Sessions Judge shall, after giving an opportunity of being heard to the appellant and the authorized officer or the officer specially empowered under section 61C, as the case may be, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

(2) An order of the Sessions Judge under sub-section (1) shall be final and shall not be questioned in any Court of law.

61E. Order of confiscation or seizure not to interfere with other punishment.-

The order of any confiscation or seizure under section 41, 61A or section 61C or section 61D shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.

61F. Property confiscated when to vest in Government.-

When an order for confiscation or seizure of any property has been passed under section 41, 61A or 61C or 61D and such order has become final in respect of the whole or any portion of it or if it has been sold under sub-section (3) of section 61A, the sale proceeds thereof, as the case may be, shall vest in the Government free from all encumbrances.

61G. Bar of jurisdiction in certain cases.-

Whenever any forest produce belonging to the Government together with any tool, rope, chain, boat, vehicle, cart, cattle or any other contrivance used in committing any offences is seized under sub-section (1) of section 52, the authorized officer under section 61A or the officer specially empowered under section 61C or the Sessions Judge hearing an appeal under section 61D shall have and, notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), or in any other law for the time being in force, any other officer, court, tribunal or authority shall not have jurisdiction to make an order with regard to the custody, possession, delivery or distribution of such property".

14. Amendment of section 62 :-

For section 62 of the principal Act, the following section shall be substituted, namely:-

"62. Punishment for wrongful seizure.-

(1) Any Forest Officer or Police Officer who vexatiously and unnecessarily seizes any property ³[on pretence of seizing property] liable to forfeiture under this Act, shall on conviction be punishable with imprisonment which may extend to six months or with fine which may extend to five hundred rupees, or with both.

(2) Any fine so imposed or any portion thereof shall, if the convicting Court so directs, be given as compensation to the person aggrieved by such seizure".

3 Inserted by (Goa Act No. 2 of 1990) (5-3-1990).

15. Amendment of section 68 :-

In section 68 of the principal Act,-

(i) in sub-section (1), after the words and figures "The State

Government may," the words and figures "subject to such conditions as may be specified," shall be inserted;

(ii) in clause (a), for the words and figures "any forest offence," the words and figures "any forest offence"⁴[]," shall be substituted and after the words "a sum of money," the words and figures "not exceeding ten thousand rupees," shall be inserted;

⁵[(iii) for clause (b), the following clause shall be substituted, namely:-

"(b) When any property has been seized as liable to confiscation subject to the provision of section 61G, to release the same on payment of the value thereof as estimated by such officer."].

(iv) in sub-section (3), for the word "fifty" the words "ten thousand" shall be substituted.

4 The words "under this Act" omitted by (Goa Act No. 2 of 1990) (5-3-1990)

5 Substituted by (Goa Act No. 2 of 1990) (5-3-1990).

16. Repeal and saving :-

(1) The Indian Forest (Goa Amendment) Ordinance, 1987 (Ordinance No. 1 of 1987), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing or action was done or taken.