

**Indian Forest (Maharashtra Unification And Amendment)  
Act, 1960**

**6 of 1961**

**[03 February 1961]**

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PREAMBLE

An Act to provide for uniformity in the law relating to forests and the transit (otherwise than across customs frontiers) of forest produce in the State of Maharashtra, and for that and certain other purposes further to amend the Indian Forest Act, 1927.

WHEREAS it is expedient to provide for uniformity in the law relating to forests and the transit (otherwise than across customs frontiers) of forests produce in the State of Maharashtra, and for that and certain other purposes further to amend the Indian

Forests Act, 1927; It is hereby enacted in the Eleventh Year of the Republic of India as follows :-

## NOTES

Object.-The Indian Forest Act, 1927 extended to the whole of the State of Maharashtra except the Hyderabad area thereof. In the Hyderabad area, the Hyderabad Forest Act, 1355F was in force. In order to have uniformity in the law relating to forests and the transit (otherwise than across customs frontiers) of forest produce it was proposed to extend the Indian Forest Act, 1927, as in force in the Bombay area of the State of Maharashtra to the rest of the State and to repeal the corresponding laws in force in other areas including Madhya Pradesh Act amending that Act. It was also necessary to amend the Act with a view to facilitating the protection and better preservation of the limited forest resources of this State. This Act is designed to achieve the above objects.-Vide Statement of Objects and Reasons.

1. For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1960, Part V, p. 66.

### **1. Short Title :-**

This Act may be called the Indian Forest (Maharashtra Unification and Amendment) Act, 1960.

### **2. Uniformity In Act Xvi Of 1927 Throughout State And Consequential Provisions :-**

For the purpose of providing uniformity in the law relating to forests and the transit (otherwise than across customs frontiers) of forest produce in the State of Maharashtra, the provisions of the Indian Forest Act, 1927 (except Chapter VI and section 41A thereof), as in force immediately before the commencement of this Act in the Bombay area of the State, shall be so in force throughout the State of Maharashtra; and accordingly,

(a) all amendments made by each of the following laws, that is to say,-

(i) the Madhya Pradesh Indian Forest (Amendment) Act, 1950, and

(ii) the Indian Forest (Madhya Pradesh Amendment) Act, 1954,

to the Indian Forest Act, 1927, shall in their application to the Vidarbha region (except as respects things done or omitted to be done), cease to have effect, and shall stand repealed;

(b) all amendments made to the Indian Forest Act, 1927, in their

application to the Bombay area of the State of Maharashtra and in force at the commencement of this Act, shall be deemed to be extended to, and shall be in force in the remaining part of the State; and

(c) the Hyderabad Forest Act, 1355F (except Chapter VIII there of) shall stand repealed.

### **3. Amendment In Section 1 Of Act Xvi Of 1927 :-**

In section 1 of the Indian Forest Act, 1927, in its application to the whole of the State of Maharashtra as provided by section 2 (hereinafter referred to as "the principal Act"),-

(i) to sub-section (2), after the words and letter "Part B States", the words "other than the Hyderabad area of the State of Maharashtra" shall be added;

(ii) to sub-section (3), the following proviso shall be added namely :-

"Provided that, on the commencement of the Indian Forest (Maharashtra Unification and Amendment) Act, 1960, this Act shall be in force in the Hyderabad area of the State of Maharashtra."

### **4. Amendment Of Section 2 Of Act Xvi Of 1927 :-**

In section 2 of the principal Act, after clause (4A), the following clauses shall be inserted namely :-

"(4B) "Police Officer" means a Police Officer defined in the Bombay Police Act, 1951;

(4C) Revenue Officer means a Revenue Officer as defined in the Bombay Land Revenue Code, 1879, or where that Code is not in force, as defined in a law corresponding to that Code;"

### **5. Insertion Of New Section 2A In Act Xvi Of 1927 :-**

After section 2 of the principal Act, the following section shall be inserted namely :-

"2A. Construction of certain references to Central or Bombay Acts.- In the application of this Act to any area of the State of Maharashtra other than the Bombay area thereof, any reference to a provision of a Central or Bombay Act shall, where no such Act is in force in that area, be construed as a reference to the provision of the corresponding law, if any, in force in that area."

### **6. Amendment Of Section 12 Of Act Xvi Of 1927 :-**

Section 12 of the principal Act shall be renumbered as sub section (1) of that section, and after the sub-section so renumbered, the following sub-section shall be inserted, namely :-

"(2) A copy of the order passed under sub-section (1) shall be furnished to the claimant by the Forest Settlement Officer, and another copy of that order shall be forwarded to the Forest Officer who attended the inquiry, or if no such Officer attended, to the Divisional Forest Officer."

## **7. Amendment Of Section 26 Of Act Xvi Of 1927 :-**

In section 26 of the principal Act,-

(i) in sub-section (1), for the words beginning with the brackets and letter "(b)" and ending with the words " or who, in a reserved forest- " the following shall be substituted, namely :-

"(b) set fire to a reserved forest to a proposed forest in land in respect of which a notification declaring the decision of the State Government to constitute it a reserved forest has been issued under section 4, or in contravention of any rule made by the State Government in this behalf, kindles in such forest any fire or leaves any fire or burning, in such manner as to endanger such a forest; or who, in a reserved forest or a proposed forest in land notified as aforesaid under section 4-";

(ii) after sub-section (3), the following sub-section shall be inserted namely :-

"(4) Where a person is convicted under clause (d) or (h) of sub-section (1),-

(a) a Forest Officer not below the rank of a Ranger, or

(b) a Police Officer not below the rank of a Sub-Inspector, or

(c) a Revenue Officer not below the rank of a Mahalkari or Tahsildar,

may evict him from the forest or land in relation to which he has committed the offence."

### **NOTES**

It amends clause (b) of sub-section (1) of section 26 of the principal Act so that setting fire not only to a reserved forest but also to a proposed forest is made an offence punishable under the Act.

It also inserts a new sub-section after sub-section (3) of section 26 of the principal Act empowering certain Forest Officers or Revenue Officers to evict from the forest or land, persons who have been convicted for an offence in relation to such forest or land.

What is forest offence.-To constitute an offence under section 26(1) the acts specified in the clauses of the section should be committed in an area which is a "reserved forest" under the Act and it was a pre-requisite for a person being held guilty of an offence under the clause that there should be a notification under section 4.-Union of India v. Abdul Jalil, (1964) 8 S. C. R. 158 : AIR 1965 SC 147 : 1965 (1) S. C. R. 617 : 1965 (1) Cr. L. J. 128.

"Forest Privileges".-Poor Adivasis known as Kotwalias and Vanstodias have preferred the writ petitions making a grievance that they are being harassed by the officers of the Forest Department with a view to depriving them of the privileges conferred upon them by the State Government. They are residing in the reserved forests and claim certain privileges in regard to the collection of forest produce, including bamboos. According to them, they are privileged to collect a certain quantity of bamboos per family from the reserved forest for the purposes of topas, supdas, palas, etc., for their hutment and livelihood.

Vasava Community falls within expression aboriginal or hill tribe occurring in Art. 75 and its members are residents of forest who eke out their livelihood by manual labour in forest and to prove the point, the Certificate of Gram Panchayat to that effect is produced. Held, that those member of Vasava Community are entitled to forest privileges and forming of Co-operative Society is not necessary in such case, as they were local inhabitant.-Fatesang Gimba Vasava & others v. State of Gujarat, AIR 1987 Guj. 9.

Bamboo chips whether forest produce.-Articles prepared by the Kotwalia Community are from Bamboo chips. They are not forest produce and for removing such Bamboo articles out of reserved forest, permission of Forest Department is not required.-Ibid.

Forfeiture of cattle.-Offence under section 26(1)(d) is also a forest offence defined in section 2(3) of the Indian Forest Act. Where an offence under section 26(1)(d) of the Act is committed by pasturing and trespassing of cattle for grazing in reserved forest, the order of forfeiture of the cattle involved in the offence by involving section 55 is not without jurisdiction.

The Court has authority to order forfeiture, but it is not a must in every case.-State v. Arjun Tabadu Mahajan, 1988 Mah. L. J. 191.

Sub-section (2) of section 68 r/w. section 82 would clearly show that once an undertaking is taken and the offence is compounded no proceedings either civil or criminal could be taken in respect of the said offence and the only remedy of the State is to fall back upon section 82 and to recover the amount mentioned in the

undertaking as if it were an arrear of land revenue.-State of Maharashtra v. Kishan Rupaji Ghatal, 1979 Mah. L. J. 618.

### **8. Amendment Of Section 33 Of Act Xvi Of 1927 :-**

In section 33 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :-

"(3) Where a person is convicted of an offence under subsection (1),-

(a) a Forest Officer not below the rank of Ranger, or

(b) a Police Officer not below the rank of Sub-Inspector, or

(c) a Revenue Officer not below the rank of Mahalkari or Tahsildar, may evict him from the protected forest in relation to which he has committed the offence."

#### **NOTES**

When the Lower Court passes order of sentence upon plea of guilt, as the offence is of cutting the branches of tree for use as manure and there is no evidence on record that the offence is a serious one, the High Court should not interfere. - State of Maharashtra v. Mahipat Krishna Ingavale, AIR 1976 SC 2, relied on 1977 Mah. L. J. 306.

### **9. Amendment Of Section 35 Of Act Xvi Of 1927 :-**

In section 35 of the principal Act,-

(i) in sub-section (4); for the words "six months" the words "one year" shall be substituted;

(ii) after sub-section (5), the following sub-section shall be inserted, namely :-

"(5-A) Where a notice issued under sub-section (3) has been served on the owner of a forest in accordance with subsection (5), any person acquiring thereafter the right of ownership of that forest shall be bound by the notice as if it had been served on him as an owner and he shall accordingly comply with the notice, requisition and notification, if any, issued under this section.";

(iii) after sub-section (6), the following sub-section shall be inserted, namely :-

"(7) Any person contravening any of the provisions of a notification issued under sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both."

#### **NOTES**

New sub-section (5A) provides that there a notice under section 35

( 3 ) has been served on the owner of a forest, a person subsequently acquiring the right of ownership of the forest, shall be bound by the notice as if it was served on him.

New sub-section (7) lays down the punishments where a person contravenes any of the provisions of the notification issued under section 35 (1) of the principal Act.

The U. P. Forest Department decided to take over the management of forest, and issued notice under section 35-H Forest Department made attempts to declare land in question as forming part of the reserved forest but that attempt was successfully thwarted by the respondents on the ground that the lands in question did not belong to them but they were owners only of trees standing thereon.

Held, that notice to claimant or owner or tenure holder of forest/forest land essential. Notice served on person who was neither owner nor tenure holder nor claimant of forest proposed to be taken over but a person having interest only in timber standing on it is invalid. State of U. P. v. Abdul Quddus, AIR 1985 SC 498,

#### **10. Amendment Of Section 64 Of Act Xvi Of 1927 :-**

In section 64 of the principal Act, in sub-section (1), for the words "Any Forest Officer or Police Officer", the words "Any Forest Officer, Police Officer or Revenue Officer" shall be substituted.

#### **11. Amendment Of Section 65 Of Act Xvi Of 1927 :-**

In section 65 of the principal Act, for the words "a Ranger" the words "a Ranger, any Police Officer" of a rank not inferior to that of Sub-Inspector or any Revenue Officer of a rank not inferior to that of Mahalkari or Tahsildar" shall be substituted.

#### **12. Amendment Of Section 66 Of Act Xvi Of 1927 :-**

In section 66 of the principal Act, for the words "Every Forest Officer and Police Officer" the words "Every Forest Officer, Police Officer and Revenue Officer" shall be substituted.

#### **13. Substitution Of Section 68 Of Act Xvi Of 1927 :-**

For section 68 of the principal Act, the following section shall be substituted, namely :-

"68. Power to compound offences.--

( 1 ) Subject to the provisions of sub-section (3), the State

Government may, by notification in the Official Gazette, empower a Forest Officer-

(a) to accept from any person about whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in section 62 or section 63, payment of a sum of money or, at his discretion, an undertaking in writing to pay 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 the payment of, or at his discretion, on acceptance of an undertaking in writing to pay, the value thereof as named by such officer.

(2) On the payment of, or on acceptance of an undertaking in writing to pay, such sum of money, or such named value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings, other than those under section 82 where necessary, shall be taken against such person or property.

(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 at least one hundred rupees, and the sum of money accepted or agreed to be accepted as compensation under clause (a) of sub-section (1) shall in no case exceed the sum of five hundred rupees."

#### NOTES

Compoundable offence.-Sub-section (2) of section 68 r/w section 82 would clearly show that once an undertaking is taken and the offence is compounded no proceedings either civil or criminal could be taken in respect of the said offence and the only remedy of the State is to fall back upon section 82 and to recover the amount mentioned in the undertaking as if it were an arrear of land revenue.-State of Maharashtra v. Kishan Rupaji Ghatal, 1978 Mah. L. J. 618.

#### **14. Amendment Of Section 71 Of Act Xvi Of 1927 :-**

In section 71 of the principal Act, for the words "eight annas" the words "fifty naye paise" shall be substituted.

#### **15. Amendment Of Section 78 Of Act Xvi Of 1927 :-**

Section 78 shall be renumbered as sub-section (1) of that section



and after the sub-section so renumbered, the following sub-section shall be inserted, namely :-

"(2) All rules made by the State Government under this Act shall be laid for not less than thirty days before each House of the State Legislature as soon as possible after they are made and shall be subject to such modification as the State Legislature may make during the session in which they are so laid, or the session immediately following and publish in the Official Gazette."

#### **16. Amendment Of Section 82 Of Act Xvi Of 1927 :-**

In section 82 of the principal Act, after the words "such produce", the words and figures "or on account of compensation or value of property agreed to be paid under section 68" shall be inserted.

#### **NOTES**

Compoundable offences.-Sub-section (2) of section 68 r/w section 82 would clearly show that once an undertaking is taken and the offence is compounded no proceedings either civil or criminal could be taken in respect of the said offence and the only remedy of the State is to fall back upon section 82 and to recover the amount mentioned in the undertaking as if it were an arrear of land revenue.-State of Maharashtra v. Kisan Rupqji Ghatal, 1978 Mah. L. J. 618.

An amount due to Government on account of the sale of forest produce i.e., lease of lac forest is recoverable as an arrears of land revenue under section 82.-Ganu Daulat v. State, 1963 Mah. L. J. 266 : 1956 N. L. J. 21 : 1969 M.P.L.J. 195 : 1962 M.P.L.J. 166 relied on.

#### **17. Savings :-**

The repeal of the provisions of the Hyderabad Forest Act, 1355 F. by section 2 shall not affect -

- (a) the previous operation of the Act so repealed, or anything duly done or suffered thereunder;
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any of the provisions of the Act so repealed; or
- (d) 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 proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed :

Provided that, subject to the preceding provision, anything done or any action taken (including notifications and directions issued, rules, appointments, authorisations, inquiries, orders, declarations, assignments or seizures of property made, forest courts established, powers or sanction given, licences, permissions or passes granted, proclamations published, entries recorded, notices issued or served, control or management of forest assumed and bonds executed) by or under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of the principal Act as amended by this Act, deemed to be done or taken under the corresponding provisions of the principal Act and shall, until altered, repealed or amended by anything done or any action taken under the principal Act, continue in force accordingly.