

Orissa Forest Saw Pits And Saw Mills (Control) Rules, 1980

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Orissa Forest Saw Pits And Saw Mills (Control) Rules, 1980

S.R.O. No 375/80 - In exercise of powers conferred by Clauses (h) and (j) of Sub-section (2), of Section 45 of the Orissa Forest Act, 1972 (Orissa Act 14 of 1972), the State Government do hereby make the following Rules namely-

1. Short Title And Commencement :-

- (1) These rules may be called The Orissa Forest Saw Pits and Saw Mills (Control) Rules, 1980.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions :-

- (1) In these Rules unless the context, otherwise requires-
 - (a) Act means the Orissa Forest Act, 1972;
 - (b) Forest area includes all lands notified as forest under any law or administered as forest, whether State owned or private and

whether wooded or maintained as a potential forest land;

(c) Form means a form appended to these rules;

(d) Saw Mill includes all sawing contrivances.

(2) All other words and expressions used but not defined in these Rules shall have the same meaning respectively assigned to them in the Act.

3. Saw Mills, Saw Pits Etc. Cannot Be Erected Without Valid Licence :-

(1) No person shall establish any Saw Pit or Saw Mill within the reserve forest, protected forest area or any forest area within eighty kilometers from the boundary of any such forest or forest areas without a valid licence.

Explanation - For the purpose of this rule the entire village or notified area or town or city shall be treated as within eighty kilometers even if a portion of the village or notified area or municipal area or city, as the case may be, falls within the above limits. Besides that in respect of any Saw Mills or Saw Pits which have already been established at the commencement of these Rules, the owner thereof shall be required to apply for licence within such time as may be notified by the concerned Divisional Forest Officer for continuance of the Saw Pit or Saw Mill, as the case may be, under these Rules.

(2) A separate licence shall be taken out for each Saw Pit and Saw-mill.

CASE LAW: Accordingly Rules 3 and 13 saw mills and saw pits cannot be erected without licence and contravention of the same leads to penalty No case of violation of terms of licence shown-So no case of conviction under Rule 13-Section 83 of the Act applies to cases for offences not otherwise Provided for-When there is specific Rule 13 for penalty Section 83 is not attracted: 1990 (II) OLR 558.

4. Application For Licence And Fees :-

Application for licence shall be made to the Divisional Forest Officer having jurisdiction over the site plan for establishing the saw pit or saw mill in Form No.1, and shall be accompanied by a treasury receipted chalan for rupees ten for each saw pit and rupees fifty for each saw mill.

CASE LAW : Difference of stock with the bookbalance-Offence is under Rule 14-A and not under Section 45 of the Forest Act or under Rule 21 of the Transit Rules, 1980 : 1989 (II) OLR 124.

5. Issue Of Licence And Its Validation And Renewal :-

Every licence shall be granted in Form No. 2 for a period of three years from the date of issue, within thirty days from the date of the application unless otherwise decided by the Divisional Forest Officer as per Rule 6. The licence can also be renewed for further period of three years at a time by the Divisional Forest Officer concerned a payment of the fees prescribed for original licence in Rule 4.

6. Grounds For Rejection To Be Written :-

The Divisional Forest Officer may, for good and sufficient reason to be recorded in writing, reject any application for licence or renewal thereof.

7. Issue Of Duplicate Licence :-

If the Divisional Forest Officer is satisfied that the original licence issued to a licensee is lost, destroyed or otherwise rendered useless, he may, on payment of a fee of rupees five, issue a duplicate of the licence.

8. Cancellation And Suspension Of The Licence :-

The Divisional Forest Officer may at any time, for good and sufficient reason to be recorded in writing, cancel or suspend any licence. Before taking any action to be under this rule or Rule 6 for rejection of any application for licence, or for renewal thereof, the Divisional Forest Officer shall issue a show-cause notice fixing a time for submission of his explanation, which shall be taken into due consideration while passing final orders and if the explanation is not received within the time limit fixed, it shall be construed that the party has no explanation to offer and the issue will be decided as deemed fit:

Provided that while passing an order of rejection for renewal of licence under Rule 6 of cancellation or suspension of any licence under this rule, the Divisional Forest Officer may also order that no transit permit under the Orissa Timber and Other Forest Produce Transit Rules, 1980 shall be issued for transport of timber etc. to or from the concerned Saw Mill as the order of such rejection, cancellation or suspension, as the case may be.

9. Copy Of Each Order Shall Be Supplied To The Applicant Free Of Cost :-

A copy of every order under Rules 6 and 8 shall be supplied to the applicant, free of cost by the Divisional Forest Officer.

10. Appeal :-

(1) Any applicant aggrieved by an order of the Divisional Forest Officer under Rules 6 and 8 may, within thirty days of the receipt of the copy of the order, present an appeal in writing before the Conservator of Forests concerned: Provided that the applicant can prefer a second appeal, the Chief Conservator of Forests in the event of his being aggrieved by the orders of the Conservator of Forests within thirty days of the receipt of the copies of the order of the Conservator of Forests.

(2) The decision of the Chief Conservator of Forests shall be final and binding.

11. Order Of Stay :-

On appeal being preferred under Rule 10, the Conservator of Forests or the Chief Conservator of Forests, as the case may be, may order stay of further proceeding in the matter pending decisions on such appeal.

12. Personal Hearing :-

The Conservator of Forests or the Chief Conservator of Forests, as the case may be, shall after giving the appellant an opportunity to represent his case in person and after obtaining such other particulars, as he may deem necessary, decide the appeal and communicate copies of his orders to the appellant.

13. Penalty :-

Any person who contravenes Rule 8 or any conditions of a licence granted under 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.

14. Non-Application Of The Rule Vide Provision To Rule 16 :-

These Rules shall not apply to the ordinary operation of domestic carpentry or to other similar work on a small scale or for sawing of the timber for bona fide use of the owner of such timber.

14A. Maintenance Of Registers And Returns :- Every person granted a licence under Rule 5 shall maintain regular accounts of all timber (both round and sawn) received and sold by him in Form Nos. 3 to 8 and shall also furnish a half-yearly return thereof to the Divisional Forest Officer on or before the 3rd April and 31st October in every year in Form No. 9.]

CASE LAW: Under Rule 14(a) the Court held that the act of taking

cognizance of an offence is not a mere formality-Therefore, before taking cognizance of an offence, it is the duty of the Magistrate to apply his mind in order to find out on the facts alleged by the prosecution whether there is a prima facie case so as to issue process- The revision was allowed and the impugned orders were set aside: 1989 (II) OLR 124.4 Rule 14-A-Difference of stock with the book balance-Offence under Rule 14-A but not under Section 45 of the Act or under Rule 21 of the Forest Produce Transit Rules, 1980: 1989 (II) OLR 124.

15. Inspection :-

Any Forest Officer and above the rank of Forester may enter into the premises of any saw mill or saw pit for the purpose of inspection and securities compliance with the provisions of these rules and of the conditions of the licence granted thereunder.

16. Repeal And Saving :-

All rules or orders corresponding to these Rules are in force immediately before the commencements of these rules are hereby repealed: Provided that all rules and orders made, permits, licence and passes granted, fees levied, imposed or assessed, proceedings instituted and all actions taken or things done under any of the rules or orders so repealed shall be construed to have been made, granted, levied or done under the corresponding provisions of these rules.