

## **Rajasthan Forest (Amendment) Act, 2012**

**15 of 2013**

**[09 April 2013]**

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### PREAMBLE

An Act further to amend the Rajasthan Forest Act, 1953.

Be it enacted by the Rajasthan State Legislature in the Sixty-third Year of the Republic of India, as follows:--

### **1. Short title and commencement :-**

(1) This Act may be called the Rajasthan Forest (Amendment) Act, 2012.

(2) It shall come into force on and from the date of its first

publication in the Rajasthan Gazette.

## **2. Amendment of Sec. 26, Rajasthan Act No. 13 of 1953 :-**

In sub-sec. (1) of Sec. 26 of the Rajasthan Forest Act, 1953 (Act No. 13 of 1953), hereinafter in this Act referred to as the principal Act,--

(i) for the punctuation mark ";", appearing at the end of the existing clause (i), the expression "; or" shall be substituted;

(ii) after the existing clause (i), so amended, the following new clause shall be added, namely:--

"(j) indulges in any act detrimental to the very existence of the forest."; and

(iii) for the existing expression "five hundred rupees", the expression "twenty five thousand rupees" shall be substituted.

## **3. Amendment of Sec. 33, Rajasthan Act No. 13 of 1953 :-**

In Sec, 33 of the principal Act, for the existing expression "five hundred rupees", the expression "twenty five thousand rupees" shall be substituted.

## **4. Amendment of Sec. 42, Rajasthan Act No. 13 of 1953 :-**

For the existing Sec. 42 of the principal Act, the following shall be substituted, namely:--

"42. Penalty for breach of rules made under Sec. 41.--

(1) Any person who contravenes the provisions of the rules made under Sec. 41 of this Act shall be punishable with imprisonment for

a term which may extend to six months or fine which may extend to twenty five thousand rupees or with both.

(2) In case where the offence under sub-sec. (1) 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, the penalties shall be double of those mentioned in sub-sec. (1).".

#### **5. Amendment of Sec. 51, Rajasthan Act No. 13 of 1953 :-**

In sub-sec. (2) of Sec. 51 of the principal Act, for the existing expression "five hundred rupees", the expression "twenty five thousand rupees" shall be substituted.

#### **6. Amendment of Sec. 52, Rajasthan Act No. 13 of 1953 :-**

For the existing Sec. 52 of the principal Act, the following shall be substituted, namely:--

"52. Seizure of property liable to confiscation and procedure therefor.--

(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 machinery, arms, tools, boats, cattle, vehicle, ropes, chains or any other article used in committing any such offence, may be seized by any Forest Officer or a Police Officer not below the rank of a head constable.

(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, either produce the property seized before an officer not below the rank of an Assistant Conservator of Forests authorised by the State Government in this behalf by notification (hereinafter in this Chapter referred to as the authorised officer) or where it is, having regard to quantity or bulk or other genuine difficulty, not practicable to produce property

seized before the authorised officer, make a report about the seizure to the authorised officer, or where it is intended to launch criminal proceedings against the offender immediately, 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 State 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.

(3) Subject to sub-sec. (5), where the authorised officer upon production before him of property seized or upon receipt of report about seizure, as the case may be, is satisfied that a forest offence has been committed in respect thereof, he may by order in writing and for reasons to be recorded, confiscate forest-produce so seized together with all machinery, arms, tools, boats, cattle, vehicle, ropes, chains or any other article used in committing such offence. A copy of order of confiscation shall be forwarded without any undue delay to the Chief Conservator of Forests of the region in which the forest produce has been seized.

(4) No order confiscating any property shall be made under sub-sec. (3) unless the authorised officer--

(a) sends an intimation in prescribed form about initiation of proceedings for confiscation of property to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made;

(b) issues a notice in writing to the person from whom the property is seized, and to any other person who may appear to the authorised officer to have some interest in such property;

(c) affords an opportunity to the persons referred to in clause (b) of making a representation within such reasonable time as may be

specified in the notice against the proposed confiscation; and

(d) gives to the officer effecting the seizure and the person or persons to whom notice has been issued under clause (b), a hearing on date to be fixed for such purpose.

(5) No order of confiscation under sub-sec. (3) of any machinery, arms, tools, boats, cattle, vehicle, ropes, chains or any other article (other than timber or forest produce seized) shall be made if any person referred to in clause (b) of sub-sec. (4) proves to the satisfaction of authorised officer that any such machinery, arms, tools, boats, cattle, vehicle, ropes, chains or any other article were used without his knowledge or connivance or as the case may be, without the knowledge or connivance of his servant or agent and that all reasonable and necessary precautions had been taken against use of objects aforesaid for commission of forest offence."

## **7. Insertion of new Secs. 52-A, 52-B and 52-C, Rajasthan Act No. 13 of 1953 :-**

After Sec. 52, amended as aforesaid, and before the existing Sec. 53, of the principal Act, the following new sections shall be inserted, namely:--

"52-A. Appeal against order of confiscation.--

(1) Any person aggrieved by an order of confiscation may, within thirty days of the order, or if fact of such order has not been communicated to him, within thirty days of date of knowledge of such order, prefer an appeal in writing, accompanied by such fee and payable in such form as may be prescribed and by certified copy of order of confiscation, to the Chief Conservator of Forests (hereinafter in this Chapter referred to as the Appellate Authority) of the forest region in which the forest produce has been seized.

Explanation.--The time requisite for obtaining certified copy of

order of confiscation shall be excluded while computing period of thirty days referred to in this sub-section.

(2) The Appellate Authority shall, on presentation of memorandum of appeal, issue a notice for hearing of appeal to the officer effecting seizure and to the appellant, and may send for record of the case.

(3) The Appellate Authority may pass such orders of "interim" nature for custody, preservation or disposal (if necessary) of the subject matter of confiscation, as may appear to be just or proper in the circumstances of the case.

(4) The Appellate Authority, having regard to the nature of the case or the complexities involved, may permit parties to the appeal to be represented by their respective legal practitioners.

(5) On the date fixed for hearing of the appeal or on such date to which the hearing may be adjourned, the Appellate Authority shall peruse the record and hear the parties to the appeal if present in person or through any agent duly authorised in writing or through a legal practitioner and shall thereafter proceed to pass an order of confirmation, reversal or modification of order of confiscation:

Provided that before passing any final order the Appellate Authority may, if it is considered necessary for proper decision of appeal, make further inquiry itself or cause it to be made by the authorised officer, and may also allow parties to file affidavits for asserting or refuting any fact that may arise for consideration and may allow proof of facts by affidavits.

(6) The Appellate Authority may also pass such orders of consequential nature, as it may deem necessary.

(7) Copy of final order, or of order of consequential nature, shall be sent to the authorised officer for compliance or for passing any

other appropriate order in conformity with the order of Appellate Authority.

52-B. Revision before Court of Sessions against order of Appellate Authority.--

(1) Any party to the appeal, aggrieved by final order or by order of consequential nature passed by the Appellate Authority, may within thirty days of the order sought to be impugned, submit a petition for revision to the Court of Sessions within the Sessions division whereof the headquarters of the Appellate Authority are situate.

Explanation.--In computing the period of thirty days under this sub-section, the time requisite for obtaining certified copy of order of Appellate Authority shall be excluded.

(2) The Court of Sessions may confirm, reverse or modify any final order or an order of consequential nature passed by the Appellate Authority.

(3) Copies of the order passed in revision shall be sent to the Appellate Authority and to the authorised officer for compliance or for passing such further orders or for taking such further action as may be directed by such Court.

(4) For entertaining, hearing and deciding a revision under this section, the Court of Sessions shall, as far as may be, exercise the same powers and follow the same procedure as it exercises and follows while entertaining, hearing and deciding a revision under the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).

(5) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974), the order of the Court of Sessions passed under this section shall be final and shall not be called in question before any Court.

52-C. Bar to jurisdiction of Court, etc. under certain circumstances.-

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(1) On receipt of intimation under sub-sec. (4) of Sec. 52 about initiation of proceedings for confiscation of property by the Magistrate having jurisdiction to try the offence on account of which the seizure of property, which is subject matter of confiscation, has been made, no court, tribunal or authority (other than the authorised officer, the Appellate Authority and the Court of Sessions referred to in Secs. 52, 52-A and 52-B), shall have jurisdiction to make orders with regard to possession, delivery, disposal, or distribution of the property in regard to which proceedings for confiscation are initiated under Sec. 52, notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force.

Explanation.--Where under any law for the time being in force, two or more Courts have jurisdiction to try forest offence, then receipt of intimation under sub-sec. (4) of Sec. 52 by one of the Courts of Magistrates having such jurisdiction shall be construed to be receipt of intimation under that provision by all the Courts and the bar to exercise jurisdiction shall operate on all such Courts.

(2) Nothing in sub-sec. (1) shall affect the power saved under Sec. 61."

### **8. Amendment of Sec. 53, Rajasthan Act No. 13 of 1953 :-**

For the existing Sec. 53 of the principal Act, the following shall be substituted, namely:--

"53. Power to release property seized under Sec. 52.--

Any forest officer of a rank not inferior to that of a Ranger who, or whose subordinate, has seized machinery, arms, tools, boats, cattle, vehicle, ropes, chains or any other article used in committing



any forest offence, shall, subject to the provisions of Sec. 52 may release the same on the execution by the owner thereof of a bond for the production of the property so released, when and where required to produce the same."

#### **9. Amendment of Sec. 54, Rajasthan Act No. 13 of 1953 :-**

In Sec. 54 of the principal Act,--

(i) for the existing punctuation mark ".", appearing at the end of sub-sec. (2), the punctuation mark ":" shall be substituted; and

(ii) after sub-sec. (2), so amended, the following proviso shall be added, namely:--

"Provided that before passing any order for disposal of property, the Magistrate shall satisfy himself that no intimation under sub-sec. (4) of Sec. 52 has been received by his Court or by any other Court having jurisdiction to try the offence on account of which the seizure of property has been made."

#### **10. Amendment of Sec. 55, Rajasthan Act No. 13 of 1953 :-**

For the existing sub-sec. (1) of Sec. 55 of the principal Act, the following shall be substituted, namely:--

"(1) All timber or forest produce which is not the property of State Government and in respect of which a forest offence has been committed, and all machinery, arms, tools, boats, cattle, vehicle, ropes, chains or any other article used in committing any forest offence, shall, subject to the provisions of Secs. 52, 52-A, 52-B and 52-C be liable to confiscation upon conviction of the offender for such forest offence."

#### **11. Amendment of Sec. 60, Rajasthan Act No. 13 of 1953 :-**

The existing provisions of Sec. 60 of the principal Act shall be renumbered as sub-sec. (2) thereof and before sub-sec. (2) as so renumbered, the following sub-section shall be inserted, namely:--

"(1) Property ordered to be confiscated by an authorised officer under Sec. 52 shall, subject to the orders passed in appeal under Sec. 52-A or in revision under Sec. 52-B, vest in the State Government free from all encumbrances upon the conclusion of the proceedings under Sec. 52-B:

Provided that such vesting shall take effect--

(i) where no appeal is preferred under Sec. 52-A, on the expiry of the period specified for preferring appeal under Sec. 52-A; and

(ii) where final order is passed by the Appellate Authority under Sec. 52-A but no revision is preferred under Sec. 52-B, on the expiry of the period specified for preferring revision under Sec. 52-B."

### **12. Amendment of Sec. 62, Rajasthan Act No. 13 of 1953 :-**

In Sec. 62 of the principal Act, for the existing expression "five hundred rupees", the expression "ten thousand rupees" shall be substituted.

### **13. Amendment of Sec. 67, Rajasthan Act No. 13 of 1953 :-**

For the existing Sec. 67 of the principal Act, the following shall be substituted, namely :--

"67. Power to try summarily.--

Any Chief Judicial Magistrate or any Metropolitan Magistrate or any Magistrate of the First Class specially empowered in this behalf by

the High Court, may try summarily under the Code of Criminal Procedure, 1973 (Central Act. No. 2 of 1974), any forest offence punishable with imprisonment for a term not exceeding six months, or fine not exceeding twenty five thousand rupees or both."

**14. Amendment of Sec. 68, Rajasthan Act No. 13 of 1953 :-**

For the existing sub-sec. (3) of Sec. 68 of the principal Act, the following shall be substituted, namely:--

"(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 Range Forest Officer."

**15. Amendment of Sec. 71, Rajasthan Act No. 13 of 1953 :-**

For the existing Sec. 71 of the principal Act, the following shall be substituted, namely:--

"71. Power to alter fines fixed under the Central Act No. 1 of 1871.-  
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The State Government may, by notification in the Official Gazette, direct that, in lieu of the fines fixed under the Cattle Trespass Act, 1871 (Central Act No. 1 of 1871) as adapted to the State of Rajasthan there shall be levied for each head of cattle impounded under Sec. 70 of this Act, such fines as it thinks fit, but not exceeding the following, that is to say--

For each elephant	- Twenty five rupees
For each camel	- Twenty five rupees
For each buffalo, horse, mare, gelding, colt, pony, filly, mule, bull, bullock, cow or heifer	- Ten rupees
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid	- One rupee."

**16. Amendment of Sec. 72, Rajasthan Act No. 13 of 1953 :-**

In Sec. 72 of the principal Act,--

(i) in clause (b), the existing word "and" appearing at the end shall be deleted;

(ii) in clause (c), for the existing punctuation mark "." appearing at the end, the expression "; and" shall be substituted; and

(iii) after the clause (c), so amended, the following new clause shall be added, namely:--

"(d) power to issue a search warrant under the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974).".