

387

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, AT NEW DELHI

INDEX

IN

ORIGINAL APPLICATION No. 518 OF 2022

IN THE MATTER OF:

Vivek Verma

..... Applicant

Versus

State of Uttarakhand & Others.

..... Respondents

S. No.	PARTICULARS	P. Nos.
1.	Index	1
2.	Compliance Affidavit	2-9
3.	<u>ANNEXURE No. 01</u> - A True/ typed/ photocopy of letter no. Kha-847/26-1 dated 08-02-2024.	10-11
4.	<u>ANNEXURE No. 02</u> - A True/ typed/ photocopy of letter no. Kha-846/29-3(3) dated 08-02-2024.	12-23

Date: /02/2024

Rahul Verma
Additional Advocate General
State of Uttarakhand

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, AT NEW DELHI**

COMPLAINCE AFFIDAVIT

(On Behalf of Respondent No.5)

IN

ORIGINAL APPLICATION No. 518 OF 2022

IN THE MATTER OF:

Vivek Verma

..... Applicant

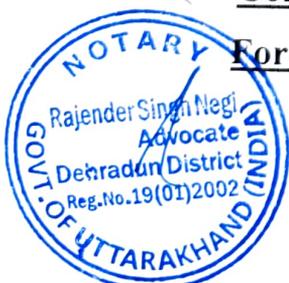
Versus

1. State of Uttarakhand through Chief Secretary, Government of Uttarakhand.
2. Principal Secretary, Department of Environment and Forest, Government of Uttarakhand.
3. Principal Secretary, Urban Development, Government of Uttarakhand.
4. Divisional Commissioner, Kumaon.
5. Principal Chief Conservator of Forests (HoFF), Government of Uttarakhand.
6. Commissioner, Municipal Corporation, Nainital.
7. Uttarakhand pollution Control Board.

..... Respondents

**Compliance Affidavit on behalf of Principal Chief Conservator of
Forests (HoFF), Uttarakhand in the compliance to the order dated**

28-11-2023, passed by this Hon'ble Tribunal



h

I, Anup Malik, aged about 59 years, S/o Sri Pratap Singh, presently posted as, Principal Chief Conservator of Forests (HoFF), Uttarakhand, Dehradun, do hereby solemnly affirm on oath and state as under:



1. That in my abovementioned official capacity, I am acquainted with facts and circumstances of the present matter. The deponent is filling the present compliance Affidavit in compliance to the directions passed by this Hon'ble Tribunal vide its order dated 03.05.2023 and further order dated 28.11.2023 in instant Original Application.
2. I state that I have read and understood the contents of the said above captioned Application and its annexures, the Orders dated 03.05.2023 & 28.11.2023 and in reply thereto, I state as under:

BRIEF FACTS OF THE CASE

3. That one Mr. Vivek Verma S/o of Late Shri Madan Mohan Lal Verma resident of H. No. 191, Bada Bazaar Mallital, Nainital had sent a letter petition to the Hon'ble Tribunal, complaining about unauthorized cutting of trees in forest area adjacent to Nainital city during the last few years, which was treated and registered as an Original Application bearing No. 518 of 2022 by this Hon'ble Tribunal.
4. That the instant Original Application was listed before this Hon'ble Tribunal on 01.09.2022 and this Hon'ble Tribunal was pleased to pass the order dated 01.09.2022 in instant matter. The relevant and operative part of the said order dated 01.09.2022 is being quoted as



under-

Jm

“3. Prima facie, the allegations made in the application raise questions relating to environment arising out of the implementation of the enactments specified in Schedule I to the National Green Tribunal Act, 2010. In view of the allegations made in the application, we consider it appropriate that a Joint Committee be constituted to verify the factual position and take remedial action. Accordingly, we constitute a Joint Committee comprising of representatives of Principal Chief Conservator of Forests (HoFF), Government of Uttarakhand, State PCB and Divisional Commissioner, Kumaon Division and direct the same to meet within two weeks, undertake visits to the site, look into the grievances of the applicant, associate the applicant, verify the factual position and take appropriate remedial action after following due process of law and submit its Factual and Action Taken Report within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF. The State PCB will be the nodal agency for coordination and compliance”.

5. That in compliance of the order dated 01.09.2022 passed by this Hon'ble Tribunal in instant Original Application, Dr. D.K. Joshi, Regional Officer, Pollution Control Board, Haldwani, Mr. Jeewan Singh Naganyal, Additional Commissioner Kumaon, Nainital and Mr. Man Singh, Conservator of Forest, South Kumaon Circle, Uttarakhand, Nainital conducted Joint Inspection on the areas on 23.09.2022. The Regional Officer, Pollution Control Board, Haldwani, Uttarakhand vide his letter dated 20.10.2022, communicated the joint inspection report to Member Secretary, Pollution Control Board, Uttarakhand, Dehradun.
6. That after the due course of hearing on 03.05.2023, this Hon'ble Tribunal was pleased to pass certain directions to the deponent vide



order dated 03.05.2023 in instant matter. The operative part of the said order dated 03.05.2023 is being quoted as under-

“10. Mr. Chandershekhar Joshi, DFO, Nainital has appeared through VC and we have interacted with him.

11. The DFO, Nainital is directed to file affidavit specifically mentioning the present status/latest position in respect of all incidents of illegal felling of trees reported by the Joint Committee In his affidavit DFO, Nainital shall also mention about feasibility and tentative costs of geo-tagging of old trees in Nainital particularly Deodar and Oak trees.

12. In his reply respondent no. 5-PCCF (HoFF) shall specifically mention the steps taken for setting up of Grievance Redressal Cell in compliance with the recommendation made by the Joint Committee in its report dated 31.10.2022. We are of the considered view that such Grievance Redressal Cell must have (i) a Control Room with dedicated Hot-line/web-portal where any Member of the Public should be able to make a complaint regarding illegal felling of trees and (ii) a quick response team for taking prompt action in case of receipt of any such complaint regarding illegal felling of trees to prevent illegal felling of trees and to ensure immediate seizure of illegally cut trees along with vehicles and equipment's used and arrest and prosecution of the offenders.

13. List for further consideration on 22.08.2023.

14. In view of the facts and circumstance of the case, we consider personal appearance of the DFO, Nainital, Regional Officer, UKSPCB and officer not below the rank of SDM duly authorised by the District Magistrate, Nainital before this Tribunal physically on the next date of hearing to be essential for assisting this Tribunal in just and proper adjudication of the questions involved in the case and they are accordingly directed to remain present before this Tribunal on that date”.

7. That in compliance of the above directions, the Divisional Forest Officer (DFO), Nainital Forest Division had filed a detailed Affidavit on 16.08.2023 before this Hon'ble Tribunal. In the said Affidavit, the



Jm

DFO produced each and every fact on record regarding the illegal falling of trees near Aroma Hotel, Nainital, Near Dhampur Band/Modi Bhawan, Nainital, Near Tifin top lands and Kilburry Road, Nainital, Near Sukhatal Car Parking area, Nainital, Near Snowdan Compound, Nainital and Near Holly Angel School, Nainital. The DFO also reported the number of trees cut in Nainital and feasibility and tentative costs of Geo-Tagging of old trees in Nainital.

8. That further, the matter was listed on 22.08.2023, before this Hon'ble Tribunal and the Hon'ble Tribunal was pleased to pass the order dated 22.08.2023 in instant matter. The operative part of the said order dated 22.08.2023 is being quoted as under-

"3. Accordingly, we direct the Forest Department to take action for realization of cost of the trees not according to the value but according to the parameters to be punitive so that no one can dare to cut the tree and to initiate prosecution according to the rules. State PCB, District Magistrate and the Municipal Corporation are directed to take action against illegal cutting of trees and planting trees with proper species as narrated above and to ensure plantation at least 10 times of the trees which were fallen in the hands of violators. Further action taken be filed by the authorities concerned before the Tribunal within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. The action taken report shall include, preventing discharge of sewage into drains leading to Naini lake, collection, processing and disposal of solid waste and status be furnished in quantifiable terms and removing and preventing encroachments on drains and other places causing traffic congestion.

4. List the matter for further consideration on 28.11.2023."

9. That in compliance to the above directions, the Divisional Forest Officer, Nainital Forest Division had filed a detailed Affidavit on



[Handwritten signature]

21.11.2023 before this Hon'ble Tribunal. In the said Affidavit the DFO explained the Action Taken by the department in all the matters reported by Joint Inspection Committee which was constituted as per order dated 01.09.2023. In the said Affidavit the DFO informed that only 28 trees were cut down illegally on private land and Rupees 2,50,000/- (Two lac fifty thousand only) only were recovered from the Violators. It was also submitted by the Divisional Forest Officer in the affidavit that 350 trees were planted in Narayan Nagar area of Nagar Palika Range, Nainital Forest Division, Nainital in compliance of order dated 22.08.2023.

10. That after the course of hearing on 28.11.2023, this Hon'ble Tribunal was pleased to pass certain directions in instant matter. The operative part of the said order dated 28.11.2023 is being quoted as under-

"18. We find that invariably in all cases such Forest offences are being compounded for amounts calculated in accordance with the Statutory provisions/guidelines but the amounts so realized on compounding of such offences do not have any punitive/deterrent effect and such amounts are also much-less than the amount calculated by an empirical assessment of environmental value of the trees in monetary terms. Even compensatory afforestation does not immediately provide a substitute to contribution of such trees (illegally cut) to protection and improvement of environment due to requirement of long period of time for growth of such trees planted by compensatory afforestation. Further a distinction has to be made in cases of illegal cutting of trees on forest land or land owned by Government and its instrumentalities in which generally speaking no compounding of such forest offences/offences should be permissible and only in cases of cutting of trees of permissible category from private land by the owners without permission from the Competent Authority, compounding may be permitted on payment of requisite composition fee only in cases of valid reasons for cutting of the same,

[Signature]



hardship to concerned individuals and also least damage to environment on account of compensatory afforestation. Therefore, the matter of compounding of such forest offences needs to be reviewed and appropriate instructions /guidelines need to be issued in this regard. The PCCF (HoFF), Government of Uttarakhand is directed to look into these issues and issue appropriate instructions/guidelines.

19. Action Taken Report regarding constitution of Grievance Redressal Cell and issuance of appropriate instructions/guidelines regarding compounding of cases be filed by PCCF (HoFF), Government of Uttarakhand within two months through E-filing portal (not through Email) in the form of searchable PDF/OCR Support PDF (not in the form of Image PDF) ”.

**ACTION TAKEN REPORT IN COMPLIANCE TO THE
ORDER DATED 28.11.2023**

11. That in compliance to the directions passed by this Hon'ble Tribunal vide order dated 28.11.2023, the deponent vide his office order no. Kha-847/26-1 dated 08-02-2024 had issued instructions/guidelines regarding establishment of State Level Grievance Redressal Cell which was formed by the office of the deponent on 28.01.2021 under the chairmanship of Additional Principal Chief Conservator of forests (Administration) with other senior Forest Officers as members. A True/typed/photocopy of letter no. Kha-847/26-1 dated 08.02.2024 is being annexed herein and marked as **Annexure no. 01** to this Affidavit.
12. That it is further submitted here that the deponent vide his order no. Kha-846/29-3(3) dated 08.02.2024, issued a detailed directions regarding provisions of compounding of cases related forest offences. A True/typed/photocopy of letter no. Kha-846/29-3(3)



[Handwritten Signature]

dated 08.02.2024 is being annexed herein and marked as Annexure no. 02 to this Affidavit.

13. That it is necessary to mention here that the Grievance Redressal Cell is now in function in Nainital Forest Division, Nainital. The Range Officer is maintaining a register for complaint regarding illegal falling of trees. Till today, 06 complaints have been registered by the Grievance Redressal Cell of Nainital. The deponent is complying the order dated 03.05.2023 and 28.11.2023 with letter and spirit. It is necessary to mention here that the department is bound and determined in disposal of the complaints.
14. That the deponent undertakes to file further details, if so directed by this Hon'ble Tribunal in the present matter.



DEPONENT

VERIFICATION

I, the deponent above named do hereby verify and say that the contents of my above affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed there from. The legal submissions are further true as per legal advice received and believed to be true and correct.

Verified by me at Nainital, Uttarakhand on this day of 14th, February, 2024.



S.No. 878/2024
 This affidavit is sworn before me by
 Shri. Ashu Malik
 who is identified by Shri. Ashu Malik
 at Dehradun on 14/2/24

DEPONENT

(Rajender Singh Negi)
 Advocate & Notary, Dehradun



कार्यालय प्रमुख वन संरक्षक (HoFF), उत्तराखण्ड, देहरादून।

85 Rajpur Road, Dehradun, Pin - 248001

E-mail : cclenvuk@gmail.com

Phone/Fa+911352741081

पत्रांक-~~9847~~/ 26-1 देहरादून,

दिनांक, 08 फरवरी, 2024

आदेश

उत्तराखण्ड वन विभाग के अन्तर्गत वन एवं वन्यजीवों के समुचित संरक्षण एवं संवर्धन हेतु स्थानीय जनमानस द्वारा सुझावों, शिकायतों एवं समस्याओं सम्बन्धी सूचनाओं की प्राप्ति हेतु निम्न प्रकार Toll Free Number वर्तमान में कार्य कर रहे हैं :-

1. वन्यजीव के सम्बन्ध में नं० 1800 890 9715
2. वनाग्नि के रोकथाम के सम्बन्ध में नं० 1800 180 4141

उक्त दोनों ही व्यवस्थायें उत्तराखण्ड वन विभाग में सफलतापूर्वक लागू की जा रही हैं।

माननीय राष्ट्रीय हरित प्राधिकरण, नई दिल्ली में योजित मूल आवेदन संख्या 518/2022 विवेक वर्मा बनाम उत्तराखण्ड राज्य में दिनांक 28.11.2023 को पारित निर्देशों के समादर में निर्देशित किया जाता है कि उक्त दोनों Toll Free Number भविष्य में अवैध कटान से सम्बन्धित शिकायतों (Grievances) की भी सूचनाएँ प्राप्त करेंगे। अवैध कटान से सम्बन्धित सूचना प्राप्त होने की स्थिति में यह सूचना इस कार्यालय के पत्रांक-ख-924/26-1 दिनांक 28.01.2021 (प्रतिसंलग्न) द्वारा अपर प्रमुख वन संरक्षक (प्रशासन), की अध्यक्षता में गठित वन सुरक्षा अनुश्रवण समिति (अपर प्रमुख वन संरक्षक प्रशासन, मुख्य वन संरक्षक वन्यजीव प्रशासन एवं आसूचना, मुख्य वन संरक्षक कुमाँऊ मुख्य वन संरक्षक गढ़वाल) को तत्काल प्रेषित की जायेगी। समिति का यह कर्तव्य होगा कि वह प्राप्त सूचनाओं/शिकायतों पर तत्काल नियमानुसार कार्यवाही करते हुए शिकायतकर्ता/सूचना प्रदानकर्ता को उसकी Grievance का निराकरण करते हुए अवगत करायेगी। समिति तत्काल प्रभाव से अवैध कटान संबंधी मामलों में "State level Grievance Cell" के रूप में भी कार्य करेगी।

उक्त आदेशों का व्यापक प्रचार-प्रसार सुनिश्चित किया जाये।

भगदीय,

(अनूप मलिक)

प्रमुख वन संरक्षक(HOFF),
उत्तराखण्ड देहरादून।

पत्रांक-~~9847~~/ 26-1 दिनांकित।

प्रतिलिपि निम्न को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

1. समस्त प्रमुख वन संरक्षक, उत्तराखण्ड वन विभाग।
2. समस्त अपर प्रमुख वन संरक्षक, उत्तराखण्ड विभाग।
3. समस्त मुख्य वन संरक्षक, उत्तराखण्ड विभाग।
4. समस्त वन संरक्षक, उत्तराखण्ड विभाग।
5. समस्त प्रभागीय वनाधिकारी, उत्तराखण्ड विभाग।

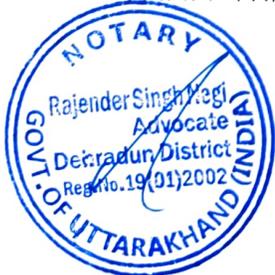
ज्ञ

(अनूप मलिक)

प्रमुख वन संरक्षक(HOFF),
उत्तराखण्ड देहरादून।

पत्रांक-~~9847~~/ 26-1 दिनांकित।

प्रतिलिपि :- 1. मुख्य वन संरक्षक, आई0टी0 सैल, वन मुख्यालय देहरादून को इस निर्देश के साथ प्रेषित कि उक्त आदेश का विभागीय वैबसाइड के माध्यम से व्यापक प्रचार-प्रसार सुनिश्चित किया जाये।



(अनूप मलिक)

प्रमुख वन संरक्षक(HOFF),
उत्तराखण्ड देहरादून।

पत्रांक

देहरादून: दिनांक

28/1/2021

कार्यालय आदेश

वन एवं वन्यजीव सुरक्षा के दृष्टिगत वन विभाग के अन्तर्गत "वन सुरक्षा अनुश्रवण समिति" का गठन निम्नानुसार किया जाता है:-

- | | | |
|--|---|---------|
| 1. अपर प्रमुख वन संरक्षक, प्रशासन, उत्तराखण्ड। | — | अध्यक्ष |
| 2. अपर प्रमुख वन संरक्षक / मुख्य वन संरक्षक वन्यजीव प्रशासन एवं आसूचना उत्तराखण्ड। | — | सदस्य |
| 3. मुख्य वन संरक्षक, गढ़वाल, पौड़ी। | — | सदस्य |
| 4. मुख्य वन संरक्षक, कुमाऊँ, नैनीताल। | — | सदस्य |

उपरोक्त "वन सुरक्षा अनुश्रवण समिति" प्रत्येक माह के समस्त घटित वन अपराध रोकथाम के लिए अपनाए जाने वाले उपायो व वन एवं वन्यजीव सुरक्षा सम्बन्धित महत्वपूर्ण विषयों पर सूचना सम्मिलित कर उनके विश्लेषण उपरान्त आख्या/सुझाव अद्योहस्ताक्षरी को उपलब्ध करायेगी। उक्त समिति मुख्यतः अपनी आख्या में निम्न विषयों का समावेश करेगी:-

- पंजीकृत वन अपराधो की प्रगति समीक्षा।
- वन अपराधो के रोकथाम हेतु अपनाये जा रहें उपायों की सार्थकता की समीक्षा।
- पुलिस/इन्टेलिजेंस/अर्धसैन्य बल से समन्वय की समीक्षा व सुझाव।

भवदीय

(राजीव भरतरी)
प्रमुख वन संरक्षक (HoFF),
उत्तराखण्ड, देहरादून।

संख्या 28-924 / 26-1 तददिनांकित।

- प्रतिलिपि:-
1. प्रमुख सचिव, वन एवं पर्यावरण, उत्तराखण्ड शासन के संज्ञानार्थ प्रेषित।
 2. प्रमुख वन संरक्षक, वन्यजीव, उत्तराखण्ड के संज्ञानार्थ प्रेषित।
 3. अ0प्र0व0सं0, मुख्य वन्यजीव प्रतिपालक, उत्तराखण्ड को सूचनार्थ प्रेषित।
 4. अपर प्रमुख वन संरक्षक, प्रशासन, उत्तराखण्ड को सूचनार्थ प्रेषित।
 5. अपर प्रमुख वन संरक्षक/मुख्य वन संरक्षक, वन्यजीव प्रशासन एवं आसूचना उत्तराखण्ड को सूचनार्थ प्रेषित।
 6. मुख्य वन संरक्षक, गढ़वाल, पौड़ी को सूचनार्थ प्रेषित।
 6. मुख्य वन संरक्षक, कुमाऊँ, नैनीताल को सूचनार्थ प्रेषित।

गार्ड फाईल।

This affidavit is sworn before me by
Shri.....
who is identified by Shri.....
at Dehradun on 19/2/24

(राजीव भरतरी)

प्रमुख वन संरक्षक (HoFF),
उत्तराखण्ड, देहरादून।



(Rajender Singh Negi)
Advocate & Notary, Dehradun

398

कार्यालय प्रमुख वन संरक्षक, (HoFF), उत्तराखण्ड

दूर- 0135-2746934, 2741461, फ़ैक्स- 2741630, 2741462 ईमेल- pccfuk@gmail.com

पत्रांक- 846/29-3(1) देहरादून, दिनांक- 08/02/2024

—:आदेश:—

माननीय राष्ट्रीय हरित प्राधिकरण, नई दिल्ली में योजित मूल आवेदन संख्या-518/2022, विवेक वर्मा बनाम उत्तराखण्ड राज्य व अन्य में पारित आदेश दिनांक 28.11.2023 द्वारा वन विभाग के अन्तर्गत अपराधों को प्रशमित करने के सम्बन्ध में दिशा-निर्देश निर्गत करने हेतु निर्देशित किया गया है। इस क्रम में वन अपराधों के प्रशमन के सम्बन्ध में निम्न प्रकार व्यवस्थायें निर्धारित हैं जिनका कड़ाई से पालन सुनिश्चित किया जाये।

क – सामान्य दिशा-निर्देश।

1. वन अपराधों से निपटने के लिए विभिन्न अधिनियमों के अन्तर्गत प्रशमन एवं न्यायिक वाद दायर करने की व्यवस्थायें विद्यमान हैं। वनाधिकारियों को अपने स्वविवेक का पालन करते हुए इन अपराधों से इस प्रकार निपटा जाना चाहिए कि भविष्य में इनकी पुनरावृत्ति न हो एवं वन अपराधी पूर्णतः हतोत्साहित हो एवं उनके अन्दर विधि का भय व्याप्त हो।
2. वन अपराधों का प्रशमन का मुख्य उद्देश्य अनावश्यक एवं लघु प्रवृत्ति के प्रकरणों का विभागीय स्तर पर निस्तारण है, लेकिन कोई ऐसा अपराध जिसमें सुसंगठित एवं सुनियोजित रीति से वनों एवं वन्य जीवों को क्षति पहुंचाने का प्रयास किया जाता है, को प्रशमित किया जाना उचित नहीं होगा। प्रशमन की व्यवस्था का लाभ अनुवर्ती अपराधकर्ता को नहीं दिया जाना चाहिए।
3. प्रत्येक प्रकरण में केस प्रशमित करने से पूर्व अभियुक्तगण के अपराधिक इतिहास पर विचार किया जाना आवश्यक होगा। वन विभाग में वन अपराध में संलिप्त अभियुक्तों का अपराधिक इतिहास रखा जाये एवं पुलिस प्रशासन तथा अन्य एजेंसियों से भी समन्वय स्थापित कर ऐसे अपराधिक इतिहास तैयार किया जाये। ये इतिहास वृत्त स्तर पर भी संरक्षित किये जाये ताकि अभियुक्तगण के विरुद्ध कठोर कार्यवाही सुनिश्चित की जा सकेगी।

ख – भारतीय वन अधिनियम-1927 या भारतीय वन (उत्तरांचल संशोधन) अधिनियम-2001 से सम्बन्धित अपराधों के प्रशमन हेतु दिशा-निर्देश।

1. भारतीय वन अधिनियम-1927 अथवा भारतीय वन (उत्तरांचल संशोधन) अधिनियम-2001 के अन्तर्गत पंजीकृत होने वाले अपराध भारतीय वन अधिनियम-1927 की धारा-68 (संलग्नक-01) के तहत प्रभागीय वनाधिकारियों के स्तर से पूर्ववत प्रशमित किये जायेंगे। उत्तर प्रदेश, फॉरेस्ट मैनुअल (आठवें संस्करण) धारा-1, अध्याय-21 की धारा-273(1)(ए0) (संलग्नक-02) के तहत वन संरक्षक भी अधिनियम के अन्तर्गत पंजीकृत अपराधों को धारा-68 के तहत प्रशमित करने हेतु सक्षम अधिकारी हैं।



2. उत्तर प्रदेश, फॉरेस्ट मैनुअल (आठवें संस्करण) के खण्ड-1, अध्याय-21 की धारा-273(1)(ए0)(डी0) (संलग्नक-02) की व्यवस्था के अनुसार कुमाऊँ वृत्त अन्तर्गत सहायक वन संरक्षक पूर्ववत धारा-68 के तहत वन अपराधों का प्रशमन करते रहेंगे।
3. भारतीय वन अधिनियम-1927 अथवा भारतीय वन (उत्तरांचल संशोधन) अधिनियम-2001 के अन्तर्गत पंजीकृत अपराध की जांच उत्तर प्रदेश, फॉरेस्ट मैनुअल (आठवें संस्करण) के खण्ड-1, अध्याय-21 की धारा-273(1)(सी0)(डी0) के अनुसार तीन माह में पूर्ण कर ली जायेगी। यदि निर्धारित अवधि में जांच पूर्ण नहीं होती है, तो वन क्षेत्राधिकारी द्वारा स्वयं जांच की जायेगी।
4. उत्तर प्रदेश, फॉरेस्ट मैनुअल (आठवें संस्करण) के खण्ड-1, अध्याय-21 की धारा-273(1)(सी0)(ए0) (संलग्नक-02) के अनुसार कोई भी वन अपराध घटित होने की तिथि से एक माह से पूर्व प्रशमित नहीं किया जायेगा। प्रशमन की कार्यवाही उसी अवस्था में एक माह से पूर्व की जा सकती है, जब प्रभागीय वनाधिकारी अथवा अपराध को प्रशमित करने की शक्ति रखने वाले अधिकारी द्वारा स्वयं जांच की गयी हो।
5. जिन प्रभागों में सहायक वन संरक्षक के स्तर से वन अपराधों के प्रशमन की व्यवस्था उत्तर प्रदेश, फॉरेस्ट मैनुअल (आठवें संस्करण) के खण्ड-1, अध्याय-21 की धारा-273(1)(ए0)(डी0) (संलग्नक-02) में वर्णित हों, वहां प्रभागीय वनाधिकारी प्रत्येक माह ऐसे केसों के प्रशमन की समीक्षा करेंगे एवं यह सुनिश्चित करेंगे कि सम्पूर्ण कार्यवाही विधि संगत रीति से पूर्ण की गयी है।
6. जिन प्रकरणों में अभियुक्तगण द्वारा अनुवर्ती अपराध किये गये हैं, अथवा सुनियोजित एवं सुसंगठित रूप से अपराध किया जाना संज्ञान में आता है, ऐसे प्रकरणों में भारतीय वन अधिनियम-1927 अथवा भारतीय वन (उत्तरांचल संशोधन) अधिनियम-2001 के अन्तर्गत अपराध प्रशमित करने के स्थान पर प्रकरण को सम्बन्धित अधिकारिता क्षेत्र वाले न्यायालय में वाद दायर करने हेतु प्रेषित किया जाना चाहिये।
7. ऐसे प्रकरण जहां अभियुक्तगण द्वारा वन कर्मियों से मारपीट, अभद्रता, कार्य में बाधा डालना, धमकी/उत्प्रेरणा आदि का प्रयोग किया जाता है, वहां अपराध को भारतीय वन अधिनियम-1927 के धारा-68 के तहत प्रशमित नहीं किया जाना चाहिये। ऐसे प्रकरणों को भी सम्बन्धित अधिकारिता क्षेत्र में वाद दायर करने हेतु प्रेषित किया जाना चाहिये।
8. उत्तर प्रदेश, फॉरेस्ट मैनुअल (आठवें संस्करण) के खण्ड-1, अध्याय-21 की धारा-273(1)(बी0)(ए0), (संलग्नक-02) की व्यवस्थानुसार भारतीय वन अधिनियम-1927 की धारा-68 के तहत वन सम्पदा के मूल्य का दस गुना केवल उसी परिस्थिति में लिया जा सकेगा जब इस हेतु वन संरक्षक स्तर के अधिकारी से लिखित में अनुमति प्राप्त कर ली जाय।

ग - उत्तर प्रदेश वृक्ष संरक्षण अधिनियम-1976 के तहत पंजीकृत अपराधों के प्रशमन के सम्बन्ध में

दिशा-निर्देश।

उत्तर प्रदेश वृक्ष संरक्षण अधिनियम-1976 की धारा-4 अथवा अन्य किसी धारा का उल्लंघन करने पर अपराधों का प्रशमन अधिनियम की धारा-15 के तहत पुनरीक्षण अधिकारी/वन संरक्षक के स्तर से किये



जाने का प्राविधान है। उक्त हेतु सम्बन्धित अधिकारी अपने स्वविवेक का पालन इस प्रकार करें कि भविष्य में वन अपराधों की घटनाओं पर अंकुश लगे।

2. उत्तर प्रदेश वृक्ष संरक्षण अधिनियम-1976 की धारा-4 के तहत अनुवर्ती अपराध होने की स्थिति में या अधिनियम के उद्देश्यों के विपरित अत्यधिक मात्रा में अवैध पातन पाये जाने पर ऐसे केसों को प्रश्नित नहीं किया जाना चाहिए। ऐसे केस तत्काल जांचोपरान्त वाद दायर करने हेतु सक्षम न्यायालय में प्रस्तुत किये जाने उचित होंगे।
3. नैनीताल नगर अन्तर्गत नाप भूमि में वृक्षों के पातन के सम्बन्ध में उत्तर प्रदेश वृक्ष संरक्षण अधिनियम-1976 के साथ-साथ नगर पालिका उप-विधि-1916 यथा-संशोधित के तहत निर्धारित दण्ड भी प्रभावी रहेंगे, क्योंकि उत्तर प्रदेश वृक्ष संरक्षण अधिनियम-1976 की धारा-22 के तहत इस अधिनियम के उप-बन्ध उस समय प्रवृत्त किसी अन्य विधि के अतिरिक्त होंगे।
4. उत्तर प्रदेश वृक्ष संरक्षण अधिनियम-1976 की धारा-15 की उपधारा-2 के अन्तर्गत अपराध प्रश्नित होने की अवस्था में अधिनियम की धारा-14 के अन्तर्गत अभिग्रहित सम्पत्ति को अवमुक्त किया जा सकता है, लेकिन न्यायालय में वाद दायर करने की स्थिति में उत्तर प्रदेश वृक्ष संरक्षण अधिनियम-1976 की धारा-12 एवं 14(2) के प्राविधानों के अन्तर्गत ही कार्यवाही की जायेगी।
5. उत्तर प्रदेश वृक्ष संरक्षण अधिनियम-1976 की धारा-15 के तहत अपराधों को प्रश्नित करने की व्यवस्था का उपयोग अनुवर्ती अपराध की स्थिति में किया जाना उचित नहीं होगा। जो व्यक्ति इस अधिनियम के अन्तर्गत बार-बार अपराधों में संलिप्त पाये जायेंगे, उनके विरुद्ध सक्षम न्यायालय में वाद दायर किया जाना उचित होगा।

घ – उत्तर प्रदेश लीसा एवं अन्य वन उपज (ब्यापार का विनियमन) अधिनियम-1976 के तहत अपराधों के प्रशमन हेतु दिशा-निर्देश।

1. उत्तर प्रदेश लीसा एवं अन्य वन उपज (ब्यापार का विनियमन) अधिनियम-1976 अथवा उत्तर प्रदेश लीसा एवं अन्य वन उपज (ब्यापार का विनियमन) नियमावली-1976 के अन्तर्गत घटित होने वाले अपराध अधिनियम की धारा-14 के अन्तर्गत उल्लेखित व्यवस्था के आधार पर प्रश्नित किये जा सकते हैं। यह भी ध्यान देने योग्य है कि अधिनियम की धारा-14 की व्यवस्थाएँ भारतीय वन अधिनियम-1927 अथवा भारतीय वन (उत्तरांचल संशोधन) अधिनियम-2001 की धारा-68 से भी आच्छादित होती है।
2. लीसा या लीसा उत्पादों का अवैध अभिवहन सम्बन्धित ऐसे अपराध जहां अपराध सु-संगठित एवं सुनियोजित गिरोह द्वारा किया जाता है, या वाहन के मॉडल में केबिन बनाकर परिवर्तन किया जाता है, या कूट-रचित अभिलेखों की सहायता से अभिवहन किया जाता है, तो ऐसे अपराध प्रश्नित नहीं किये जाने चाहिये।

3. जहां लीसा एवं लीसा उत्पादों का अवैध अभिवहन का अनुवर्ती अपराध घटित होता है, वहां ऐसे अपराध को प्रश्नित नहीं किया जाना चाहिये और अभियुक्तगण के विरुद्ध नियमानुसार न्यायालय में वाद दायर किया जाना उचित होगा।



ड. - वन्यजीव संरक्षण अधिनियम-1972 के अन्तर्गत अपराधों के प्रशमन हेतु दिशा-निर्देश।

1. वन्यजीव संरक्षण अधिनियम-1972 की धारा-54 के तहत अपराध प्रशमन करने की शक्ति केवल प्रभागीय वनाधिकारी/उप-निदेशक या उससे उच्चतर अधिकारी में निहित है। इस सम्बन्ध में अधिनियम के प्राविधानों को कठोरता से लागू कराने के लिए मुख्य वन्य जीव प्रतिपालक सक्षम अधिकारी हैं। वन्यजीव संरक्षण अधिनियम-1972 के अन्तर्गत घटित अपराधों के प्रशमनीय होने की स्थिति में विशेष निर्देश मुख्य वन्य जीव प्रतिपालक के स्तर से ही निर्गत किये जाने उचित होंगे।

उपरोक्तानुसार, उपरोक्त आदेशों का अनुपालन सुनिश्चित किया जाय।


(अनूप मलिक)
प्रमुख वन संरक्षक (HoFF)
उत्तराखण्ड, देहरादून

पत्रांक- ९-846 / 29-3(3) / तददिनांकित।

प्रतिलिपि- निम्न को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित-

1. समस्त प्रमुख वन संरक्षक, उत्तराखण्ड, देहरादून।
2. समस्त अपर वन संरक्षक, उत्तराखण्ड।
3. समस्त मुख्य वन संरक्षक, उत्तराखण्ड।
4. समस्त वन संरक्षक, उत्तराखण्ड।
5. समस्त प्रभागीय वनाधिकारी, उत्तराखण्ड।
6. गार्ड फाईल।


(अनूप मलिक)
प्रमुख वन संरक्षक (HoFF)
उत्तराखण्ड, देहरादून



भारतीय वन अधिनियम, 1927

तो और तब मैं मामले के बारे में अधिकारिता प्राप्त मजिस्ट्रेट के समक्ष या निकटतम पुलिस स्टेशन के भार साधक अधिकारी के समक्ष, उपसंजात हो जाऊंगा।

66. अपराधों का किया जाना निवारित करने की शक्ति— हर वन अधिकारी और पुलिस अधिकारी किसी वन विषयक अपराध के किए जाने को निवारित करेगा और उसे निवारित करने के प्रयोजन के लिए हस्तक्षेप कर सकेगा।

67. अपराधों का संक्षिप्ततः विचारण करने की शक्ति — जिला मजिस्ट्रेट या राज्य सरकार द्वारा इस निमित्त विशेषतया सशक्त कोई प्रथम वर्ग मजिस्ट्रेट 'दण्ड प्रक्रिया संहिता, 1898 (1898 का 5) के अधीन किसी ऐसे वन विषयक अपराध का विचारण संक्षिप्ततः कर सकेगा, जो छह मास से अनधिक कारावास या पांच सौ रुपए से अनधिक जुर्माने से, या दोनों से, दण्डनीय है।

*68. अपराधों का शमन करने की शक्ति— (1) राज्य सरकार, राजपत्र में अधिसूचना द्वारा, किसी वन अधिकारी को शक्ति प्रदान कर सकेगी कि वह—

(क) किसी ऐसे व्यक्ति से, जिसके विरुद्ध ऐसा युक्तियुक्त संदेह विद्यमान है कि उसने धारा 62 या धारा 63 में विनिर्दिष्ट किसी अपराध से भिन्न कोई वन विषयक अपराध किया है, उस अपराध के लिए, जिसके बारे में यह संदेह है कि उसने ऐसा अपराध किया है, प्रतिकार के रूप में कोई धनराशि प्रतिगृहीत कर ले, और

(ख) जब कोई सम्पत्ति अधिहरणीय होने के नाते अभिगृहीत की गई है, तब ऐसे अधिकारी द्वारा यथा प्राक्कलित उसके मूल्य के दे दिए जाने पर उस सम्पत्ति को निर्मुक्त कर दे।

(2) ऐसे अधिकारी के, यथास्थिति, ऐसी धनराशि या मूल्य या दोनों के दे दिए जाने पर संदिग्ध व्यक्ति को यदि वह अभिरक्षा में है, उन्मोचित कर दिया जाएगा, और वह सम्पत्ति, यदि कोई हो, जो अभिगृहीत की गई है, निर्मुक्त कर दी जाएगी तथा ऐसे व्यक्ति या ऐसी सम्पत्ति के विरुद्ध आगे कोई कार्यवाही नहीं की जाएगी।

(3) इस धारा के अधीन किसी वन अधिकारी को उस दशा में ही शक्ति प्रदत्त की जाएगी जबकि वह रेंजर से अनिम्न पंक्ति का वन अधिकारी नहीं है और कम से कम सौ रुपए मासिक वेतन पाता है, और उपधारा (1) के खण्ड (क) के अधीन प्रतिकार के रूप में प्रतिगृहीत धनराशि किसी भी दशा में पचास रुपए से अधिक नहीं है।

69. यह उपधारणा कि वन-उपज सरकार की है— जबकि इस अधिनियम के अधीन की गई किसी कार्यवाही में, या इस अधिनियम या इस के अधीन किए गए किसी कार्य के परिणामस्वरूप ऐसा प्रश्न उठता है कि क्या कोई वन-उपज सरकार की सम्पत्ति है या नहीं, तब, जब तक कि प्रतिकूल साबित न कर दिया जाए, ऐसी उपज के बारे में उपधारणा की जाएगी कि वह सरकार की सम्पत्ति है।

दण्ड प्रक्रिया संहिता, 1973 (1974 का 2)

68 (3) : पांचवे वेतन आयोग के बाद आजकल अधिकतर राज्यों और संघ शासित प्रदेशों में रेंजर का न्यूनतम वेतन रु० 5,500 (पांच हजार पांच सौ) है।

* उत्तरांचल में राजपत्र द्वारा संशोधित



Forest Manual

Art 271, 272

Part IV
LEGAL AND MISCELLANEOUS MATTERS

Chapter- XXI

Legal Powers of Forest OfficersLegal powers
of forest
officers.

271. The Indian Forest Act(XVI of 1927) as amended from time to time in its application to U.P. contains the legal powers of forest officers. Appendix VII contains a list of local rules and orders made under this act, and includes orders concerning the legal powers of forest officers. In the following articles, details of the powers under the more important sections of the I.F.A. are given. For the legal powers under the U.P. Private Forest Act(Act No. 6 of 1949) ; U.P. Protection of Trees in rural and hill areas Act 1976; Wild Life (Protection) Act. 1972. See Chapter XXIV

F.M. (VII) 271.

Powers under
I.F.A.

272. Powers under various sections of the I.F.A. (For G.Os. see list in the last column of Appendix VII against section 76) have been given as under:

F.M. (VII) 272

(1) Section 21- All D.F.Os. have been empowered to publish translations of notifications of reserved forests.

F.M. (VII)272(1)

(2) Section 25 - Conservators have been empowered to step ways and water courses in reserved forests subject to the provisions of this section and with the previous sanction of the Commissioner.

F.M. (VII) 272(2)

(3) (a) Section 26-All D.FOs. have been empowered to notify seasons during which the kindling, of fire is not prohibited, and to permit the clearing or breaking up of land for cultivation or any other purpose (subject to the provisions of Art. 150). All Deputy and Assistant Conservators, Rangers, Deputy Rangers, and Foresters when specially authorised by the Conservator, have been empowered to permit acts specified in clauses(c), (d), (f) and (g) of this section otherwise prohibited in reserved forests.

F.M. (VII) 272(3)
(a)

(b) The Officer Commanding T. Company, 1/3rd Q.A.O. Gurkha Rifles for the time being and any guards employed by him from time to time in this behalf, whether in permanent or temporary employment, have been appointed 'Forest Officers' for Sitoli reserve and their powers and duties are limited to such powers and duties as are provided by Act XVI of 1927 to be exercised and performed by any Forest Officer in respect of offences under clause (1) of sub-section (1) of section 26 of the Act.

F.M. (VII) 272(3)
(b)
(Notification) U-
75-F(4)/XIV-
286.dt.16-3-
1937).

(4) Section 33, 34(a) All Deputy and Assistant Conservators, Rangers, Deputy Rangers and Foresters when specially authorised by the Conservator, and also the Dy.Commissioners of Almora, Garhwal and Naini Tal have been empowered to permit acts specified in clauses(a) and (b) of section 33 (Protected Forests) .

F.M. (VII) 272(4)
(a)

(b) All D.F.Os. and the D.Cs. mentioned above have been empowered to permit acts specified in clause (c) of the same section.

F.M.(VII) 272(4)
(b)

(5) Section 45, 46 and 50 - (a) all D.F.Os. have been empowered to notify depots for drift timber; to decide claims to drift; and to receive payments on account of drift timber.

F.M. (VII) 272(5)
(a)

(b) Deleted

(6) Section 61 - All D.F.Os. and the D.Cs. of Almora, Garhwal and Nainital Districts have been empowered to direct at any time the release of any property seized under section 52, I.F.A.

F.M. (VII) 272
(6)

(7) Section 68- For the powers of various officers to compound forest offences and the procedure to be followed when doing so, see Art. 273.

F.M. (VII) 272(7)

(8) Section 72- (a) All Conservators and D.F.Os. have been invested with the powers described in clauses (b), (c), (d) of section 72, I.F.A. which consist of the powers to compel the attendance of witnesses and the production of documents, power to issue a search warrant under C.P.C.; and power to hold an inquiry into forest offences and to receive and record evidence.

F.M. (VII)
272(8)(a). ()
Notification No.
304 & 384 dated
February 28 and
August 28, 1880

(b) All D.F.Os. and all gazetted forest officers who have passed the prescribed departmental examination in forest law, have been invested with the powers prescribed in clause (a) of the same section. This consists of power to enter upon any land and to survey, demarcate and make a map of the same.

F.M. (VII) 272(8)
(b) (Notification
No. 682/ XIV- 68
dt. November 23,
1916)

(c) Selected R.Os. by name, while serving in the kumaon Circle in charge of ranges, and the R.O. River Range in Chakrata division of the Tehri- Garhwal (now Tehri) circle, have been invested with the powers under clauses (b) and (d) of section 72 I.F.A., which are described above, vide G.O. No. 949/XIV-364, dt. November 3, 1929 (article 273(3) (f)). Every forest officer in all other forest circles is empowered to enquire into forest offences and to receive and record evidence, which he does under orders of the D.F.O.

F.M. (VII) 272(8)
(c). (Notification
No. 223/XIV _L,
dated February
2, 1922 . G.O. No.
2894/ XIV, dt.
set. 24, 1949

(9) (a) Section 76- within their respective charges, all Conservators, Deputy Conservators, Assistant Conservators, Forest Rangers, Deputy Rangers, Foresters and forest Guards, whether in permanent or temporary employment, are appointed to do all the acts and exercise all powers are provided by the Act to be done or exercised by 'any forest officers'.

F.M. (VII)
272(9).

(b) Whenever the inhabitants of any village cause or are suspected to have caused fire, wilfully or negligently in a reserved forest (class I, II and Old Reserves in Kumaon) in U.P., the District Magistrate of the district in which such Forest is situated may direct that the right of pasture or of forest produce, exercised by such inhabitants in such forest or any other reserved forest in which such rights are exercised, shall be suspended for a period not exceeding three years.

Notification No.
690 AF. XIV 154-
A.F. 42 dated
December 10
1942

(10) Section 33 - All D.F.Os. and the D.Cs. of Almora, Garhwal and Nainital Districts have been given the power to take possession of and sell forest produce for the recovery of Government dues.

F.M. (VII) 272
(10)

Note- Conservator of Forests are empowered to exercise all or any of the powers referred to under sub-clauses 1 to 6, 8 to 10, 12 to 13 of this Article.

F.M. (VII)
272(10) Note.

(11) Deleted.

(12) The D.F.O. Chakrata Division has been empowered to do all that is required to be done by a forest officer by the rules published with the Notifications specified in the marginally quoted G.O. for regulating the control of floating operations within Indian territory administered by the Government of the Punjab (Now Himanchal Pradesh & Haryana) on

F.M. (VII)
272(12) (Punjab
Government
Notification No.
18043, dt. July
22, 1924, G.O. No.



Forest Manual

Art 272, 273

the river Yamuna and its tributaries and within 8 Kilometers from the right bank of the main stream of Yamuna.

(13) (a) The power has been delegated to the C.C.F. to open or close to grazing forest areas which are not already notified as open or close to such extent and for such periods as he may consider advisable with due regard to the future progress of the forests.

(b) The power has been delegated to Conservators of Forests to open to grazing forest area which are not already notified as open, to such extent, and for such periods as they consider necessary with due regard the futures progress of the forests, subject to a maximum of 2,000 hectares (5, 000 acres) in any one division at any one time.

(14) Deleted.

Regarding
Compounding
of Forest

273. The classes of officers that have been invested with the power to compound forest offences under section 68 I.F.A. are given in sub- art (1) below, and the procedure to be followed in such cases in given in sub arts(2) and (3).

(A) (a) All Conservators, the Collector of Bijnor, and all D.F.Os. have been invested with the powers to compound forest offences , as described in section 66 I.F.A.

(b) The Dy. Commissioners of Almora, Garhwal and Nainital districts have been invested with the same powers within those district protected forests of the Kumaon Division which are not reserved and included in the Kumaon Circle. This power has also been delegated to the Forest Panchayat of the Panchayati Forests under rule 19 of the Panchayati Forest Rules, 1976 (Notification No. 6589/ XIV-2-64 dt. July 19, 1976 framed under sub- section (2) of section 28 of the Indian Forest Act, 1927 (Act No. XVI of 1927) Read with section 21 of the General Clauses Act, 1897 (Act. No. X of 1897).

(c) The Assistant Commissioner, Nainital, has been invested, for the time being , with the powers described in sub- section (1), section 68 in respect of forest offences committed, or reasonably suspected to have been committed, within those district protected forests of the Kumaon Division not reserved or included in the Kumaon or Western Circles.

(d) Gazetted forest officers when employed in Kumaon Circle have been invested with the powers conferred by this section in respect of forest offences committed or reasonably suspected to have been committed within that circle.

(e) Deleted.

(f) Deleted.

(B) The following instructions regarding the procedure to be adopted in compounding cases have been issued by the State Government.

(a) In compounding forest offences under section 68, I.F.A., A forest officer subordinate to a Conservator should not , without the Conservator's sanction, demand in any case an amount of compensation which exceeds ten times the value of the forest produce in respect of which reasonable suspiciaon exists that a forest offence has been committed, or ten time the amount of the dues , the payment of which has

644/ XIV-220 dt.
30 runc 1938

F.M.(VII)272
(13)(a) (G.O. No
783/XIV- 258,dt.
Oct. 13,1938 &
G.O. No. 1357 -
F/XIV dt. Sep.
15,1958

F.M. (VII)
272(13) (b) G.O.
No. 123/ XIV-
258-1938, dt.
february 5, 1940.

F.M. (VII) 273

F.M. (VII)
273(A)(a).
Notification No.
392, dt. 28.2.1980
F.M. (VII) 273(A)
(b)
Notification No.
78-F/638- 53, dt.
Oct. 17, 1893

F.M. (VII) 273(1)
(c) Notification
No. 356/ XIV-
110- 1905, dt.
June 1, 1905.

F.M. (VII) 273(1)
(d) Notification
No. 164 / XIV-
234, dt. Feb. 27,
1914.

F.M. (VII) 273
(B).

F.M. (VII) 273(2)
Resolution No.
381- F/ 277- 5 dt.
June 9, 1885,
F.O. No 542 -F/
831 -2 dated
August 29



Forest Manual

Art 273

been evaded, subject to maximum amount of rupees five hundred, or in the case of breaches of the rules regarding a fishing a maximum sum of rupees ten. On payment of the compensation demanded no further proceedings shall be taken against such person or property. All forest officers exercising powers under section 68 should enter all cases taken up by them with a view to disposal under that section in a register (In form no. H1) which should show the following :

- (i) serial number (by financial year),
 - (ii) name, percentage, and residence of the offender,
 - (iii) offence, section of the Forest Act, Value of the property in respect of which the offense has been committed,
 - (iv) date of report and of arrest, if made,
 - (v) Statement of the offender,
 - (vi) decision, with abstract of the facts and date of conclusion of case,
 - (vii) amount of compensation demanded,
 - (viii) date on which paid or reasons for non- payment, (item and number is quoted from the disburser's cash- book)
- (b) Conservator should make suitable arrangements for the inspection of this register and a request from the District Magistrate for the inspection of the register or for the submission to him of an extract relating to any particular case should be complied with.

1888G.O. No
324/XIV - 215 dt
June 18, 1902,
Notification No.
2658/ XVII- 179
- 1958 dt. Nov. 2,
1960.

F.M. (VII) 273
(b)

F.M.(VII) 273-C

F.M. (VII) 273
C.(a)

F.M.(VII) 273- C
(b).

F.M.(VII) 273-
(c)

(c) In continuation of the foregoing instructions the following rules have been issued by the Government for the compounding of offences:

(a) No offence alleged to have been committed more than one month before the date of the first report regarding it may be compounded, except after a personal investigation by the D.F.O. or other officer duly empowered by law to compound offences.

(b) Forest Guards and other subordinate Forest Officers, duly empowered, by virtue of their office, under section 2, I.F.A. i.c. to do all acts and exercise all powers that are provided in the said Act to be done or exercised by any Forest Officer are required to report to the officer in charge of the range the occurrence of any offence against the said Act within 24 hours(in the Kumaun Circle within three days) from the time of detection of such offence. The report may be made either personally or in writing. If in writing, it shall be in the form attached to these rules, and if made in person the same form shall be prepared by the R.O., who shall cause it to be signed by the reporting officer. The R.O. receiving such a report or himself detecting an offence shall, within three days of such receipt or detection, and after such preliminary inquiry as he may think necessary, transmit the report duly serialled and with his remarks to the forest officer in charge of the division. This is known as the preliminary forest offence report and is entered in the divisional register and a divisional serial number is allotted to the case.

(c) The form used for forest offence reports (see sub-para(b) above) is H2 and a sample is appended below. A report is written in triplicate in this form. Two copies are forwarded to the R.O. by the subordinate making the offence report. The R.O. submits one copy of the report to the D.F.O. for information immediately upon receipt and uses the other copy for further inquiry and submission with the final report. The same procedure applies to the reports of cases initiated by the R.O.

273(VI)(Xa)



Forest Manual

Art. 273

himself.

SAMPLE OF FORM NO. 112

Forest Department..... Circle.....
 Division..... Forest
 offence..... Report No..... Dated.....
 Range.....

1. Name (S) of offender(s) Father's name(s), residential/ postal address(es) and name of Police Station.
2. Name (s) parentage and address(es) of witness(es).
3. Detailed description of the said offence and its date.
4. Cost(Value of the damage caused by the offence).
5. Special statement with regard to chalan and Investigation.
6. Details of reports and explanation of evidence etc.

(d) should it happen in any case that a period of one month has elapsed (or in the Kumaun Circle six mnths, or in cases in which Bhotias, Merchas, migratory labourers, or people migrating to the Bhabar in the winter are concerned, 12 months, have elapsed) between the first and the final report of the R.O. such case may be compounded only after personal inquiry by the D.F.O. or by an officer duly empowered in the hills, by the Government to compound offences. In normal practice R.Os. are required to submit their final forest offence reports within three months of the preliminary report and it is important to prevent long standing cases to hang on.

F.M.(VII) 273-C(d)

(e) No officer who is not empowered under section 68 may issue notices inviting persons to attend for the purpose of inquiries into alleged offences or in order to pay compensation.

F.M.(VII)273-C(e)

(f) An officer empowered to accept compensation shall not offer to accept it, except in cases which he has inquired into himself, or which have been inquired into under his orders by any officer of not lower grade than an officer in charge of a range, provided that in the Kumaun Circle compensation can be accepted when cases are inquired into by a range assistant of not lower rank than a forester. Owing to heavy increase in work, many forest offences cases in other forest circles are now-a-days necessarily enquired into by deputy rangers and foresters attached to a range, since the R.O. cannot himself cope expeditiously with all of them.

F.M. (VII) 273-C(f)
GO No. 949/
XIBV-346, dt.
November 3, 1929

(D) The proceeding under section 68, I.F.A. are a via media to prevent what might (and often does) result in a protracted court- case. It is thus a summary and final settlement out of court to which both parties have agreed. Consequently it is not permissible for the D.F.O. to ask the magistrate to recover compensation fixed under section 68, as arrears of land revenue under section 82, I.F.A. or under the provisions of Public Money(Recovery of Dues) Act, 1965 in those cases where the offender has first agreed to pay the compensation but later refuses to do so or pays only part of the same. In every such contingency, the original forest offence case should be sent ab initio to the court for prosecution under the particular section of the I.F.A. to which the offence relates, or if of petty nature, it may be dropped.

F.M. (VII) 273-D



Forest Manual

Art 274

Power to disarm any person without a licence.

274. In modification of Government notification no. 274, dated March 11, 1880, and under section 13, of the Indian Arms Act, (XI of 1878), the State Government of the U.P. is pleased to invest the Conservators of Forests, all Deputy Conservators, and Assistant Conservator of Forests in Uttar Pradesh with the power to disarm any person going armed without a licence or in contravention of its provisions within the local limits of the jurisdictions.

F.M. (VII) 274.



FOREST MANUAL

exercise or perform the same subject to such conditions or restrictions, if any, as the State Government may specify in the order.

Powers of entry, search, seizure, etc.

13. (1) Any police officer not below the rank of Sub-Inspector or any forest officer may, with a view to securing compliance with the provisions of this Chapter or the rule made thereunder are to satisfying that the said provisions have been complied with--

(i) stop and search any person, vessel, vehicle, or receptacle used or intended to be used for the transport of resin or resin product ;

(ii) enter and search any place ;

(iii) seize resin or resin product in respect of which he suspects that any provision of this chapter or the rules made thereunder has been, is being or is about to be contravened along with the receptacle containing or carrying such resin.

(2) The provisions of section 100 of the Code of Criminal Procedure, 1973 relating to search and seizure shall, so far as may be, apply to searches and seizure under this section, (Act 2 of 1974).

Penalty.

14. If any person contravenes any of the provisions of this Chapter or the rules made thereunder, he shall be deemed to have committed a forest offence and the resin or resin product, if any, in respect of which such offence is committed shall in relation to the commission of such offence be deemed to be forest-produce, and the provisions of Chapter IX of the Indian Forest Act, 1927, as amended in its application to Uttar Pradesh (excepting Section 69 thereof), shall accordingly apply with necessary modifications, (Act XVI of 1927).

Offences by companies.

15. (1) If the person committing an offence under this Chapter is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Chapter has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any managing agent, secretary, treasurer, director, manager, or other officer of the Company, such managing agent, secretary, treasurer, director, manager or other officer of the company, such managing agent, secretary, treasurer, director, manager or other officer of the Company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly :

Explanation -- For the purpose of this section --

(a) "company" means any body corporate, and includes a firm or other association of individuals, and :

(b) "director" in relation to a firm, means a partner in the firm.

16. No court shall take cognizance of any offence under this Chapter except on a report in writing of the facts constituting such offence made by any Forest Officer not below the rank of a Range Officer or by such other officer as may be empowered by general or special order of the State Government in that behalf.

This affidavit is sworn before me by Rajender Singh Negi who is identified by Shri. A. M. at Dehradun on 19/2/24

