

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.**

Original Application No. 911/2022

In the matter of:-

Prof. Dr. Sanjeev Bagai & Ors.

.....Applicants

Versus

Department of Environment, GNCTD & Ors.

.....Respondents

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Place: Shimla

Dated: 05.02.2024

HP State Pollution Control Board,
Shimla

1966

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PRINCIPAL BENCH, NEW DELHI.**

Original Application No. 911/2022

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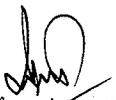
Department of Environment, GNCTD & Ors.

.....Respondents

**Response on behalf of HP State Pollution Control
Board in compliance to order dated 5-12-2023.**

May it please your lordships :-

1. That the present Application under Section 14 and 15 of the National Green Tribunal Act, 2010 was filed by the applicant against the cutting, felling and pruning of trees, in Vasant Vihar New Delhi in violation of Section 8 read with Section 2(h) of the Delhi Preservation of Trees Act, 1994. Later on scope of the case was expanded and States of Uttar Pradesh, Uttarakhand, Punjab, Haryana, Himachal Pradesh and NCT of Delhi and Union Territories of Chandigarh, Jammu and Kashmir and Ladakh and State Pollution Control Boards were impleaded as respondents. These respondents were directed to file their reply/response with respect to the aspects of protection of trees against illegal felling and pruning of trees and all related aspects and framing of guidelines/rules regarding the same. The CPCB was also directed to obtain and compile the information with respect to the above mentioned aspects from all the States and Union Territories and include such compiled information in its reply/response.
2. That in the State Himachal Pradesh issues of protection of trees against illegal felling and pruning of trees and all related aspects and framing of guidelines/rules regarding the same are being regulated by the Forest Department of Government of HP under Forest Laws. As per information received from the Forest Department vide letter dated 23-1-2024 (**Annexure R-1**) in the State of HP


Member Secretary,
HP State Pollution Control Board
Shimla

conservation and protection of tree grown on private land is dealt as per Land Preservation Act 1978 and rules made thereunder. As regards to the issue of trees grown on Government Forest Land the same are being regulated as per Indian Forest Act 1927.

3. That as regard to issue of pruning and lopping of trees, the Department of Forest has issued instructions/guidelines to its field functionaries vide letter dated 6-7-2023, copy of which is annexed as **Annexure R-2**.
4. That the Forest Department Govt. of HP under section 68 of Indian Forest Act, 1927 has issued notification dated 5-5-2010 to compound the forest offences and to accept compensation and /for release of seized property. Copy of notification is annexed as **Annexure R-3**.
5. That State Pollution Control Board has prepared Action Plans for the plantation of the trees by the Forest Department, Govt of HP in compliance to the directions passed by Hon'ble NGT in OA No. 673/2018 and OA No. 681/2018 in the seven polluted river stretches and non-attainment cities of the State of Himachal Pradesh. The Action Plans are in progress.
6. That the response of the Board are hereby submitted for kind perusal and consideration of the Hon'ble Tribunal.


Member Secretary,
HP State Pollution Control Board
Shimla

Member Secretary
HP State Pollution Control Board,
Shimla, Himachal Pradesh

Dated:- 5-2-2024

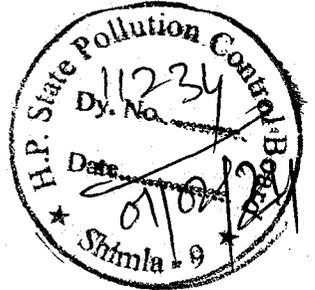
Place:- Shimla

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ANNEXURE - R-1

**File No. Ft42-1807/2023 (Mgt.) OA No. 911/2022
Forest Department Himachal Pradesh.**



From :

Principal Chief Conservator of Forests (HoFF)
Himachal Pradesh, Shimla.

To:

The Member Secretary HP State Pollution Control Board
Phase-III, New Shimla-171009 Himachal Pradesh, Shimla.

Dated Shimla-1, the.

23 JAN 2024

Subject:

Compliance of NGT Order dated 05.12.2023 passed by the Hon'ble NGT in
OA No. 911/2022 titled Prof. Dr. Sanjeev Bagai & Ors V/s Department of
Environment, GNCTD & Ors pending before the Hon'ble NGT New Delhi.

Sir:

Kindly refer to your office letter No. PCB/(DL370)OA NO. 911/2022-
14357 dated 17.01.2024 on the subject cited above.

2. The requisite information duly filled in proforma is sent herewith for favour
of information & necessary action.

Your faithfully

Chief Conservator of Forests, (Management)
O/o Pr. CCF (HoFF) HP

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01/02/24

Format

Information with respect to all related aspects of protection of trees, felling and pruning of trees and framing of guidelines/rules regarding the same.

		Remarks
1.	Name of State /Union Territory	-
2.	i) Is there any Act for protection /preservation of trees of felling and pruning of trees	Yes, i) In the State of HP conservation and protection of tree grown on private land is dealt as per Land Preservation Act 1978 and rules made there under i.e. HP Land Preservation Rules 1983. ii) As regards trees grown an Govt. Forests necessary action is being taken as per provisions contained vide IFA 1927 copy of same is available on the web site.
	ii) If yes, please provide brief details of the Act and copy of the same	A copy of LPA 1978, HP Land preservation Rules, 1983 HP Govt. order No.FFE-B-A(3)4/99 Dated 10.09.2002, and Govt order No. FFE-B-A(3)4/99 Dated 24.09.2003 is enclosed herewith as <u>Annexure-I</u>
	iii) If no, is there any plan of development of Act	- N/A
	iv) If yes, please provide timeline of development of such Act	- N/A
2.	i) Is there any Rule for protection of trees or felling and pruning of trees	As regards pruning & loping of trees necessary instructions/Guidelines to field functionaries in compliance of OA No. 372/2022 titled as Avinash Vidhrohi V/s State of HP have been issued vide this office letter No.Ft.1/2018-19(S)Vol-II dated 06.07.2023.
	ii) If yes, please provide brief details of the Rule and copy of the same	A copy of Memo No. Ft.1/2018-19(S) Vol-II dated 06.07.2023 is enclosed herewith as <u>Annexure-II</u>
	iii) If no, is there any plan of development of Rule	- N/A
	iv) If yes, please provide timeline of development of such Rule	- N/A
3.	i) Is there any Guidelines for protection	As per point No 2 above.

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	of trees or felling and pruning of trees	
	ii) If yes, please provide brief details of the Guidelines and copy of the same	- N/A
	iii) If no, is there any plan of development of Guidelines	- No
	iv) If yes, please provide timeline of development of such Guidelines	----
4.	i) Is there any methodology for imposing environmental compensation/penalty for violation in respect of illegal trees felling and illegal pruning of trees.	HP Govt. Vide Notification No. FFE-B-A(3)/2010 dated 05.05.2021 in compliance of Hon'ble HP High Court orders dated 28.08.2009 passed in Copc No. 56/2009 -titled as Kuldip Singh Chauhan V/s Balbir Singh and others has issued regulations of compound the forest offences and to accept compensation and /or release the seized property.
	ii) If yes, please provide brief details of the methodology any copy of the same	A copy of Govt. Notification No. FFE-B-A(3)/2010 dated 05.05.2010is enclosed as <u>Annexure-III</u>
	iii) If no, is there any plan of development of methodology	----
	Iv) If yes, please provide timeline of development of such methodology	----
5.	If Acts, Rules, Guidelines, Statutory framework are not there, How dealt, please provide information.	N/A
6.	Other relevant information	----

THE HIMACHAL PRADESH LAND PRESERVATION ACT, 1978
ARRANGEMENT OF SECTIONS

Sections:

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

NOTIFICATION AND REGULATION OF AREAS

3. Notification of areas.
4. Power to regulate, restrict or prohibit, by general or special order, within notified areas, certain matters.
5. Power in certain cases to regulate, restrict or prohibit, by special order, within notified areas, certain further matters.
6. Power to require execution of works and taking of measures.
7. Necessity for regulation, restriction or prohibition to be recited in the order under sections 4, 5 or 6 and publication of order.
8. Proclamation of regulations, restrictions and prohibitions and admission of claims for compensation for rights which are restricted or prohibited.
9. Power to fix time within which work to be executed, etc.

CHAPTER III

POWER TO ENTER UPON AND DELIMIT NOTIFIED AREAS AND BEDS

10. Power to enter upon, survey and demarcate local areas notified under section 3.

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11. Inquiry into claims and awards thereupon.
12. Method of awarding compensation and effect of such award.

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13. Record-of-rights in respect of notified areas.
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15. Appeal, review and revision.

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PUNISHMENT, BAR OF SUITS AND RULES

16. Punishments for offences.
 17. Applications of provisions of the Indian Forest Act, 1927.
 18. Power to try offences summarily.
 19. Power to compound offences.
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 21. Power to make rules.
 22. Repeal and savings.

THE HIMACHAL PRADESH LAND PRESERVATION ACT, 1978

(ACT NO. 28 OF 1978)¹

(Received the assent of the President of India on the 4th August, 1978 and was published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 26th August, 1978, pp. 1119-1129.)

An Act to provide for the better preservation and protection of certain portions of the territories of Himachal Pradesh.

It hereby enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-ninth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the Himachal Pradesh Land Preservation Act, 1978.

(2) It shall extend to the whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

2. Definitions.- In this Act, unless a different intention appears from subject or context,-

(a) "land" means land within any area preserved and protected or otherwise dealt with in the manner provided in this Act and includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(b) "cho" means a stream or torrent flowing through or from the mountainous ranges within Himachal Pradesh;

1. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 8th April, 1978, p. 326.

- (c) "tree", "timber", "forest produce" and "cattle", respectively, shall have the meanings severally assigned thereto in section 2 of the Indian Forest Act, 1927 (16 of 1927);
- (d) "person interested" includes all persons claiming any interest in compensation to be made on account of any measures taken under this Act;
- (e) "Deputy Commissioner" includes any officer or officers at any time specially appointed by the State Government to perform the functions of the Deputy Commissioner under this Act;
- (f) "right-holder" includes-
 - (i) persons not being tenants or mortgagees having rights to, or in land; and
 - (ii) persons having rights of collection of forest produce or of grazing of pasture; and
- (g) "erosion" includes the removal or displacement of earth, soil, stones or other materials by the action of wind or water.

CHAPTER II

NOTIFICATION AND REGULATION OF AREAS

3. Notification of areas.- Whenever it appears to the State Government that it is desirable to provide for the conservation of sub-soil water or the prevention of erosion in any area subject to erosion or likely to become subjected to erosion, the State Government may, by notification published in the Official Gazette, make a direction accordingly.

4. Power to regulate, restrict or prohibit, by general or special order, within notified areas, certain matters.- In respect of areas notified under section 3 generally or the whole or any part of any such area, the State Government may, by general or special order, temporarily regulate, restrict or prohibit-

- (a) the clearing or breaking up or cultivating of land not ordinarily under cultivation prior to the publication of the notification under section 3;
- (b) the quarrying of stone or the burning of lime at places where such stone or lime had not ordinarily been so quarried or burnt prior to the publication of the notification under section 3;
- (c) the cutting of trees or timber, or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause(b) of this section, of any forest produce other than grass save for *bona-fide domestic* or agricultural purposes of a right holder in such area;
- (d) the setting on fire of trees, timber or forest produce;

- (e) the admission, herding, pasturing or retention of sheep, goats or camels;
- (f) the examination of forest produce passing out of any such area; and
- (g) the granting of permits to the inhabitants of towns and villages situated within the limits or in the vicinity of any such area to take any tree, timber or forest produce for their own use therefrom or to pasture sheep, goats or camels or to cultivate or erect buildings therein and the production and return of such permits by such persons.

5. Power in certain cases to regulate, restrict or prohibit by special order, within notified areas, certain further matters.- In respect of any specified village or villages or part or parts thereof comprised within the limits of any area notified under section 3, the State Government may, by special order, temporarily regulate, restrict or prohibit-

- (a) the cultivation of any land ordinarily under cultivation prior to the publication of the notification under section 3;
- (b) the quarrying of any stone or the burning of any lime at places where such stone or lime had ordinarily been so quarried or burnt prior to the publication of the notification under section 3;
- (c) the cutting of trees or timber or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this section, of any forest produce for any purposes; and
- (d) the admission, herding, pasturing or retention of cattle generally other than sheep, goats and camels or of any class or description of such cattle.

6. Power to require execution of works and taking of measures.- In respect of areas notified under section 3 generally or the whole or any part of any such area, the State Government may, by general or special order, direct-

- (a) the levelling, terracing, drainage and embanking of fields;
- (b) the construction of earth works in fields and ravines;
- (c) the provision of drains for stream water;
- (d) the protection of land against the action of wind or water;
- (e) the training of streams; and
- (f) the execution of such other works and the carrying out of such other measures, as may, in the opinion of the State Government be necessary for carrying out the purposes of this Act.

7. Necessity for regulation, restriction or prohibition to be recited in the order under sections 4, 5 or 6 and publication of order.- Every order made under sections 4, 5 or 6 shall be published in the Official Gazette and shall set forth that the State Government is satisfied, after due inquiry, that regulations, restrictions, prohibitions or directions contained in the order are necessary for the purpose of giving effect to the provisions of this Act.

8. Proclamation of regulations, restrictions and prohibitions and admission of claims for compensation for rights which are restricted or prohibited.- (1) When in respect of any area a notification has been published under section 3, and -

- (a) upon such publication any general order made under section 4 or section 6 becomes applicable to such area, or
- (b) any special order under section 4, 5 or 6 is made in respect of such area,

the Deputy Commissioner shall cause public notice of the provisions of such general or special order to be given, and if the provisions of any such order restrict or prohibit the exercise of any existing rights, shall also publish in the language of the country and in every town and village the boundaries of which include any portion of the area within or over which the exercise of any such rights is so restricted or prohibited, a proclamation stating the regulations, restrictions and prohibitions, which have been imposed by any such order, within the limits of such area or in any part or parts thereof, fixing a period of not less than three months from the date of such proclamation and requiring every person claiming any compensation in respect of any right so restricted or prohibited, within such period either to present to such officer a written notice specifying, or to appear before him and state the nature and extent of such right and the amount and particulars of the compensation, if any, claimed in respect thereof.

(2) Any claim not preferred within the time fixed in the proclamation made under sub-section (1), shall be rejected:

Provided that with the previous sanction of the Commissioner, the Deputy Commissioner may admit any such claim as if it had been made within such period.

9. Power to fix time within which work to be executed, etc.- (1) When an order has been issued under section 6, the Deputy Commissioner may by notice require the owner or occupier of the land to execute such works or take such measures as may be specified in the notice.

(2) Every such notice shall state the time within which the works are to be executed or measures are to be taken.

(3) A person aggrieved by an order contained in such a notice as aforesaid may, within thirty days from the service of such notice or within such longer period as the Deputy Commissioner may allow in this behalf, serve a notice of his objections on the Deputy Commissioner in such manner as may be provided by the rules made under this Act.

(4) If and in so far as an objection under this section is based on the ground of some informality, defect or error in or in connection with the notice, the Deputy Commissioner shall dismiss the objection, if he is satisfied that the informality, defect or error was not a material one.

(5) If the objection is brought on all or any of the following grounds that is to say-

- (a) that the notice might lawfully have been served on the occupier of the land in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served;
- (b) that some other person, being the owner, occupancy-tenant, mortgagee with possession, or lessee, or farm-holder, or possessing some other right in or over the land to be benefited, ought to contribute towards the expenses of executing any works or taking any measures required;
- (c) where the work or measure is work or measure for the common benefit of the land in question and other land, that some other person being the owner or occupier of land to be benefited, ought to contribute towards the expenses of executing any works or taking any measures required;

the objector shall serve a copy of his notice of objection on each other person referred to, in clauses (a) to (c) and on the hearing of the objection of Deputy Commissioner may make such order as he thinks fit with respect to the person by whom any work is to be executed or measure is to be taken and the contribution to be made by any other person towards the cost of the work or measure, or as to the proportions in which any expenses which may become recoverable by the Deputy Commissioner under sub-section (6) are to be borne by the objector and such other persons:

Provided that no such order shall be made unless the person who is likely to be affected thereby has been given a reasonable opportunity of being heard.

In exercising his power under this sub-section the Deputy Commissioner shall have regard-

- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works and measures required, and
- (b) in any case, to the degree of benefit to be derived by the different persons concerned.

(6) Notwithstanding anything to the contrary contained in any law for the time being in force, no person required by a notice or an order under this section to execute any work or to take any measure shall be required to obtain the consent of any other person before complying with such notice or order.

(7) Subject to such right of objection as aforesaid and the right of appeal under section 15, if the person required by the notice to execute the works or to take measures fails to execute the works and take measures indicated within the time thereby limited, the Deputy Commissioner may himself or by an agent execute the works or take the measures and recover from that person the expenses reasonably incurred by him in so doing:

Provided that it shall not be necessary for the Deputy Commissioner to wait for the decision of an objection other than an objection under clause (a) of sub-section (5), or an appeal against any decision on such objection, before taking action under this sub-section.

(8) If the cost of any work executed or any measure taken by any person remains unpaid by the person from whom it is due after the date specified in a notice issued in this behalf by the Deputy Commissioner or such other date as is fixed by him, such cost shall be recoverable as an arrear of land revenue and a certificate issued by the Deputy Commissioner in this behalf shall be final and conclusive evidence of the sum so recoverable and the person liable for the same.

(9) Every order issued under this section shall be published in such manner, as may be prescribed in the rules made under this Act, and upon such publication every person affected thereby shall, unless the contrary be proved, be deemed to have had due notice thereof.

(10) The Deputy Commissioner, may, by general or special order, authorise any revenue officer subordinate to him to enquire into any objection that may be brought under this section:

Provided that no final order on any such objection shall be passed except by the Deputy Commissioner himself.

(11) In making an order on objections brought under this section, Deputy Commissioner shall be guided by such rules, if any, as the State Government may make in this behalf.

(12) For the purposes of this section, the expression "estate" shall have the meaning assigned thereto in the Himachal Pradesh Land Revenue Act, 1953 (6 of 1954).

CHAPTER III

POWER TO ENTER UPON AND DELIMIT NOTIFIED AREAS AND BEDS.

10. Power to enter upon, survey and demarcate local areas notified under section 3.- It shall be lawful for the Deputy Commissioner and any other person, as may be authorised by him, from time to time, as occasion may require,-

- (a) to enter upon and survey any land comprised within any area in regard to which any notification has been issued under section 3 or in regard to which a notification is proposed to be issued under section 6;

- (b) to erect bench-marks on and to delimit and demarcate the boundaries of any such area; and
- (c) to do all other acts and things which may be necessary in order adequately to preserve or protect any land or to give effect to all or any of the provisions of this Act:

Provided that reasonable compensation, to be assessed and determined in the manner in this Act provided, shall be made in respect of any damage or injury caused to the property or rights of any person in carrying out any operations under the provisions of this section.

CHAPTER IV

INQUIRY INTO CLAIMS AND AWARDS OF COMPENSATION

11. Inquiries into claims and awards thereupon.- (1) The Deputy Commissioner shall-

- (a) fix a date for inquiring into all claims made under section 8 and may in his discretion, from time to time, adjourn the inquiry to a date to be fixed by him;
- (b) record in writing all statements made under section 8;
- (c) inquire into all claims duly preferred under section 8; and
- (d) make and award upon such claim, setting out therein the nature and extent of the right claimed, the person or persons making such claim, the extent, if any, to which, and the person or persons in whose favour, the right established, the extent to which it is to be restricted or prohibited and the nature and amount of the compensation, if any, awarded.

(2) For the purposes of every such inquiry the Deputy Commissioner may exercise all or any of the powers of a civil court in the trial of suits under the Code of Civil Procedure (5 of 1908).

(3) The Deputy Commissioner shall announce his award to such persons interested, or their representatives, as are present and shall record the acceptance of those who accept it. To such as are not present, the Deputy Commissioner shall cause immediate notice of his award to be given.

12. Method of awarding compensation and effect of such award.-

(1) In determining the amount of compensation the Deputy Commissioner shall be guided, so far as may be, by the provisions of sections 23 and 24 of the Land Acquisition Act, 1894 (1 of 1894), and as to matters which cannot be dealt with under those provisions, by what is just and reasonable in the circumstances of each case.

(2) The Deputy Commissioner may, with the sanction of the State Government and the consent of the person entitled, instead of money, award compensation in land or by reduction in revenue or in any other form.

(3) If in any case, the exercise of any right is prohibited for a time only, compensation shall be awarded only in respect of the period during which the exercise of such rights is so prohibited.

CHAPTER V

PROCEDURE, RECORDS AND APPEAL

13. Record-of-rights in respect of notified areas.- (1) For every area, notified under section 3, the Deputy Commissioner shall prepare a record setting forth the nature, description, local situation and extent of all rights mentioned in section 4 and section 5 -

- (a) existing within such area at the time of the publication of the notification relating thereto under section 3;
- (b) regulated, restricted, or prohibited by any order under section 4 or section 5.

(2) When any award is made under section 11 its effect upon any right shall also be recorded therein.

(3) The record prepared under this section shall be presumed to be correct until contrary is proved or a new entry lawfully substituted therefor.

14. Mode of proclaiming notifications and of serving notices, orders and processes, issued under the Act.- (1) Upon the publication of a notification issued under any of the provisions of this Act, the Deputy Commissioner shall cause public notice of the substance thereof to be given at convenient places in the locality to which such notification relates.

(2) The procedure prescribed in sections 21, 22 and 23 of the Himachal Pradesh Land Revenue Act, 1953 (6 of 1954), shall be followed, as far as may be, in proceeding under this Act.

15. Appeal, review and revision.- Every order passed and every award made by the Deputy Commissioner under this Act shall for the purposes of appeal, review and revision, respectively, be deemed to be the order of a Collector within the meaning of sections 14, 15, 16 and 17 of the Himachal Pradesh Land Revenue Act, 1953 (6 of 1954):

Provided that nothing in this Act contained shall be deemed to exclude the jurisdiction of any civil court to decide any dispute arising between the persons interested in any compensation awarded as to the apportionment or distribution thereof amongst such persons or any of them.

CHAPTER VI

PUNISHMENTS, BAR OF SUITS AND RULES

16. Punishment for offences.- Any person who, within the limits of any area notified under section 3, commits any breach of any regulation made, restrictions or prohibitions imposed, order passed or requisition made under sections 4, 5, 6 or 9 or obstructs or resists in any way whatever the execution of acts or things done under section 10, shall be punished with imprisonment

for a term which may extend to 6 months, or with a fine which may extend to five hundred rupees, or with both.

17. Applications of provisions of the Indian Forest Act, 1927.- The provisions of sections 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64 (excluding last sentence), 66 and 73 of the Indian Forest Act, 1927 (16 of 1927) shall, so far as applicable, be read as part of this Act and for the purposes of those provisions, every offence punishable under section 16 shall be deemed to be a "forest offence" and every officer employed in the management of any area notified under section 3 as caretaker or otherwise, shall be deemed to be a forest officer.

18. Power to try offences summarily.- The Chief Judicial Magistrate or any Judicial Magistrate of the first class specially empowered in this behalf by the State Government shall try summarily, under the Code of Criminal Procedure, 1973 (2 of 1974), any forest offence punishable with imprisonment for a term not exceeding six months, or with a fine not exceeding five hundred rupees, or with both.

19. Power to compound offences.- (1) The State Government may, by notification in the Official Gazette, empower a Gazetted Forest Officer-

- (a) to accept from any person, against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in section 62 of the Indian Forest Act, 1927 (16 of 1927), 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 payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such 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 proceeding shall be taken against such person or property.

(3) The sum of money accepted as compensation under clause (a) sub-section (1) shall in no case exceed the sum of five hundred rupees in each case.

20. Bar to suits.- No suit shall lie against the State Government for anything done under this Act, and no suit shall lie against any public servant, for anything done, or purporting to have been done, by him, in good faith, under this Act.

21. Power to make rules.- (1) The State Government may make rules, consistent with this Act,-

- (a) regulating the procedure to be observed in any inquiry or proceeding under this Act; and
- (b) generally for the purpose of carrying into effect all or any of the provisions of this Act.

(2) All rules made under this section shall be published in the Official Gazette.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days, which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22. Repeal and Savings.- The Punjab Preservation Act, 1900 (2 of 1900), as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966) and the Mandi State Anti-Erosion Act, 2004 B.K.(4 of 2004 B.K.), as in force in the areas comprised in the erstwhile princely State of Mandi, are hereby repealed:

Provided that anything done or any action taken, including rules made, notifications issued or proceedings commenced or continued under the provisions of the Acts hereby repealed shall, unless it is inconsistent with the provision of this Act, be deemed to have been done, taken, made, issued, commenced or continued under the corresponding provisions of this Act.

THE HIMACHAL PRADESH LAND PRESERVATION RULES, 1983**GOVERNMENT OF HIMACHAL PRADESH****DEPARTMENT OF FOREST FARMING AND ENVIRONMENTAL CONSERVATION**

Authoritative text of English Version of this Deptt. Notification No. Fts (A)3-1/81, dated 1st June, 1983 as published under Article 348(3) of the Constitution of India for the general information of the public.

In exercise of powers conferred under section 21 of the Himachal Pradesh Land Preservation Act, 1978 (Act No 28 of 1978), the Governor, Himachal Pradesh is pleased to make the following rules for purposes of carrying into effect the provisions of the said Act.

1. Short title and commencement.-

- (1) These rules may be called the Himachal Pradesh Land Preservation Rules, 1983.
- (2) These rules shall come into force with immediate effect.

2. Definitions.- In these rules, unless the context otherwise requires:-

- (a) "Act" means the "Himachal Pradesh Land Preservation Act, 1978" (28 of 1978);
- (b) "Section" means the section of the Act;
- (c) "Chief Conservator of Forests" means the Chief Conservator of Forests, Himachal Pradesh;
- (d) "Divisional Forest Officer" means the Forest Officer incharge of a territorial Forest Division;
- (e) "Range Officer" means the Forest Officer, incharge of a territorial Forest Range;
- (f) "Forest Guard" means the Forest Guard incharge of a territorial Forest beat;
- (g) "Form" means a form appended to these rules;
- (h) "Term" bonafide domestic or agricultural purposes shall not include:-
 - (i) Removal and use of timber for construction work, or any other forest produce other than grass outside the Revenue Estate in which the land is situated;
 - (ii) Use of firewood for burning of bricks, manufacture of katha or any other manufacturing process except burning of charcoal for domestic local use; and
- (i) All other words and expressions used herein but not defined and defined in the Himachal Pradesh Land Preservation Act, 1978, have the meanings respectively assigned to them in that Act.

3. Procedure to be adopted for holding enquiry under section 7 before issuing a Notification/order under Section 4,5 and 6.-

(1) Before issuing a Notification in respect of any area under Section 4,5 or 6, an enquiry shall be held by a gazetted Officer nominated by the Chief Conservator of Forest to ascertain the facts for issue of such notification.

(2) The said Officer shall visit the area(s) to be notified and among other things, may examine the following aspects:-

- (i) The situation of the area;
- (ii) Configuration and condition of the area;
- (iii) Present land use practices and their effect on general sub-soil water table.
- (iv) Extent and degree of water and wind erosion and reasons of erosion.
- (v) Attitude of the public regarding imposing of restrictions.
- (vi) Whether the existing management is adequate to maintain and improve the soil status or not.

(3) And or base his enquiry on the overall damage caused to property, land and tree growth which may have been assessed as a consequences of any study made in regard to damage caused due to floods or other natural calamities.

(4) After the completion of enquiry, the Chief Conservator of Forests shall forward the same to the State Government with his recommendations.

(5) The State Government after satisfying itself may issue a Notification, to temporarily regulate, restrict or prohibit any action, under section 4,5 or 6, for a period not more than 30 years.

4. Procedure for issue of permits for removal of Forest Produce from area closed under Sections 4 & 5.-

(1) For bonafide Domestic & Agricultural Purposes:

(a) There will be no restriction on the use of forest produce for bonafide domestic purposes of fuel and fodder.

(b) The owners for their bonafide domestic and agricultural use may fell trees as per procedure and extent of trees specified under notifications issued under section 4 or 5 of the Act.

(c) The trees allowed for feeling for bonafide Domestic and Agricultural use will be marked as per instructions of Chief Conservator of Forests, Himachal Pradesh.

(d) The owners shall send written information regarding the trees felled without permission to the Range Office concerned, through beat guard. Range Office shall send a copy of such information to Divisional Forest Officer for his record.

(e) The Beat guard shall maintain a proper record on a register of all such fellings done for domestic and agricultural use with or without permission as per Notification issued under Section 4 and shall affix his hammer mark in such felled stumps. The produce of such trees may be checked by him from time to time till it is consumed for the purpose

for which it has been converted. No export of any part of the produce of such trees will be allowed.

(2) For Sale:

(a) The trees of all species for sale shall be felled by the owners in accordance with the felling cycle prescribed vide notification issued under section 4 of the Act.

(b) Permission for removal of trees for sale shall be accorded by various functionaries as per limit and extent prescribed under above referred Notification.

(c) Application of felling of trees and removal of forest produce shall be submitted to the Divisional Forest Officer concerned by the owners.

(d) The area from where the trees are intended to be sold by the owner shall be demarcated by the Revenue Officer not below the rank of Naib Tehsildar in the presence of Range Officer of the area concerned and nominee of the Agent. Provided that where Naib Tehsildar is not posted, the demarcation of the area shall be carried out by Field Kanungo.

(e) The silvicultural making of the trees shall be done as per rules framed/instructions issued by the Chief Conservator of Forests, Himachal Pradesh from time to time. No clear felling of the areas shall be allowed even for purpose of raising orchards.

(f) The Divisional Forest Officer shall issue permission for felling of trees and permit for collection or removal of forest produce.

(g) While issuing felling permission/permits, Divisional Forest Officer may impose such restrictions/conditions as he may consider necessary in the interest of forest conservancy and misuse of forest produce to extracted.

(h) The Divisional Forest Officer while issuing the permission for felling of trees may indicate the number and species of the plants to be planted as compensatory plantation as provided under rule 4(c).

(i) The provisions of H.P. Forest Produce (Regulation of Trade) Act, 1982 and the rules made there under shall apply as such for the sale of trees.

(3) Compensatory Plantations:

(a) Any person(s) felling the trees either for domestic or agricultural use or for sale shall be required to plant at least 3 trees for one tree felled. In case, however, a fruit orchard is planted in such area, it shall be planted according to the norms laid down by the State Horticultural Department for complete stocking of the area. The success of such plants planted shall be the responsibility of the owners which shall be checked frequently by the staff of Forest/Horticulture Department.

(b) Divisional Forest Officer may require the owner to deposit such amount not exceeding Rs. 3.00 per plant (to be planted) for carrying out compensatory planting so that plants could be planted if the owner(s) fails to plant 3 plants for every tree felled, within one year of felling.

(4) No tree shall be granted to such owner(s) from the Government forests at the right holders rate for the next 10 years who sell trees from their private lands.

(5)

(a) the extraction of resin will be undertaken with the written permission of the Divisional Forest Officer concerned in accordance with the instructions issued by the Chief Conservator of Forests, Himachal Pradesh from time to time laying down the period of extraction, number of blazes, length, width and depth of blazes and other related matters.

(b) No resin so extracted shall be removed /exported by any person from the area under tapping without obtaining an export permit from the Divisional Forest Officer concerned as per rules framed.

(c) The provisions of Himachal Pradesh Resin & Resin Products (Regulation of Trade) Act, 1981 and rules, made thereunder shall apply as such for the extraction of Resin by owners.

5. Issue of notice under section 8 and 9.-

(1) The notice under section 8 & 9 shall be issued by the Deputy Commissioner in the form given in Annexure-I. This notice shall be in the local language of the area and will be served through Gram Panchayats concerned.

(2) Any person aggrieved by an order contained in such a notice given under section 8 & 9 may serve a notice of his objection, alongwith necessary evidence, to the Deputy Commissioner. Before passing final orders, the Deputy Commissioner shall consult the Divisional Forest Officer regarding technical aspects.

(3) Every order issued under section 8 & 9 shall be sent to the land owners through registered post. Copies of the order shall also be displayed at conspicuous places.

(4) The Deputy Commissioner while making an order on objections brought under section 9 shall be guided by the following:-

(i) Necessity of treatment of catchment area as a whole;

(ii) Potential damage to the adjoining lands as a result of soil erosion in the said area;

(iii) Effect (of soil erosion) on the sub soil water table;

(iv) Siltation in water reservoirs within or adjoining the area due to soil erosion;

(v) Need for safe guarding, and protection of lines of communication against any danger due to degradation of areas;

(vi) Need for improvement in Forest conservancy environment and ecological status.

6. Measures to regulate control over works to be executed.-

(1) Before issuing a notice/notification in respect of any land under section 9(1) and 9(2), an enquiry by an officer not below the rank of Assistant Conservator of Forests shall be held.

(2) The said officer shall visit the area and among other things shall study the following aspects:-

(i) The necessity of getting the works executed and fixing the time limit for the execution of such works;

(ii) The nature of damage being done to the adjoining property including habitation by the stream/Cho;

(iii) Necessity of regulating the flow of water by draining the streams to minimize the damage;

(iv) Desirability & feasibility of reclaiming the land in the stream Cho bed;

(v) Desirability and feasibility of execution of other works and measures for such execution of works;

(3) The said officer shall make proposals indicating the nature and extent of remedial measures.

(4) After completion of such an enquiry, the enquiry report alongwith recommendations of the enquiry Officer shall be submitted to the Deputy Commissioner of the area concerned through the concerned Conservator of Forest for appropriate orders.

Secretary (Forests) to the
Govt. of Himachal Pradesh

ANNEXURE-I

Office of Deputy CommissionerDistrictHimachal Pradesh.

Notice Information or Warning

Under sections 8 and 9 of the Himachal Pradesh Land Preservation Act, 1978 (Act No 28 of 1978) the following area of village.....Tehsil..... is closed under section 4, 5 and 6 (delete which is not applicable) in accordance with Notification No..... dated(copy enclosed) and restrictions and restraints as specified in the aforesaid notification are imposed.

Description of Area:

Name of village:

Hadbast No.

Khasra No.

2. These restrictions shall remain in force from to.....

3. Therefore, under section 8 and 9 of the Himachal Pradesh Land Preservation Act, 1978 (Act No 28 of 1978) this notice is being issued to every such person who has objection/claim against these restrictions/restraints which can be filed by him in writing or orally before.....He shall also inform the mode and type of compensation acceptable to him.

4. The above mentioned area has been demarcated on the spot and its boundaries/location can be ascertained from village Sarpanch/Lambardar or other concerned official. Necessary information may also be obtained from halqua Patwari as well.

(Authentic English text of this Department Order No. FFB-B-A(3)/99 dated 10th September, 2002 as required under clause (3) of article 348 of the Constitution of India)

Government of Himachal Pradesh
Department of Forests

Dated Shimla-2, the 10th September, 2002.

NO. FFB-B-A(3)/99

ORDER

WHEREAS Notifications No. 154/71-SF dated the 19th January, 1979 in respect of Solan district, 3rd February, 1979 in respect of Chamba and Bilaspur districts, 6th February, 1979 in respect of Simour, Shimla, Hamirpur and Mandi Districts, 3rd May 1979 in respect of Kullu district, 30th May, 1979 in respect of Una and Kangra districts and 27th August, 1980 in respect of Kinnaur district of Himachal Pradesh respectively issued by the State Government in pursuance of the provisions of Section 3 of the Himachal Pradesh Land Preservation Act, 1978 directing that the areas shown in the Schedule to each of them were either subject to erosion or were likely to become subjected to erosion and to provide for the conservation of the sub-soil water and for prevention of erosion on the said areas and new specified in the Schedule appended to this order;

AND whereas the State Government is satisfied that after due enquiry under section 7 of the said Act that regulations, restrictions, prohibitions and directions contained in this order are necessary for the purpose of giving effect to the provisions of the Act supra;

NOW, therefore, in exercise of the powers conferred by section 4 of the said Act, the Governor, Himachal Pradesh is pleased to temporarily regulate, restrict, prohibit throughout the areas in Himachal Pradesh (Except the areas falling within the limits of Municipal Corporation, Municipal Councils, Nagar Panchayats and Cantonment Boards) as specified in Schedule appended to this order, the following acts for a period of 30 years from the publication of this order in the Gazette, Himachal Pradesh, namely:

1. The cutting of trees or timber and removal thereof in such areas shall be prohibited:

Provided that there will no restrictions on the number of trees to be felled for purposes of bonafide domestic uses of fodder and such

Provided further that the owners may for their bonafide domestic and agricultural use fell three trees of coniferous (except Shil trees) and in case of chitl and other trees five trees each year without permission and upto ten trees with the written permission of the Range Officer concerned and more than ten trees with written permission of the Divisional Forest Officer concerned. In case of bamboos there shall be no restrictions on number to be felled for bonafide domestic purposes or for use in their own cottage industries.

Provided further that the trees for sale shall be felled in accordance with the ten Years felling programme which shall be framed by the

provided by wa
 felled with the o
 in the necessity
 to felled, just
 in the necessity
 of the permission of

officers of the Forest Department and approved by the State Government and the trees shall be felled after obtaining the permission of the following authorities, namely :-

- (a) for khair, bamboos & other miscellaneous broad leaves species :-
- | No. of trees.
(1) | Competent authority of grant
Permission to fell the trees.
(2) |
|-----------------------------|--|
| -upto 200 trees in a year: | Divisional Forest Officer concerned. |
| -above 200 trees in a year: | concerned Conservator of Forests. |
- (b) for all other species.
- | | |
|-----------------------------|--|
| -upto 50 trees in a year : | concerned Divisional Forest Officer. |
| -upto 100 trees in a year: | concerned Conservator of Forests. |
| -upto 200 trees in a year: | Principal Chief Conservator of Forests, Himachal Pradesh |
| -above 200 trees in a year: | Himachal Pradesh Government |

Provided further that any person felling the trees either for domestic or agricultural use or for sale shall be required to plant atleast three trees for one tree felled. In case, however, a fruit orchard is planted in such area, it shall be planted according to the norms laid down by the Horticulture Department, Himachal Pradesh for complete stocking of the area.

- After the permission to fell the trees is given by competent authority under para.1 of this order, the Divisional Forest Officer concerned shall issue a felling order:
 Provided that the felling of bamboos shall be regulated according to three years felling programme, which shall be framed by the officers of the Forest Department and approved by the State Government and that the permission for felling of bamboos for sale shall be granted by the Divisional Forest Officer concerned in accordance with 3 years felling programme.
- The forest produce passing out of the areas permitted for felling of trees may be checked by any Forest Officer and no forest produce shall be extracted by any person without obtaining an export pass obtained from the Divisional Forest Officer concerned.
- The authority competent to grant permission for felling of trees may, while granting permission, impose such conditions as it may deem necessary in

the interest of forest conservancy and to avoid misuse of the forest produce so extracted.

5. Notwithstanding anything to the contrary contained in the foregoing paragraphs, the State Government may, by general or special order, allow the cutting or removal of any tree or class of trees subject to such condition as it may deem fit to impose, wherever it is expedient to do so in the public interest i.e. for the purpose of;

- (a) grant of Nautor land; or
- (b) consolidation of holdings; or
- (c) dry/fallen trees.

6. In case the trees are not felled within the prescribed year, the Principal Chief Conservator of Forests may extend the period upto one year in the following circumstances :-

(i) where the process of demarcation of land and marking of trees have been completed during the prescribed year of felling and felling orders stand issued by the Divisional Forest Officer concerned, but felling of trees has not been done or has been done partly; and

(ii) where process of demarcation of land and marking of trees has been completed during the prescribed year of felling but felling orders have not been issued.

Explanation: "Prescribed year" means the financial year in which trees are to be felled in respect of the particular area in accordance with ten years felling programme approved by the State Government.

7. In all other cases other than those mentioned in sub-para (i) and (ii) of para 6 of this order, the competent authority to grant permission to fell the trees may allow felling of trees, irrespective of approved ten years felling programme of the concerned area, in the following circumstances, namely:-

- (i) where trees have fallen or have dried due to natural calamities, disease or insect attack etc. and their retention may result in loss of value;
- (ii) where the land holdings in a particular revenue estates are under consolidation operations, the year following the one in which these operations have been concluded shall be treated as prescribed year of felling;
- (iii) where Government/private land has been acquired or leased or purchased or transferred for a public purpose such as creation of infrastructure facilities or laying of irrigation and water supply lines or transmission lines or any other conveying systems or setting up of industries, hydro-power projects, tourism resorts or educational institutions or any other facilities which are in the public interest; and
- (iv) where the Government of India's approval for diversion of the forest land for non-forest purposes has been received.

8. In all cases (other than those mentioned in paras 6 & 7 of this order), where demarcation of land and marking of trees have not been done during the prescribed year in accordance with the approved ten years felling programme, permission to demarcate the land, marking and felling of trees may be granted beyond prescribed year of felling by the:
- the Principal Chief Conservator of Forests upto one year; and
 - State Government upto two years subject to their being satisfied that sufficient reasons exist for granting such permission.
9. Where the permission has been granted under para-8 of this order, the Divisional Forest Officer concerned after demarcation of land and marking of trees shall issue felling order accordingly;
10. Application for demarcation of the land from which felling is proposed to be done may be filed before the Divisional Forest Officer concerned one year in advance from the prescribed year of felling and the Divisional Forest Officer concerned may process the case for demarcation of land.
11. In no case advance felling of trees shall be permitted before the prescribed year as fixed in the approved ten years felling programme;
12. In order to complete the felling and extraction of trees from private areas within the prescribed year of felling and not to seek frequent extensions, extension fee shall be levied on the balance number of trees/volume to be felled in the following rates :-

- | | | |
|----|-----------------------|--|
| 1. | Scheduled species | Rs. 100/- per cubic meters (standing volume) |
| 2. | Khair. | Rs. 30/- per meter Girth (MG) |
| 3. | Broad leaves species. | Rs. 10/- per cubic meter. |

SCIEDULE

Sr.No.	District.	Notification No. & date under Section 3	Tehsil	Village
(1)	(2)	(3)	(4)	(5)
1.	Solan.	No. 15-4/71-SF 19 th January, 1979	1.Solan 2.Kandaght 3.Arki 4.Nalagarh 5.Kasauli.	whole of private areas in these Tehsils.
2.	Chamba.	No. 15-4/71-SF 3 rd February, 1979	1.Chamba. 2.Churah. 3.Dalhousie. 4.Pangi. 5.Bharmour. 6.Salooni. 7.Bhatiyat.	whole of private areas in these Tehsils.

9. Laddhnoi	1. Mandi (Sadar)	No. 15-4/71-SF	6 th February, 1979	Mandi
8. Paddar	2. Sundernagar	No. 15-4/71-SF	6 th February, 1979	Hamirpur
7. Chachnot (Gohar)	3. Jogindernagar	No. 15-4/71-SF	6 th February, 1979	Shimla
6. Thunag	4. Sarkaghat	No. 15-4/71-SF	6 th February, 1979	Simla
5. Karsog	5. Susanjpur Tihra	No. 15-4/71-SF	6 th February, 1979	Simla
4. Sarkaghat	6. Barsar	No. 15-4/71-SF	6 th February, 1979	Simla
3. Jogindernagar	7. Hamirpur	No. 15-4/71-SF	6 th February, 1979	Simla
2. Sundernagar	8. Bhoranj	No. 15-4/71-SF	6 th February, 1979	Simla
1. Mandi (Sadar)	9. Nadaan	No. 15-4/71-SF	6 th February, 1979	Simla
	10. Barsar	No. 15-4/71-SF	6 th February, 1979	Simla
	11. Dodra Kwar	No. 15-4/71-SF	6 th February, 1979	Simla
	12. Chirgaon	No. 15-4/71-SF	6 th February, 1979	Simla
	13. Kohu	No. 15-4/71-SF	6 th February, 1979	Simla
	14. Jubbil	No. 15-4/71-SF	6 th February, 1979	Simla
	15. Kalkhat	No. 15-4/71-SF	6 th February, 1979	Simla
	16. Chopal	No. 15-4/71-SF	6 th February, 1979	Simla
	17. Rampur	No. 15-4/71-SF	6 th February, 1979	Simla
	18. Kumsain	No. 15-4/71-SF	6 th February, 1979	Simla
	19. Theog	No. 15-4/71-SF	6 th February, 1979	Simla
	20. Sani	No. 15-4/71-SF	6 th February, 1979	Simla
	21. Shimla (Rural)	No. 15-4/71-SF	6 th February, 1979	Simla
	22. Shimla (Urban)	No. 15-4/71-SF	6 th February, 1979	Simla
	23. Pachhad	No. 15-4/71-SF	6 th February, 1979	Simla
	24. Sillai	No. 15-4/71-SF	6 th February, 1979	Simla
	25. Rajgath	No. 15-4/71-SF	6 th February, 1979	Simla
	26. Sangrah	No. 15-4/71-SF	6 th February, 1979	Simla
	27. Paonia	No. 15-4/71-SF	6 th February, 1979	Simla
	28. Nahar	No. 15-4/71-SF	6 th February, 1979	Simla
	29. Bhandura	No. 15-4/71-SF	6 th February, 1979	Simla
	30. Bilaspur	No. 15-4/71-SF	6 th February, 1979	Simla
	31. Chumarwin	No. 15-4/71-SF	6 th February, 1979	Simla

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- | | | | | |
|-----|----------|---|---|---|
| 8. | Kullu | No. 15-4/71-SF
3 rd May, 1979 | 1. Kullu
2. Banjar
3. Manali
4. Nirmand. | whole of
private areas
in these
Tehsils. |
| 9. | Una | No. 15-4/71-SF
30 th May, 1979 | 1. Amb.
2. Bangana.
3. Una. | whole of
private areas
in these
Tehsils. |
| 10. | Kangra. | No. 15-4/71-SF
30 th May, 1979 | 1. Kangra.
2. Dharamshala.
3. Dehra.
4. Nurpur
5. Jawali.
6. Indora.
7. Jaisinghpur
8. Palampur.
9. Baijnath.
10. Shahpur.
11. Baroh
12. Jaswan Kotla.
13. Khundian.
14. Fatehpur. | whole of
private areas
in these
Tehsils. |
| 11. | Kinnaur. | No. 15-4/71-SF
27 th August, 1980 | 1. Kalpa.
2. Nichar
3. Moorang.
4. Pooh.
5. Sangla. | whole of
private areas
in these
Tehsils. |

This supersedes this Department Orders No. 15-4/71-SF dated 13th March, 1978, 27th August, 1980 and 25th February, 1981 published in the Rajpatra, Himachal Pradesh (extraordinary) dated 28th April, 1979, 13th September, 1980 and 12th March, 1981 respectively and all subsequent amendments made thereto.

By order

Avay Shukla,
Principal Secretary (Forests) to the
Government of Himachal Pradesh.

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Endst.No. FFE-B-A(3)4/99

Dated Shimla-2, the 10th September, 2002.

Copy is forwarded to :-

1. The Private Secretary to his Excellency Governor of H.P., Shimla-2.
2. The Pr. Chief Conservator of Forests, Himachal Pradesh, Shimla-1.
3. The Pr. Chief Conservator of Forests (WL), H.P. Shimla-1.
4. The managing Director, H.P. State Forest Corporation Ltd., Shimla-9.
5. All the CCFs/CFs in H.P.
6. All the Deputy Commissioners in H.P.
7. All the Divisional Forest Officers in H.P.
8. All the Sub Divisional Officers (Civil) in H.P.
9. The P.Ss to the Hon'ble Chief Minister/Forest Minister, H.P. Shimla-2.
10. The Dy. Secretary/Under Secretary (Law) to the Govt. of H.P. Shimla-2.
11. The Controller (P & S), H.P. Govt. Press, Shimla-5 for publication in the Rajpatra (extraordinary). He is requested to supply 10 copies of the same to this department.
12. The Director (Information & Public Relations), H.P. Shimla-2.
13. The Section officer (Forest-A) Section, H.P. Sectt., Shimla-2.
14. Guard file.

Sd/-

Additional Secretary (Forests) to the Government of Himachal Pradesh.

Endst.No.Ft.783-54/70(M)Orders.

Dated Shimla-1, the 31 OCT 2002

Copy is forwarded to :-

1. The Pr. Chief Conservator of Forests(Wild Life), H.P. Shimla.
2. CCF(Wild Life)Shimla.
3. All CFs (T) & Wild Life, Shimla & Dharamshala.
4. All DFOs (T)
5. Superintendent -I, Misc. Section, O/o Pr. CCF H.P. Shimla

information, necessary action and strict compliance.

Pr. Chief Conservator of Forests,
Himachal Pradesh.

Handwritten notes and signatures in the bottom left corner:
Sd/-
17.10.02
A.P.C.C.F. (Pooj.)
P.C.C.F.
17/10

(Authoritative English text of this department Order as required under clause (3) of article 348 of the Constitution of India)

Government of Himachal Pradesh
Department of Forests

No.FFE-B-A(3)4/99

Dated Shimla-2, the 24-9-03

ORDER

Whereas order of even number dated 10-9-2002 of this department was issued under section 4 of the Himachal Pradesh Land Preservation Act, 1978 (Act No.28 of 1978) and published in the Rajpatra Himachal Pradesh (Extra Ordinary) dated 4-10-2002 after complying with the Provisions of sections 3 and 7 of the Act ibid;

And whereas State Government is satisfied after due inquiry under section 7 of the said Act that it is necessary and expedient further to amend the said order;

Now, therefore in exercise of the powers conferred by section 4 of the said Act, the Governor of H.P. is pleased to made following amendments in the said order, namely:-

Insertion
of
para 6-A

1. After para 6 of the order of the even number dated 10-9-2002 (hereafter referred to as the "said order", the following new para 6-A shall be inserted namely :-

1. "6.A. If the trees are not felled within extended period of one year granted by the Principal Chief Conservator of Forests under para 6 of this order the State Government may extend the period for one year if there are sufficient reasons for granting such extension.

Amend-
ment of
para-8

2. In para-8 of the said order for sub-para (ii) of para-8 of the said order, the following shall be substituted, namely :-

(ii) The State Government upto two years subject to its being

satisfied that there exists any of the following reasons for granting such permission namely :-

- (a) If there is dispute over the title or ownership or possession of land on the production of a documentary evidence such as orders/certificate of the Court etc; or.
- (b) if the area is in the ten years felling programme but the same has not been shown therein the certificate from the Divisional Forest Officer concerned; or
- (c) if the demarcation of land could not be made due to non-availability of staff or furnishing a certificate from the Sub-Divisional Officer (Civil) or the Divisional Forest Officer concerned as the case may be to this effect; or
- (d) if the process of demarcation of land, marking and felling of trees has not been completed due to a natural calamity; or
- (e) if the settlement of rates of trees has not been arrived at during the prescribed year of felling; or
- (f) if there is any other reason beyond the control of the land owner.

Provided that the State Government may allow felling of the trees upto two years and six months after the prescribed year of felling in the snow bund areas".

Addition
of paras
13,14&15

3. After para 12 of the said order, the following paras shall be added, namely :-

(1) The felling and conversion of Deodar, Kail, Fir and Spruce shall be completed with in a period of two years and that of Chil and other scheduled species within a period of one year.

(2) The felling and conversion of trees of non scheduled species shall be completed within three months from the date of issuance of felling

order by the Divisional Forest Officer or at the end of financial year which ever is later, as the case may be.

14. The State Government may allow demarcation of land, marking and felling of trees on the land recorded as Shamlat Dch/Tika Hasab-Rasad-Malguzari in favour of the co-sharer on their furnishing of a certificate issued by the Sub-Divisional Officer (Civil) concerned to the effect that they are in continuous possession of the land prior to 26-1-1950 and further that they have become absolute owners in proportion to the land revenue paid by them and the said land has never been vested in the Government under any enactment.

15. Working plans for the felling trees shall be prepared for private land falling within the ten years felling programme adjoining to the Government "Forests" which shall be verified at the spot by an officer not below the rank of Divisional Forest Officer.

By Order

J.P. Negi.
Principal Secretary (Fts.) to the
Government of Himachal Pradesh.

Endst.No.FFE-B-A(3)4/99

Dated 24-9-2003.

Copy to :-

1. All Secretaries to the Govt. of H.P.
2. The Pr. Chief Conservator of Forests, H.P.
3. All Conservator of Forests, H.P.
4. All Divisional Forest Officer in H.P.
5. The Controller, Printing & Stationary, H.P. Government Press for publication in the Rajpatra H.P. (Extra Ordinary).

Sd/-

Joint Secretary (Fts.) to the
Government of Himachal Pradesh.

1998

33

52 35

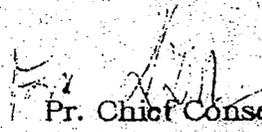
Endst.No.Ft.783-54/70(M)/Orders:-

Dated Shimla -1,

Copy is forwarded to :-

1. The Addl. Pr. CCF.(Wild Life) H.P. Shimla
2. All CFs (Territorial) & Wild Life, Shimla & Dharamshala.
3. All DFOs (Territorial).
4. Superintendent Gr.I, Management Section, O/o Pr. CCF.H.P.

for information, necessary action and strict compliance.
This also connects this office Endst. of even number dated
1-10-2002.


Pr. Chief Conservator of Forests,
Himachal Pradesh.

1999

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ANNEXURE- R-2

No. Ft. 1/2018-19 (S) Vol.2
Forest Department Himachal Pradesh

Dated Shimla-1, the 06 JUL 2023

From: Pr. CCF (HoFF) HP Shimla

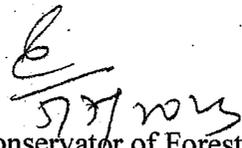
To: All CCFs/CFs in HP

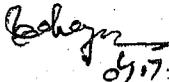
Subject: Standard operating guidelines for the lopping of trees standing on Govt. land/Forest land OA No. 372/2022 titled as Avinash Vidhrohi Versus State of H.P.

Memo:

In compliance with the orders passed on 16.05.2023 by Hon'ble National Green Tribunal (NGT) in OA No. 372/2022 titles as 'Avinash Vidhrohi Versus State of H.P', following standard operating procedures are established for lopping of trees from Govt. and Forest land, ensuring sustainable and environmentally responsible practices and to safeguard the interest of local communities, biodiversity and to enhance transparency and accountability in tree lopping operations:-

1. Lopping will be allowed by DFO of the concerned division in case tree is dangerous to life and property.
2. Owner of land/concerned department will apply for the lopping permission from DFO concerned.
3. A team of forest, revenue, concerned department and representative of the Panchayat/Nagar panchayat will inspect the area and submit the report with recommendation of the branches to be lopped.
4. Lopping of trees should not exceed 1/3rd of the total branches/crown.
5. Divisional Forest Officer will allow the lopping permission on the basis of the report of the team constituted above.
6. Lopping is to be carried out by the concerned department under the supervision of the concerned forest guard.
7. Lopping material to be either used or auctioned by the concerned department.
8. In case of auction, the valuation of the material/forest produce is to be carried by the forest department.


Pr. Chief Conservator of Forests (HoFF)
Himachal Pradesh


07.07

-35-
(TYPED COPY)

ANNEXURE-3

(Authoritative English text of the Department Notification No. FFE-B-A(3)-3/2010 dated 05.05.2010 as required under Article 348(3) of the Constitution of India)

Government of Himachal Pradesh
Forests Department

NOTIFICATION

No.FFE-B-A(3)-3/2010

Dated: 05.05.2010

In exercise of the powers conferred by Section 68 of the Indian Forest Act, 1927 read with directions issued by the Hon'ble High Court of Himachal Pradesh vide its judgment dated 28.8.2009 in COPC No.56/2009, titled as Kuldip Singh Chauhan Vs Balbir Singh and others and in supersession of all the previous guidelines issued on the subject, the Governor, Himachal Pradesh is pleased to empower all the Range Officers in-charge of the ranges to compound forest offences and to accept compensation and / or release the seized property as mentioned in the aforesaid section. The regulation of the compounding of forest offences, disposal of the cases of illicit felling and other forest offences shall be as under:-

1. Cases not liable to be compounded:- The following are the cases which shall not be compounded, namely:-

- (i) Illicit transport of resin, timber, katha and bamboos irrespective of magnitude of offence;
- (ii) Cases of habitual offenders i.e. an offender who commits more than one offence during the year;
- (iii) Illicit encroachment of forest land;
- (iv) Where an individual/right holder/saw-miller is in possession of unaccounted timber, resin, katha for which satisfactory proof of procurement is not given by him;
- (v) Where value of forest produce is more than rupees two lacs;
- (xviii) Illegal establishment of depot and illegal running of saw mills;
- (vi) Deliberate causing of forest fire;
- (vii) Illegal purchase and sale of timber; (xxi) Cases under Section 62 and 63 of the Indian Forest Act, 1927;
- (viii) Cases of shifting/uprooting/intentionally damaging the forest boundary pillars;
- (ix) Defacing of hammer marks; and
- (x) Infringement on the stipulations imposed by Government of India while granting permission under Forest Conservation Act, 1980 and rules framed thereunder.

2. Cases which may be compounded:-

(1) Forest offences cases of right holders in the following circumstances can be compounded:-

- (a) Where illicit felling of trees has been done to meet the bonafide domestic requirements and the offence is petty in nature.

Note:- The expression 'petty offences' in relation to illicit felling shall mean the offence where the amount involved is less than rupees two lakh. For determining that the offence is for bonafide domestic use, it must be established during investigation that timber has actually been used for domestic purpose only.

(b) No case of petty forest offences involving illicit felling shall be compounded until an enquiry and investigation is held by an officer not below the rank of Forest Ranger.

(c) Weak cases lacking in evidence and subsequently rendered un-fit for challan shall be compounded after examination by Divisional Forest Officer on advice of concerned District Attorney. Where there is difference of opinion between the Divisional Forest Officer and District Attorney, the Conservator of Forests thereon shall be final.

(2) All forest offence cases relating to illicit lopping against the regulatory provisions/rules by right holders either for the purpose of fodder or fuel shall be compounded and taken to courts only if the accused refuses to compound the same.

(3) Cases relating to illicit grazing shall be compounded and be taken to courts only if the offender refuses to compound.

(4) No case of violation of provisions of H.P. Land Preservation Act, 1978 shall be compounded except, where no element of trade is involved and unauthorised felling of trees from private land is for bonafide domestic use and involves not more five trees than the limit specified under the Act *ibid*.

(5) In all cases to be compounded under Indian Forest Act, 1927, in addition to the acceptance of compensation as per provisions of the said Act, the case property shall not be released after charging value thereof at the market rate.

(6) In cases to be compounded under Himachal Pradesh Land Preservation Act, 1978 only compensation for the forest offence shall be charged and no value for release of property be charged.

(7) In the under mentioned cases double rates shall be charged both for compensation and release of property

- (i) Where offence is committed before sun rise or after sun set;
- (ii) Where offence is committed in reserve forest;
- (iii) Where resistance is offered at the time of detection of offence;
- (iv) Where compounding of offence is done with the permission of the court where the matter is pending for adjudication;
- (v) Unauthorized uprooting of stumps of all species; and
- (vi) Offence committed in plantation or regeneration area.

(8) Forest offences relating to unavoidable damages caused by the Companies or Corporate Bodies shall be compounded after ascertaining by an officer not below the rank of Divisional Forest Officer, that the damage is unavoidable.

Attachment to be true COPY

5. The powers for fixing of rates of compensation, value of forest produce, implements and review of damage reports shall be as under:-

- (i) The rates of compensation of forest offence including illegal/illicit muck dumping shall be fixed by the concerned Conservator of Forests of the Circle.
- (ii) The value of forest produce will be determined at the market value as fixed by the Principal Chief Conservator of Forests every year. The value of minor forest produce shall be the market value prevalent at that time to be fixed by the Conservator of Forests.
- (iii) The rates of implements involved in the offence and to be released on compounding of the offence shall be fixed by Conservator of Forests of the circle.
- (iv) All the damage reports shall be dealt with and reviewed at the range level for compounding and prosecution on monthly basis and report in this respect shall be sent to the Divisional Forest Officer.

By Order

Additional Chief Secretary (Forests)
to the Government of Himachal Pradesh.

Endst.No.: As above.

Dated: 05.05.2010

Copy forwarded for information and necessary action to :-

1. All Administrative Secretaries to the Govt. of H.P., Shimla-2.
2. The Private Secretary to the Hon'ble Forest Minister for kind information of the Hon'ble Minister.
3. The Principal Chief Conservator of Forests, H.P., Shimla-1.
4. The Chief Wild Life Warden, H.P., Shimla-1 with 20 spare copies.
5. The Director General of Police (Vigilance & Enforcement), H.P., Shimla-2
6. All Addl. Principal Chief Conservator of Forests/Chief Conservator of Forests/Conservator of Forests/Divisional Forest officers in Himachal Pradesh.
7. The Director, Prosecution, Himachal Pradesh, Shimla-9.
8. All Deputy Commissioners in Himachal Pradesh. 24. All DIGs/SP Himachal Pradesh.
9. All Heads of Department in Himachal Pradesh.
10. All District Attorneys in Himachal Pradesh
11. The Controller, H.P. Printing & Stationery Department, Shimla-5 for publication in Rajpatra.
12. The Under Secretary (Finance) to the Govt. of H.P., Shimla-2.
13. The DLR-cum-Secretary (Law) to the Govt. of H.P., Shimla-2.
14. Guard File.

Attested to be true copy

Deputy Secretary (Forests) to the
Government of Himachal Pradesh.



(9) Forest offences relating to avoidable damages upto Rs. 2 lacs caused by the Companies or Corporate Bodies shall be compounded after realizing value of the forest produce and compensation at the double rates.

- Explanation:- 1. 'Avoidable damage' means the damage which can be avoided by taking reasonable humanly or mechanical precaution.
2. 'Unavoidable damage' means the damage which cannot be avoided even by taking reasonable humanly or mechanical precaution.

3. Cases to be taken to Courts by the Forest Department:- The following cases shall be taken to courts by department and defended through District Attorneys:-

- (i) Cases not liable to be compounded as detailed at para 1 of this notification;
- (ii) Where offender refuses to compound the offence;
- (iii) Where the value of produce involved is between rupees two lacs and rupees ten lacs; and
- (iv) Cases of avoidable damages caused by the Companies/ Corporate Bodies involving amount more than Rs. 2 lacs and upto Rs. 10 lacs.

4. Cases to be registered with Police:- The following types of cases shall be registered with the police by the department, namely:-

- (i) Forest offence cases where the value of produce is more than rupees ten lacs;
- (ii) Cases relating to area where Indian Forest Act, 1927 and rules framed thereunder are not applicable or there are no special rules under which prosecution is possible.
- (iii) Where Divisional Forest Officer concerned considers that police rather than Forest Department may deal with the matter to have deterrent effect. In all these cases, previous sanction of Conservator of Forests shall be obtained.
- (iv) When encroachment is detected on forest land, action for removal of such encroachment shall be initiated under the Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act, 1971 and also action for committing forest offence by the encroacher shall be initiated under the Indian Forest Act, 1927. FIR under various provisions of Indian Penal Code shall be registered with Police in case:-
 - (i) Boundary pillars have been tampered with;
 - (ii) Permanent structure has been made;
 - (iii) Area encroached is more than 10 bighas;
 - (iv) Offence of encroachment is committed repeatedly;
 - (v) There is encroachment within the protected area network (PAN) i.e. in a Wildlife Sanctuary or National Park.
 - (vi) The cases involving avoidable damages exceeding rupees 10 lacs caused by the Companies or Corporate Bodies.