

क्रमांक - ३१



महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

क्रा.वि.प्र., सोमवार १६, १९८४/शकाब्द २९, शके १९०३

जिल्हा शासन प्रमुख कार्यालयी वी. आर्मासो वाण्डे पुणे शहर जिल्हा मंडळ

भाग चार

महाराष्ट्र विधानसभेचे संविधान व राज्यपालांनी प्रसूचित केलेले अध्यादेश व केलेले निर्देशन

अवकाशिका

MAHARASHTRA ACT NO. XXIII OF 1984 - An Act further to amend the Indian Forest Act, 1927, in its application to the State of Maharashtra.

The following Act of the Maharashtra Legislature, having been assented to by the President on the 16th August 1984, is hereby published for general information.

D. N. CHAUDHARI,
Secretary to the Government of Maharashtra,
Law and Judiciary Department.

MAHARASHTRA ACT NO. XXIII OF 1984.

(That part of the Act, after having received the assent of the President, on the 16th August 1984, is hereby published for general information.)

An Act further to amend the Indian Forest Act, 1927, in its application to the State of Maharashtra.

WHEREAS it was noticed that large scale illicit cutting of trees and quick conversion of forest into timber used to take place in saw mills located in or within some distance from Government forests;

AND WHEREAS there was no provision in the Indian Forest Act, 1927, in its application to the State of Maharashtra, empowering the State Government to make rules for regulating by grant of license for the cutting or conversion of timber in saw mills within the forest limits or certain distance therefrom;

AND WHEREAS

१८५ महाराष्ट्र शासन राजपत्र, असाधारण १६, १९८४/शकाब्द २९, शके १९०३ [भाग चार]

AND WHEREAS such illicit cutting and conversion of timber from Government forests and consequent loss of revenue could not, therefore, be averted effectively;

AND WHEREAS by the Indian Forest (Maharashtra Amendment) Act, 1964, (No. XX of 1964) of the State of Maharashtra, and by the Indian Forest Act, 1927, in its application to the State of Maharashtra, and been amended by inserting clause (4B) therein to read as follows: "The forest limits or certain distance therefrom shall not exceed the eighty kilometers as may be determined, the converting or cutting of timber in a saw mill, and of preservative trees and seedlings, subject to which such licence may be granted";

AND WHEREAS in Writ Petition No. 788 of 1964 (Ashok Namayan Thakur of Yavatmal versus Divisional Forest Officer, Yavatmal Zone, Yavatmal and another) and some writ petitions filed in the High Court of Bombay (Nagpur Bench), the provisions of the said clause (4B) of sub-section (2) of section 41 have been challenged *inter alia* on the grounds that the provisions of sub-section (2) of the said section 41 did not empower the State Government to regulate by grant of license the converting or cutting of timber in a saw mill outside the limits of forests, and there was no provision for that purpose in that Act and, therefore, they were of void and inoperative force; that they were unconstitutional and violative of sub-section (1) of clause (1) of Article 15 of the Constitution of India inasmuch as the provisions of the said section 41 were not in conformity with the provisions of the said clause (1) of Article 15 of the Constitution; that they had not been referred to the Commission of the State of Maharashtra, which, when it was passed, had been enacted as Maharashtra Act No. XX of 1964;

AND WHEREAS with a view to arresting the large scale illicit cutting of trees and conversion thereof into timber in the saw mills located within the forest limits and certain distance therefrom, it was expedient that power should be taken with retrospective effect to the State Government to make rules for regulating by grant of license, within the forest limits or certain distance therefrom, not exceeding eighty kilometers as may be determined, the converting or cutting of timber in a saw mill, and preservative trees and seedlings, subject to which license may be granted, and the manner in which, and the authority to whom, an appeal against the order of refusal, suspension or revocation of a license may be filed, and for that purpose to amend section 41 of the Indian Forest Act, 1927, in its application to the State of Maharashtra subjectly;

AND WHEREAS it was also expedient to provide for the publication of such rules made, the license granted or renewed and in force and anything done or any action taken thereunder;

AND WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action for the amendment of the Indian Forest Act, 1927, in its application to the State of Maharashtra, for the purposes hereinafter appearing; and therefore promulgated the Indian Forest (Maharashtra Amendment) Ordinance, 1984;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Twenty-fifth Year of the Republic of India as follows:—

शब्द १. (१) This Act may be called the Indian Forest (Maharashtra Second Amendment) Act, 1984.

(2) It shall be deemed to have come into force on the 22nd June 1984.

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1. In section 21 of the Indian Forest Act, 1927, in its application to the State of Maharashtra, —

(1) after sub-section (1), the following sub-section shall be inserted, and shall be deemed to have been inserted, with effect from the 10th day of September 1960, namely:—

(1A) Notwithstanding anything contained in any law for the time being in force, the State Government may make rules to regulate by grant of licences within the forest limits or such distance therefrom not exceeding eighty kilometres as may be determined, the harvesting or cutting of timber in a saw mill, and prescriptive fees and conditions, subject to which such licence may be granted, and the manner in which, and the authority to whom, an appeal against the order of refusal, suspension or revocation of a licence may be filed; ;

(2) in sub-section (2) clause (b) shall be deleted, and shall be deemed to have been deleted, with effect from the 10th day of February 1955.

2. It is hereby declared that section 41 of the Indian Forest Act, 1927, in its application to the State of Maharashtra (hereinafter in this section referred to as "the principal Act"), having been respectively amended by this Act with power in the State Government to make rules for the purposes referred to in section 41 of the principal Act, as amended by this Act,—

(a) rule 48 under the heading "L. Conversion of Timber within certain distances of Forests" in Chapter V of the Bombay Forest Rules, 1942 and the Form in Schedule EE thereto or any other provisions in relation to the grant of such licences contained in the said rules and the corresponding provisions contained in any other rules applicable in the Maharashtra and the Viceroy's Region, as amended from time to time, and in force on the day immediately preceding the date of commencement of this Act shall be deemed to have been validly made and effective and continuously in force as if they have been made under the principal Act, as amended by this Act;

(b) all licences granted under the said rules and subsisting on the date of commencement of this Act shall be valid for the period for which they are granted or renewed;

(c) anything done or any action taken under the principal Act, as amended by this Act (including the rules made thereunder), shall be deemed to be, and shall be deemed always to have been, validly done and taken, and shall be called in question in any Court or before any authority, merely on the ground that there was no valid rule-making power vested in the State Government or that the amendments to the rules were not validly made or that the rules or amendments made thereto and the licences granted or renewed thereunder as aforesaid did not fit in the rule-making power of the State Government or on such other ground.

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1. The Indian Forest Ordinance, 1964, is hereby Ord. No. 11 of 1964.

(1) Notwithstanding such repeal, anything done or any action taken (including any rule framed, any order issued or any licence granted or renewed) under the said Ordinance shall be deemed to have been done, taken, framed, issued, granted or renewed as the case may be, under the principal Act, as amended by this Act.