

Annexure VII (19), (Vide Article - 7.03)

Maharashtra Private Forests
(Acquisition) Act, 1975.

Implementation of --

~~GOVERNMENT OF MAHARASHTRA,~~
~~Revenue and Forests Department,~~
Circular No. PRE.1480 / 581 - F-6 ,
Mantralaya, Bombay-400 032,
Dated : 31st March 1980.

CIRCULAR :

Representations have been made by the M.L.C., Ex-M.L.As. and some small land holders, that hardships have been caused while implementing the Maharashtra Private Forests (Acquisition) Act, 1975. In spite of instructions issued in regard to the proper action to be taken, it appears that there are still some doubts. The following detailed instructions are hereby issued to finally eliminate complaints in future.

1) While restoring the small holdings as per the 1978 amendment the Deputy Collectors have taken all the Hissedars as individual Khatedars and granted either 12 ha. to each or when the actual area falls short, the whole S.No. In effect only the Hissedars as existing on the appointed day, ~~20~~ i.e. 30th August 1975, ought to have been considered but looking to the spirit of the amendment made it is not considered now necessary to review any such orders issued by the Dy. Collectors in regard to the joint holdings or community lands. Moreover since the period of Revision must have already expired such cases of restoration might be treated as finalised and the tree growth if failed may be allowed to be removed under transit passes, subject of course to the compliance of other Acts such as The Maharashtra Felling of Trees (Regulation) Act, 1964, The Maharashtra Land Revenue Code, 1966, or Section 35 of the Indian Forest Act, 1927, which automatically becomes applicable on restoration of the land.

2) In regard to the restoration orders of individuals it is reported that in some cases area of more than the maximum ^{of} 12 ha. have been awarded. While marginal cases can be understood there would be no justification in awarding excess areas in case of individual holders. In such cases when the Forest Department has already appealed against such awards to the Commissioner,

within time, the Forest Department should immediately request the Commissioner to issue restraint orders from felling of the tree growth over the areas and in cases where the tree growth has already been felled restraint orders may be sought to prevent transport of the material out of the area until the review is done and final orders issued. If there is apprehension of the material being pilfered away, in order to safeguard the same if the party agrees to give adequate deposit, the Forest Department may agree to the transport of the material under their supervision to a safe place mutually agreeable until the final orders.

The Divisional Forest Officers should immediately prepare list of the cases where excess land over the prescribed limit have been awarded and ensure that such cases are reported within time to the Commissioner for review. However, in cases where the period of appeal has expired, the Commissioner may, if possible, suo motu review the cases and take suitable action against the officers at fault. In such cases where review ~~can~~ is not possible the tree growth will have to be handed over to the awardee and if already felled allowed to be transported subject to the terms of the other Acts as indicated in 1 above.

3.) In certain cases the areas which were taken over following the enactment were utilised for raising plantations by the Forest Department. It has been made clear under Government Circular, Revenue and Forests Department No. FRF.1074/146651-1-28, dated 26th May 1978 that such areas where afforestation work has already been undertaken the Collector may persuade the owners who are eligible for the restoration of such lands to accept alternative lands in lieu thereof. As the tree growth in these areas has been cleared and disposed off by the Forest Department ~~at~~ during the period, the areas were through enactment declared as Reserved Forest and vested with the Government, the question of returning such material or the value thereof will not arise.

4) Though the private areas have all been vested with Government from the appointed day possession of a number of such areas is still with the owners. It needs however to be clarified that the presumption that since the possession has not been taken they still ~~may~~ belong to the original owners is incorrect and that the land as also the treegrowth on it belongs to Government whether possession is taken or not. Wide publicity needs to be given to the fact that the owners cannot claim such lands or the treegrowth thereon merely on the ground that areas have not been yet taken possession of by the Forest Department. The owners will be entitled only ^{to} the land which will be awarded to them as per the amendment subject to a maximum of 12 ha. only and they will be entitled to the treegrowth existing only on the land so restored.

The Forest Department should take over the excess areas which are still in possession of the land owners following the orders by the Deputy Collectors of restoration. In all cases where excess areas have been awarded, they may be reported to the Commissioner for review in time. The officers should note that reviews of cases will be restricted to only cases of individuals and the cases of joint holdings or community lands need not be included, provided they existed as on 30th August 1975. If the total area in such cases is ~~the~~ in excess of the ~~land~~ ~~the~~ considering all the holdings at the maximum upto of 12 ha. each including his other holdings then such excess will vest in Government and will have to be taken over by the Forest Department.

By order and in the name of the Governor of Maharashtra,

SIC 31/31/80
(S.M. RAIBAG)
Deputy Secretary to Government,
Revenue & Forests Department.

RECEIVED

To

All Commissioners of Divisions,

The Chief Conservator of Forests, Maharashtra State, Pune.

All Conservators of Forests,

All Collectors,

All Divisional Forests Officers,

All Deputy Collectors Private Forest, Thane, Kulaba and
Ratnagiri Districts.

Sub-Divisional Officers in Thane/ Kulaba/Ratnagiri/Pune/Nasik/
Dhule/Ahmednagar/Sangli/Kolhapur/B.S.D.

The F-6 Revenue & Forests Department.

All other Forests Desks of Revenue and Forests Department.
