

THE JAMMU AND KASHMIR
FOREST (CONSERVATION) ACT, 1997

(Act No. XXX of 1997)

[29th September, 1997]

An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

Be it enacted by the Jammu and Kashmir State Legislature in the Forty-eighth Year of the Republic of India as follows:

1. Short title, extent and commencement.—(1) This Act may be called the Jammu and Kashmir Forest (Conservation) Act, 1997.

(2) It extends to the whole of the State of Jammu and Kashmir.

(3) It shall come into force at once.

2. Restriction on denotifying of demarcated forest or dereservation or use of Forest land for non-forest purpose.—Notwithstanding anything contained in any other law for the time being in force,

(a) the Government shall not, except on a resolution of the Council of Ministers based on the advice of the Advisory Committee constituted under section 3 of the Act.

(i) make or issue any order or notification directing that any demarcated forest or any portion thereof shall cease to be a demarcated forest;

(ii) make any order directing that any forest land or any portion thereof may be used for any non-forest purpose;

(b) no officer of the Government or other authority shall have power to make or issue any order or notification in respect of any matter specified in clause (a) :

(1) Provided that the Administrative Department (Forests) shall be competent authority to accord permission after obtaining the approval of the Minister incharge on the recommendations of the Advisory Committee constituted under section 3 of this Act, for the construction of Border/R & B/Irrigation roads when passing through the demarcated or undemarcated forest lands:

(2) Provided further that the Principal Chief Conservator of Forests may, on the recommendation of a Committee comprising the concerned Chief Conservator of Forests, Conservator of Forests, District Development Commissioner and the Divisional Forest Officer, accord permission for construction of,

(i) rural roads not exceeding 5 hectares of forest land; and

(ii) Border/R&B roads and irrigation works not extending 2.5 hectares of forest land, when passing through the demarcated or undemarcated forest land subject to the condition that :

a) permission shall be accorded only once in a case and no further extension shall be granted ;

b) permission shall be accorded only when the Principal Chief Conservator of Forests satisfies himself that the road is needed for the upliftment of the rural people and does not have any adverse impact on eco-system of the area ; and

c) all other conditions as laid down in this Act are complied with :

Provided also that the Chief Conservator of Forests may, on the recommendation of a Committee comprising the concerned Conservator of Forests, District Development Commissioner and Divisional Forest Officer, accord permission for construction of rural roads not exceeding 2.5 hectares of forest land when passing through the demarcated or undemarcated forest land subject to the conditions that :-

- (i) permission shall be accorded only once in a case and no further extension shall be granted;
- (ii) no permission shall be accorded unless the Chief Conservator of Forests satisfies himself that the road is needed for the upliftment of the rural people and does not have any adverse impact on eco-system of the area ; and

(iii) that all other conditions as laid down in this Act are complied with.]

(3) Notwithstanding anything contained in sub-section (1) the District Planning and Development Board concerned may accord permission for construction of rural roads, execution of electric, irrigation and public health engineering works or such other development works when passing through demarcated or undemarcated forests subject to the condition that the land required for the purpose does not exceed two hectare of forest land and the permission shall be accorded only once for an individual case without any further extension.

(4) Notwithstanding anything contained in any law for the time being in force, the Forest Department shall not be entitled to any compensation for any forest land for which permission has been accorded under sub-section (1) or sub-section (2) subject to the condition that area of such land does not exceed 1 hectare.

Explanation I.—For the purpose of this section, “non-forest purpose” means the breaking up or clearing of any forest land or portion thereof for -

- (a) the cultivation of oil bearing plants, horticultural crops or medicinal plants;
- (b) any other purpose other than re-forestation but does not include any work relating or ancillary to conservation, development and management of forest and wildlife, namely, the establishment of check posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipe lines or other like purposes.

Explanation II.—For the purposes of this section,

- (a) “demarcated forest” and “undemarcated forest” shall have the same meaning as assigned to these in the Jammu and Kashmir Forest Act, Samvat 1987 (1930 A.D.) ;
- (b) “rural roads” means the roads including paths to be constructed by the District Rural Development Agency under the technical and administrative control of the concerned District Development Commissioner ; and
- (c) “border roads” means any kind of road to be constructed mainly for the defence purpose by the Army or Border Roads Organization or any of its agencies.

Constitution of Advisory Committee.—The Government may constitute a Committee consisting of such number of persons as it may deem fit to advise the Government with regard to—

- (i) any matter referred to in section 2 ;
- (ii) any other matter connected with the conservation of forests which may be referred to it by the Government.

4. Penalty for contravention of the provisions of the Act.—Whoever contravenes or abets the contravention of any of the provisions of section 2 shall be punishable with simple imprisonment for a period which may extend to fifteen days.

5. Offences by authorities and Government Department.—(1) Where any offence under this Act has been committed

(a) by any department of Government, the Head of the Department; or

(b) by any authority, every person who, at the time of offence was committed, was directly in charge of and was responsible to the authority for the conduct of the business of the authority as well as the authority, 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 the head of the Department ; or any person referred to in clause (b) 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 an offence punishable under this Act has been committed by a department of Government or any authority referred to in clause (b) of sub-section (1) and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department or in the case of any authority, any person other than the persons referred to in clause (b) of sub-section (1) such officer or persons shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

5-A. Cognizance of the offences.—The cognizance of the offences under this Act shall be taken by the Forest Officers in the same manner as is done under the provisions of the Jammu and Kashmir Forest Act, Samvat 1987 (1930 A.D.) and the procedure laid down therein shall mutatis mutandis apply to cognizance of such offences.

Explanation.—For purposes of this section, "Forest Officer" shall have the same meaning as assigned to it under clause (f) of section 2 of the Jammu and Kashmir Forest Act, Samvat 1987 (1930 A.D.).

6. Power to make rules.—The Government may, by notification in the Government Gazette, make rules for carrying out the purpose of this Act.

7. Repeal and saving.—(1) The Jammu and Kashmir Forest Conservation) Act, 1992 (Presidents Act No. 5 of 1992) is hereby repealed.

Notwithstanding such repeal, anything done, any action taken or any order issued or any rule made under the said Act shall be deemed to have been done, taken, issued or made under this Act.