

The Forest (Conservation) Act, 1980

(Act 69 of 1980)

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

Be it enacted by parliament in the Thirty-first year of the Republic of India as follows:

STATEMENT OF OBJECTS AND REASONS-1. Deforestation causes ecological imbalance and leads to environmental deterioration. Deforestation had been taking place on a large scale in the country and it had caused wide-spread concerned.

2. With a view to checking further deforestation, the President promulgated on the 25th October, 1980, the Forest (Conservation) Ordinance, 1980. The Ordinance made the prior approval of the Central Government necessary for dereservation of reserved forests and for use of forest land for non-forest purposes. The Ordinance also provided for the constitution of an advisory committee to advise the Central Government with regard to grant of such approval.

3. The Bill seeks to replace the aforesaid Ordinance.

1. Short title, extend and Commencement- (1) This Act may be called the Forest (Conservation) Act, 1980.

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

(3) It shall be deemed to have come into force on the 25th day of October 1980.

2. Restriction on the de-reservation of forests or use of forest land for non-forest purpose: Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the Prior approval of the Central Government, any order directing

- (i) that any reserved forest (within the meaning of the expression “reserved forest” in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;
- (ii) that any forest land or any portion thereof may be used for any non-forest purposes;
- (iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation,

agency or any other Organisation not owned, managed or controlled by Government.

- (iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using if for reforestation.

[Explanation:-For the purpose of this section “non-forest purpose” means the breaking or clearing of any forest land or portion thereof for

- (a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticulture crops of medicinal plants;
- (b) any purpose other than reforestation, but does not include any work relating or ancillary to conservation, Development and management of forests 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, pipelines or other like purposes.]

Case Laws : Sec. 2 – Orissa Communal Forest and Private Lands (Prohibition of Alienation) Act, 1948 – Orissa Timber and Other Forest Produce Transit Rules, 1980 – Rule – 7(2) – Timber Transit permit for removal of tress – Sec. 2 of the Forest Conservation Act, 1980 shall not apply to any private plantation, orchard, bagan comprising of trees planted in any area which is not a forest – Ban shall also not apply to lease hold land irrespective of date of grant of lease or date of acquisition of title if the land was not converted from an earlier forest – In the present case land of petitioner not a lease hold land but a purchased land – No State enactment banning felling of trees in non-forest private plantation- Authorities can not refuse timber transit permit – Direction issued : **2005 (II) OLR 40.**

Sec. 2 (i) – ‘Forest’ – It covers all statutorily recognized forests, whether it is designated reserved, protected or otherwise – Prior approval of the Central Government is required for any non-forest activity within the area of any ‘forest’ : **2004 (I) OLR 1 : AIR 2004 Ori. 80.**

Sec. 2,3 – De-reservation of forest – Nothing to indicate that Government of India or the Advisory Committee constituted under Sec. 3 of the Act have considered and granted permission for de-reservation-Held, in absence of the Government of India as a party to this proceeding any direction to the State Government is of no avail – Prayer for direction uncalled for : **2004 (I) OLR 273: 2004 AIHC 2351 (Ori).**

3. Constitution of Advisory Committee:-The Central Government may constitute a Committee consisting of such number of persons as it in may deem fit to advise that Government with regard to

- (I) the grant of approval under section 2; and
- (ii) any other matter connected with the conservation of forests which may be referred to it by the Central Government.

3-A. 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.

3-B. Offences by authorities and Government departments: - (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 the 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 the 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 an 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 offences and shall be liable to be proceeded against and punished accordingly.

4. Power to make rules: (1) The Central Government may, by notification in the Official Gazette, makes rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both the Houses agree in making any modification in the rule or both

Houses agree 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.

5. -Repeal and savings :- (1) The Forest (Conservation) Ordinance, 1980 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

CASE LAWS: Felling of trees – Whether act applies to trees standing on privately owned land? – Following the view in the decision of Supreme Court as reported in AIR 1997 SC 1228, the Act applies to any forest land whether declared as private forest or not, and whether the forest is a reserve forest or not – Once the land satisfies the description of being a forest land, it has to be taken that the Act would have application and no permission to fell trees could be granted without prior concurrence of the Central Government: **2002 (II) OLR 206: AIR 2002 Ori. 201.**

NOTIFICATION

New Delhi, dated the 1 st October, 2003

***S.O. No. 1186 (E)** – In pursuance of Sub-rule (1) of Rule 9 of the Forest (Conservation) Rules, 2003, the Central Government hereby authorizes the Chief Conservator of Forests, Regional Office, Ministry of Environment and Forests, having regional jurisdiction over the forest land in respect of which any offence under the Forest (Conservation) Act, 1980 is alleged to have been committed, to file complaints against persons prima facie found guilty of such offence, in the Court having jurisdiction in the matter.