West Bengal Act XIV of 1948

THE WEST BENGAL PRIVATE FORESTS ACT, 1948.

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West Bengal Act XIV of 1948

THE WEST BENGAL PRIVATE FORESTS ACT, 1948.

[Passed by the West Bengal Legislature.]

[Assent of the Governor-General was first published in the *Calcutta Gazette, Extraordinary*, of the 23rd April, 1948.]

An Act to provide for the conservation of private forests and for the afforestation in certain cases of waste-lands in West Bengal.

WHEREAS it is expedient to provide for the conservation of forests and for the afforestation of waste-lands in West Bengal where such forests or lands are not the property of the Crown or where the Crown has no proprietary right over such forests or lands;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the West Bengal Private Forests Act, 1948.

(*2*) It extends to the whole of West Bengal.

(*3*) This section shall come into force at once and the remaining provisions of this Act, in whole or in part, shall come into force in such areas and on such dates as the Provincial Government may, by notification, specify and for this purpose different dates may be specified for different provisions of this Act and for different areas.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Appellate Committee" means a committee the procedure of which shall be as prescribed, appointed by the Provincial Government in respect of a notified area to hear appeals under this Act consisting of three members of whom the Chairman shall be a Revenue Officer not below the rank of a Collector, one member shall be a member of the Indian Forest Service or the West Bengal Forest Service not below the rank of a Deputy Conservator of Forests and the other member shall be an owner of a private forest who shall be selected in the prescribed manner from amongst the owners of private forests in such notified area;

(*2*) "cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids;

(*3*) "conservation", used in reference to a forest, includes such measures as are necessary in the opinion of the Regional Forest-officer for the prevention or remedying of the erosion of the soil or any flood or landslide;

(*4*) "Controlled forest" means a forest in respect of which a working plan has been approved under sub-section (*1*) of section 4;

(5) "forest" includes any land recorded as forest in a record of rights prepared under Chapter X of the Bengal Tenancy Act, 1885; V III of 1885.

(6) "forest-offence" means an offence punishable under this Act or under any rule made thereunder;

(7) "Forest-officer" means any person whom the Provincial Government or any officer empowered by the Provincial Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest-officer;

(8) "forest-produce" includes—

(*a*) the following whether found in, or brought from, a forest or not, that is to say:—

(*i*) timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, *mahua* flowers, *mahua* seeds, *kuth* and myrabolams, and

(*ii*) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(*b*) the following when found in, or brought from, a forest, that is to say:—

(*i*) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees,

(*ii*) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants, and

(*iii*) peat, surface soil, rock and minerals (including lime-stone, laterite, mineral oils, and all products of mines or quarries);

(9) "Forest Settlement-officer" means an officer, who shall ordinarily be a Revenue Officer, appointed by the Provincial Government to perform the functions of a Forest Settlement-officer under this Act and includes a Board, the procedure of which shall be as prescribed, appointed by the Provincial Government to perform such functions, consisting of not more than three officers of whom at least two shall be Revenue Officers;

(10) "notification" means a notification published in the *Official Gazette;*

(11) "notified area" means an area specified in a notification issued under sub-section (*1*) of section 3;

(12) "owner" includes any mortgagee in possession, lessee, common manager, receiver appointed by a competent Court and any person holding any property in trust and also includes a Court of Wards in respect of property under the superintendence or charge of such Court;

(*13*) "prescribed" means prescribed by rules made under this Act;

(*14*) "private forest" means a forest which is not the property of the Crown or over which the Crown has no proprietary right;

(*15*) "Regional Forest-officer" means a Forest-officer appointed by the Provincial Government as such by a notification for a notified area;

(*16*) "river" includes any stream, canal, creek or other channel, natural or artificial;

(*17*) "timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not;

(*18*) "tree" includes palms, bamboos, stumps, brushwood and canes;

(*19*) "vested forest" means a forest of which the control has been vested in a Regional Forest-officer by a notification under sub-section (*2*) of section 6 or under section 7 or under section 11 and includes any forest deemed to be, or managed as, a vested forest under this Act;

(*20*) "waste-land" means any waste-land which is not the property of the Crown or over which the Crown has no proprietary right;

(*21*) "working plan" means a written scheme for the management and treatment of a forest; and

(*22*) "year" means a year beginning on the 1st day of April.

CHAPTER II.

Conservation of Private Forests and Afforestation of Waste-lands.

Preparation of, and appeal and revision in respect of working plans for private forests.

3. (*1*) The Provincial Government may, by notification, direct that every owner of a private forest which is not a vested forest, but which is situated within such area as may be specified in the notification, shall prepare in the prescribed manner and submit within the period mentioned in the notification to the Regional Forest-officer a working plan for the conservation of such private forest.

(*2*) On the expiry of the period mentioned in the notification under sub-section (*1*), the Regional Forest-officer shall, after considering each working plan submitted to him under that sub-section, and after consultation in the manner prescribed with the Conservator of Forests of the forest circle within which such forest is situated, by an order in writing, accept the working plan or modify it in such manner as he may consider necessary or substitute another working plan for it.

(*3*) If any owner of such private forest does not submit a working plan within the period specified in the notification issued under sub-section (*1*), the Regional Forest-officer may, after consultation in the manner prescribed with the Conservator of Forests of the forest circle within which such forest is situated, prepare a working plan in respect of such forest.

(*4*) When the Regional Forest-officer by an order in writing modifies any working plan under sub-section (*2*) or substitutes another working plan under that sub-section for the working plan submitted under sub-section (*1*), he shall cause a copy of such order to be served in the prescribed manner upon the owner of such private forest to which such working plan relates and such owner may, within sixty days of the date of service of such order, appeal against such order to the Appellate Committee and the Appellate Committee may thereupon, after giving such owner an opportunity of being heard, by an order in writing, either accept the working plan with or without modifications or reject it and the decision of the Appellate Committee on every such appeal shall, subject to the provisions of sub-section (*5*), be final.

(*5*) The Board of Revenue may, on application by an owner of a private forest for revision of an order of the Appellate Committee passed in appeal under sub-section (*4*), and if such application is made within thirty days from the date of the order, call for the record of the appeal in which the order was passed and on receipt of such record, after giving such owner an opportunity of being heard, may, if it does not see fit to reject the application, direct the Appellate Committee by an order in writing to make such modifications in the working plan accepted by the said Committee under sub-section (*4*) as may be specified in such order in writing.

(*6*) The Board of Revenue shall, as soon as may be after an application for revision is disposed of under sub-section (*5*), communicate the order passed by it on such application to the Appellate Committee, and on receipt of such order the Appellate Committee shall, where the Board of Revenue has directed any modification to be made in such working plan, modify it accordingly.

Approved working plans.

4. (*1*) When the Appellate Committee accepts any working plan with or without modification under sub-section (*4*) of section 3, or modifies any working plan under sub-section (*6*) of the said section, or the Regional Forest-officer accepts, modifies or substitutes any working plan under the said section, or prepares any working plan under the said section, such Committee or officer shall by an order in writing approve such working plan or the working plan as so modified by the Committee or such officer, as the case

may be, and every working plan so approved shall be deemed for the purposes of this Act to be an approved working plan:

Provided that the Regional Forest-officer shall not so approve any working plan that he has modified or substituted by an order under sub-section (*2*) of section 3 if,—

(*a*) an appeal against the order has been made to the Appellate Committee; or

(*b*) where no such appeal has been made, the time within which such appeal may be made has not expired:

Provided further that the Appellate Committee shall not so approve any working plan accepted by it with or without modification by an order under sub-section (*4*) of section 3 if,—

(*a*) where an application for revision of the order has been made to the Board of Revenue, the order of the Board of Revenue on such application has not been received by such Committee; or

(*b*) where no such application for revision has been made, the time within which such application may be made has not expired.

(*2*) A copy of every approved working plan shall be sent in the prescribed manner by the Regional Forest-officer to the owner of the private forest to which it relates and the owner shall thereupon manage such forest in accordance with such plan and shall carry out all the terms and conditions thereof.

(*3*) At any time after five years from the date of approval of a working plan under sub-section (*1*), or with the previous sanction of the Provincial Government at any time within the said period of five years, a Regional Forest-officer may, after consultation in the manner prescribed with the Conservator of Forests of the forest circle within which the forest to which such working plan relates is situated, by an order in writing, modify the approved working plan in such manner as he considers necessary and the provisions of sub-sections (*4*), (*5*) and (*6*) of section 3 and sub-sections (*1*) and (*2*) of this section shall apply to every plan so modified:

Provided that nothing in this section shall prevent the owner after the expiry of the said period of five years from applying in writing to the Regional Forest-officer for the modification of the working plan in such manner as may be specified in the application and if the Regional Forest-officer, after giving the owner an opportunity of being heard, does not see fit after such consultation as aforesaid so to modify the working plan, he shall record an order to that effect and the owner may within thirty days from the date of such order appeal against such order to the Appellate Committee and an application for revision shall also lie to the Board of Revenue from any order passed by the Appellate Committee on such appeal if presented within thirty days from the date of such order and the decision of the Appellate Committee on such appeal shall, subject to such revision by the Board of Revenue, be final.

Prohibition of leases and extension of terms of existing leases of private forests after issue of notification under section 3 (*1*).

5. After the publication of a notification under sub-section (*1*) of section 3, no owner of a private forest in the notified area shall enter into any new lease or extend the term of any existing lease in respect of such forest until the working plan in respect of such forest has been approved under sub-section (*1*) of section 4 except with the previous sanction of the Provincial Government and, after such working plan has been so approved, except in accordance with the terms and conditions of such plan and any lease entered into or any extension of the term of any lease granted in contravention of the provisions of this section shall, notwithstanding anything contained in any other law for the time being in force, be void and have no effect.

Penalty for the violation of working plan.

6. (*1*) If after an approved working plan in respect of any private forest has been sent under sub-section (*2*) of section 4 to the owner of such forest, such owner fails or neglects to carry out any of the terms and conditions of such plan, he shall be punishable with fine which may extend to five hundred rupees:

Provided that no prosecution shall be instituted under this sub-section unless the Regional Forest-officer has served in the prescribed manner a notice on such owner specifying the terms and conditions of the working plan which such owner has failed or neglected to carry out and requiring such owner to take such steps for carrying them out as are specified in the notice within thirty days from the date of service of such notice and unless such owner has failed to comply with such notice.

(*2*) If the owner of a private forest is convicted a second or subsequent time under sub-section (*1*) for the failure or neglect to carry out any of the terms and conditions of the working plan in respect of such forest, the Provincial Government may, by a notification, direct that the control of such forest shall be vested in such Regional Forest-officer for such period as may be specified in such notification:

Provided that no such notification shall be issued until such owner has been called upon by notice in writing by the Regional Forest-officer within sixty days of such conviction to show cause before the Appellate Committee within such time as may be specified in the notice as to why such notification should not be issued and until the Appellate Committee, after considering the cause, if any, shown by him and any evidence which he may produce in support thereof, has recommended to the Provincial Government that such notification should be issued.

(*3*) Nothing in sub-section (*1*) shall render any owner of any private forest liable to conviction for any deviation from any approved working plan if such deviation has been previously sanctioned by the Regional Forest-officer on application made by such owner in that behalf to such officer or by the Appellate Committee on an appeal from an order of the Regional Forest-officer refusing to sanction such deviation presented by the owner to such committee within thirty days from the date of such order.

Vesting of forest in a Regional Forest-officer.

7. Notwithstanding anything contained in sections 3 and 4 or in sub-section (*2*) of section 6, if the Provincial Government is satisfied that the conservation of any private forest in a notified area should not be left to the owner thereof, the Provincial Government may, by a notification specifying the reasons for so doing, direct that the control of such forest shall be vested in such Regional Forest-officer for such period as may be specified in the notification:

Provided that no such notification shall be issued until,—

(*a*) the Regional Forest-officer has, by notice in writing, called upon the owner of such forest to show cause before the Appellate Committee within such period as may be specified in such notice why the control of such forest should not be so vested, and

(*b*) the Appellate Committee after considering the cause, if any, shown by the owner and any evidence which the owner may produce in support of the same has recommended that such notification should be issued.

Forest loans.

8. (*1*) Subject to rules made under this Act, loans may be granted on the recommendation of the Appellate Committee by such officer as may be empowered in this behalf by the Provincial Government to any owner of a controlled forest or of a vested forest who, in the opinion of the Appellate Committee, is likely to suffer unduly owing to any temporary reduction of his income resulting from any action taken under section 4 or sub-section (*2*) of section 6 or section [illegible] or to any owner of a controlled forest to enable such owner [illegible] pay any compensation payable by him under sub-section [illegible]) of section 10 or sub-section (*2*) of section 25.

(*2*) An application for such a loan shall be made in the prescribed manner to the Appellate Committee and shall state the following particulars, namely:—

(*a*) the amount of the loan required,

(*b*) the reasons for which it is necessary, and

(*c*) the period for which it is required.

(*3*) After considering in the prescribed manner the application made under sub-section (*2*) and any evidence that may be produced in support thereof, the Appellate Committee shall state in writing its opinion as to whether or not a loan should be given, and, if it recommends the grant of a loan, shall forward the application to the officer empowered under sub-section (*1*) with its opinion, stating the reasons for such recommendation and specifying the following particulars, namely:—

(*a*) the amount of the loan that should be granted and the rate of the interest that should be charged,

(*b*) the instalments in which the loan should be advanced, and

(*c*) the period after which and the instalments in which the loan should be repaid.

(*4*) Subject to rules made under this Act, all loans granted under sub-section (*1*), all interests, if any, chargeable thereon and costs, if any, incurred in granting such loans shall, when they become due, be recoverable by the Collector as if they were arrears of land revenue due in respect of the controlled forest or the vested forest of which the borrower was the owner at the time the loan was granted:

Provided that no proceeding in respect of any such forest under this sub-section shall affect any interest in that forest which existed before the date of the order granting the loan other than the interest of the borrower and of mortgagees of, or persons having charges on, the interest of the borrower.

Amalgamation of two or more vested forests under one working plan.

9. (*1*) If, after consultation in the prescribed manner with the Conservator of Forests of the forest circle within which the forests are situated, a Regional Forest-officer is of the opinion that it is impossible otherwise to secure the conservation of two or more forests, belonging to different owners, of which the control has been vested in him by a notification under sub-section (*2*) of section 6 or under section 7, he may record an order that such forests shall be managed under one working plan as if they belonged to one owner, and shall cause a copy of such order to be served in the prescribed manner on the owner of each such forest.

(*2*) The Regional Forest-officer may at any time, after consultation in the manner referred to in sub-section (*1*), by order in writing rescind or modify an order passed by him under that sub-section and a copy of every order passed under this sub-section shall be served in the prescribed manner on the owner of each such forest.

(*3*) Any owner or other person interested in any such forests may, within thirty days from the date on which the copy of any order passed under sub-section (*1*) or sub-section (*2*) is served on him, appeal against such order to the Appellate Committee and the decision of the Appellate Committee on such appeal shall, subject to the provisions of sub-section (*4*), be final.

(*4*) The Board of Revenue may, on application made within thirty days from the date of any order of the Appellate Committee passed in appeal under sub-section (*3*), revise such order.

Afforestation of land adjoining a forest.

10. (*1*) The Provincial Government may, if it is satisfied on application made by the owner of a controlled forest, or by the Regional Forest-officer in whom the control of a private forest is vested under this Act, that any land adjoining such forest has not been cultivated during the three years immediately preceding the year in which such application is made and that such land is suitable for afforestation, by notification, announce its intention to declare such land to be liable to be made over to the owner of such controlled forest or vested forest, as the case may be.

(*2*) Every notification issued under sub-section (*1*) shall specify a period within which objections to the proposed declaration may be submitted by any person interested in such land to the Appellate Committee and a copy of every such notification shall be served in the prescribed manner on the person entitled to cultivate such land.

(*3*) After the expiry of the period so specified in a notification issued under sub-section (*1*), the Appellate Committee shall hear the objections, if any, submitted by the person entitled to cultivate such land or any other person interested in such land and any evidence which any such person may produce in support of the same and forward the objections so submitted and its opinion thereon to the Provincial Government.

(*4*) If, after considering the objections and the opinion of the Appellate Committee forwarded under sub-section (*3*), the Provincial Government is of opinion that such land should be declared to be liable to be made over to the owner of the controlled or vested forest referred to in sub-section (*1*), the Provincial Government shall issue a notification—

(*a*) declaring such land to be liable to be made over to the owner of such forest to be specified in the notification,

(*b*) specifying as nearly as possible the situation and limits of such land, and

(*c*) appointing a Forest Settlement-officer to determine, subject to any rules made under this Act, by an order in writing,—

(*i*) what rights in or over such land shall be extinguished, and

(*ii*) what rent, if any, shall be payable by the owner of such forest to any landlord of such land.

(*5*) When a notification has been issued under sub-section (*4*), the amount of the compensation payable under sub-section (*6*) to every person whose rights as specified by the Forest Settlement-officer under sub-clause (*i*) of clause (*c*) of sub-section (*4*) are to be extinguished shall be determined, subject to any rules made under this Act, in the manner and in accordance with the principles hereinafter set out, that is to say—

(*i*) when the amount of compensation can be fixed by the Forest Settlement-officer appointed under clause (*c*) of sub-section (*4*) by agreement, it shall be paid in accordance with such agreement;

(*ii*) where no such agreement can be reached, the Provincial Government shall appoint as arbitrator a person who has exercised the powers of a District Judge in West Bengal or who possesses such