

**Roles and Responsibilities of
Revenue and Forest Officers
in context of
Forest Laws
in Uttarakhand**

Legal and Policy Framework

Subject in the concurrent list of the Constitution (Forty-second Amendment) Act 1976.

Independent ministry created in 1984

- **IFA 1927 with State amendments**
- **WLPA 1972**
- **Tree Protection Act 1976**
- **FCA 1980**
- **National Forest Policy 1988**
- **Special Laws**

NECESSITY FOR IFA (SPECIAL LAW) RELATING TO FORESTS.

- **POPULAR MISCONCEPTION ABOUT FORESTS DUE TO THEIR NATURAL ORIGIN.**
- **FOREST ARE BURDENED WITH RIGHTS OF USER**
- **FORESTS OCCUR OVER VAST AREA**
- **FOREST SUBJECT TO VARIETY OF INJURIES**
- **FOREST PRODUCE HIGHLY VULNERABLE TO THEFT AND HENCE NEEDS CONTROL IN TRANSIT.**

NECESSITY FOR IFA (SPECIAL LAW) RELATING TO FORESTS.

- **PETTY NATURE OF OFFENCES AND THE NEED FOR SIMPLE PROCEDURE FOR THEIR DISPOSAL**
- **THE NEED FOR REGULATION OF THE WORKING OF PRIVATE FORESTS.**

NECESSITY FOR IFA (SPECIAL LAW) RELATING TO FORESTS.

- **EMPOWERING OF FOREST OFFICERS.**
- **MACHINERY FOR COLLECTION OF REVENUE.**
- **PROTECTION OF Forests & WILD LIFE**

Indian Forest Act, 1927:

- **It is an act to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce.**
- **The Indian Forest Act, 1927 was based on previous Indian Forest Acts implemented under the British.**
- **The most famous one was the Indian Forest Act of 1878.**
- **IFA 1927 sought to consolidate and reserve the areas having forest cover, or significant wildlife, to regulate the movement and transit of forest produce, and the duty leviable on timber and other forest produce.**
- **It also defines the procedure to be followed for declaring an area to be a Reserved Forest, a Protected Forest or a Village Forest.**
- **It defines what is a forest offence, what are acts prohibited inside a Reserved Forests and Protected forests and penalties leviable on violation of the provisions of the Act.**
- **In Reserved Forests all activities are prohibited unless permitted.**

IFA Sec. 2. Interpretation clause

- 2(4) “forest-produce” includes—
- (a) the following whether **found in, or brought from, a forest or not**, that is to say **timber, charcoal, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, kuth and myrobalans**, 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 herein before mentioned, of trees,
 - (ii) **plants not being trees** (including grass, creepers, reeds and moss), and all parts or produce of such plants,
 - (iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and
 - (iv) peat, surface soil, rock and minerals (including limestone, laterite, mineral oils, and all products of mines or quarries);

IFA Sec. 2. Interpretation clause

- “river” includes any stream, canal, creek or other channels, natural or artificial;
- (6) “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; and
- (7) “tree” includes palms,**, skumps, brush-wood and canes
- *****Bamboos Ommited from the definition of tree in 2017***

**MINISTRY OF LAW AND JUSTICE (Legislative Department) New Delhi,
the 8th January 2018/Pausha 18, 1939 (Saka)**

THE INDIAN FOREST (AMENDMENT) ACT, 2017 NO. 5 OF 2018 [5th January, 2018.]

An Act further to amend the Indian Forest Act, 1927.

- **BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:— 1.**
- **(1) This Act may be called the Indian Forest (Amendment) Act, 2017. (2) It shall be deemed to have come into force on the 23rd day of November, 2017.**
- **2. In the Indian Forest Act, 1927, in section 2, in clause (7), the word “bamboos” shall be omitted.**

Roles and Responsibilities of revenue and Forest officers in the context of forest laws in Uttarakhand

- **Major Role Revenue Officers:**
- **Section 3 -24**
- **Section 28**
- **Section 29-34 (Chapter IV of Protected Forests)**
- **Role of Forest Officers:**
- **Implementation of IFA**

Roles and Responsibilities of revenue and Forest officers in the context of forest laws in Uttarakhand

- **IFA 1927: Section 4-27 (RF)**
- **Intention notification by govt.**
- **Bar on accrual of fresh forest rights,**
- **Forest Settlement Officer (FSO)- **SDMs****
- **Powers of FSO,**
- **Exercise of rights admitted, commutation of rights,**
- **Appellate authority-**D.M.**/ District Judge**
- **Notification declaring RF-On recommendation of FSO**

3. Power to reserve forests –The State Government may constitute any forest-land or waste-land which is the **property of Government**, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.

4. Notification by State Government -(1) Whenever it has been decided to constitute any land a reserved forest, the State Government shall issue a **notification in the Official Gazette**—

- (a) declaring that it has been decided to constitute such land a reserved forest;
- (b) specifying, as nearly as possible, the situation and limits of such land; and
- (c) appointing an officer (hereinafter called **“the Forest Settlement-officer”**) to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits or in or over any forest-produce, and to deal with the same as provided in this Chapter.

5. Bar of accrual of forest-rights.—After the issue of a notification under section 4, **no right** shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing

6. Proclamation by Forest Settlement-officer.—When a notification has been issued under section 4, the Forest Settlement-officer **shall publish in the local vernacular in every town and village in the neighbourhood** of the land comprised therein, a proclamation

(a) specifying, as nearly as possible, the situation and limits of the proposed forest;

(b) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(c) fixing a period of **not less than three months**

person claiming any right either to present to the Forest Settlement-officer a **written** notice specifying **or to appear before him and state**, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

7. Inquiry by Forest Settlement-officer.

8. Powers of Forest Settlement-officers.-For the purpose of such inquiry, the Forest Settlement-officer may exercise the following powers, that is to say:

(a) power to enter, by himself or any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same; and

(b) the powers of a **Civil Court** in the trial of suits.

9. Extinction of rights.-

10. Treatment of claims relating to practice of shifting cultivation.

11. Power to acquire land over which right is claimed.-FSO to pass an order **admitting or rejecting the same in whole or in part.**

For the purpose of so acquiring such land the FSO shall be **deemed to be a Collector** proceeding under the Land Acquisition Act, 1894 (1 of 1894); may award compensation in land, or partly in land and partly in money.

14. Record where he admits claim.—He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered.

15. Exercise of rights admitted.—

will ensure the continued exercise of the rights so admitted.

16. Commutation of rights

17. Appeal from order passed under section 11, section 12, section 15 or section 16.—

within three months from the date of the order passed to such officer of the Revenue Department of rank not lower than that of a Collector/Forest court established by Govt./ **District judge** (UP amendment w.e.f.23.11.1965)

18. Appeal under section 17.

it shall be heard in the **manner** prescribed for the time being for the hearing of appeals **in matters relating to land-revenue.**

The order passed on the appeal by such officer or Court, or by the majority of the members of such Court, as the case may be, shall, subject only to revision by the State Government, be final.

19. Pleaders.—

20. Notification declaring forest reserved.—(1) When the following events have occurred, namely:—

(a) the period fixed under section 6 for preferring claims have elapsed and all claims (if any) made under that section or section 9 have been disposed of by the Forest Settlement-officer;

(b) if any such claims have been made, the period limited by section 17 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer or Court; and

(c) all lands (if any) to be included in the proposed forest, which the Forest Settlement-officer has, under section 11, elected to acquire under the Land Acquisition Act, 1894 (1 of 1894), have become vested in the Government under section 16 of that Act,

the State Government shall publish a notification in the Official Gazette, specifying definitely, according to boundary-marks erected or otherwise, the limits of the forest which is to be reserved, and declaring the same to be reserved from a date fixed by the notification.

(2) From the date so fixed such forest shall be deemed to be a reserved forest.

21. Publication of translation of such notification in neighbourhood of forest.—

The Forest-officer shall, before the date fixed by such notification, cause a translation thereof into the local vernacular to be published in every town and village in the neighbourhood of the forest.

22. Power to revise arrangement made under section 15 or section 18—
within five years from the publication of any notification under section 20 (Revise, rescind or modify)

23. No right acquired over reserved forest, except as here provided.—No right of any description shall be acquired in or over a reserved forest except by **succession or under a grant or contract in writing** made by or on behalf of the Government or some person in whom such right was vested when the notification under section 20 was issued.

24. Rights not to be alienated without sanction.—

no right shall be alienated by way **of grant, sale, lease mortgage or otherwise**, without the sanction of the State Government:

Provided that, when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.

(2) No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under section 14.

27: Power to declare forest no longer reserved:

- (1) The state government may by notification in the official gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under the act shall cease to be a reserved forest.
- (2) From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.
- **Status after FCA Act 1980 section 2(i) !!**

Sec. 26. Acts prohibited in such forests.

- (1) Any person who—
 - (a) makes any fresh clearing prohibited by Section 5, or
 - (b) sets fire to a reserved forest or to a forest in the land in respect of which a notification under section 4 has been issued, or, in contravention of any rules made by the State Government in this behalf, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest;
 - or who, in a reserved forest-
 - (c) kindles, keeps or carries any fire except at such seasons as the Forest-officer may notify in this behalf;"
 - (d) trespasses or pastures cattle, or permits cattle to trespass;"
 - (e) causes any damage by negligence in felling any tree or cutting or removing any timber;"

Sec. 26. Acts prohibited in such forests.

- (f) fells, girdles, lops, or burns any tree or strips off the bark or leaves from, or otherwise damages, the same **or any forest produce**;
- (g) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce;
- (h) clears or breaks up any land for cultivation or any other purpose;
- (i) in contravention of any rules made in this behalf by the State Government hunts, shoots, fishes, poisons water or sets traps or snares; or
- (j) in any area in which the Elephants' Preservation Act, 1879 (6 of 1879), is not in force, kills or catches elephants in contravention of any rules so made,

Punishment UK Amendment 2001 Sec 26

- "shall, for an Act described under clause (b) or clause (f) or clause (g) or clause (h), be punishable with imprisonment for a term which may extend to **two years, or with fine which may extend to five thousand rupees**, or with both and on the **second and every subsequent conviction** for the same offence, with imprisonment for a term which may extend to **two years, or with fine which may extend to twenty thousand rupees but which shall not be less than five thousand rupees**, or with both, and
- for an Act described under **any of the other clauses**, be punishable with imprisonment for a term which may extend to **six months or with fine which may extend to one thousand rupees**, or with both, and on the **second and every subsequent conviction** for the same offence, with imprisonment which may extend to **six months, or with fine which may extend to two thousand rupees**, or with both," in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid."

Sec. 26 contd.

- (2) Nothing in this section shall be deemed to prohibit-
- (a) any act done by permission in writing of the Forest-officer, or under any rule made by the State Government; or"
- (b) the exercise of any right continued under clause (c) of subsection (2) of section 15, or created by grant or contract in writing made by or on behalf of the Government under section 23.
- (3) Whenever fire is caused wilfully or by gross negligence in a reserved forest, the State government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof, **the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.**

Protected forests (Section 29-34)

PFs are under the **control of revenue department** in Uttarakhand

29. Protected forests.—(1) The State Government may, by notification in the Official Gazette declare the provisions of this Chapter applicable to any forest-land or waste-land which is **not included in a reserved forest but which is the property of Government, or over which the Government has proprietary rights**, or to the whole or any part of the forest- produce of which the Government is entitled.

(2) The forest-land and waste-land comprised in any such notification shall be called a “protected forest”.

30. Power to issue notification reserving trees etc.

31. Publication of translation of such notification in neighbourhood: By Collector

32. Power to make rules for protected forests (Regulatory)

33. Penalties for acts in contravention of notification under section 30 or of Rules under section 32.

The direct role of revenue officers in the management and Protection of forests against encroachment, illicit fellings, fire etc.

Regulatory role/To take legal action

Compounding/sue the matter in court

Patwari khetra with police power/

WL cases!!

Penalties and Procedures (Chapter –IX)

52 Seizure of property liable to be confiscated /52(a)- Confiscation

53 Power to release property seized under Sec. 52

58 Procedure as to perishable property seized under section 52

60 Property when to vest in Government

61 Saving of power to release property seized

62 Punishment for wrongful seizure

64 Power to arrest without warrant

65 Power to release on a bond a person arrested

66 Power to prevent the commission of offences

67 Power to try offences summarily (*DM/First class magistrate, any forest offence punishable with imprisonment for a term not exceeding six months or fine not exceeding Rs 500 or both presently only Sec. 51, 77 and 79*)

68 Power to compound offences (Except offences U/S 62 and 63)

69 Power to compound offences (Except offences U/S 62 and 63)

- **Van Panchayat Rules-2005**

- IFA section 28 –Village Forest
- Formation of VP and all administrative control- **SDM**
- Appellate authority-**DM**
- **Administrative functions with revenue department and Technical support by FD**

- **FCA 1980**

- Land schedule
- A certificate that No non-forest land is available

- **FRA:**

- Certificate under FRA to be issued within the stipulated time. **District collector** to complete the process of settlement of rights under FRA 2006 and forward the proposal to concerned CF within 30,45 and 60 days for proposals involving forest land up to 40, 40-100 and more than 100 ha. Respectively.
- Facilitation and monitoring of development activities
- Forest fire management
- The sub-district and district committee is headed by SDM &DM respectively

Uttarakhand Amendment Act 2001 (10 of 2002)

- Offences U/S 26 (partly) ,33 and 63 made non-bailable
- Punishment enhanced to 2 Yrs. For most of the offences. Imprisonment or fine Rs 5000 or both (*No summary trials now*)
- Section 61A introduced: Powers for Summary Eviction from RF given to DFOs
- Section 52A introduced: Power of confiscation of tools, vehicles etc. used in forest offence to DFOs

FOREST LAND:

“ THE WORD FOREST MUST BE UNDERSTOOD ACCORDING TO ITS DICTIONARY MEANING.THE TERM FOREST LAND WILL NOT ONLY INCLUDE FOREST AS UNDERSTOOD IN THE DICTIONARY SENSE, BUT ANY AREA RECORDED AS FOREST IN THE GOVERNMENT RECORD IRRESPECTIVE OF THE OWNERSHIP”.

(Supreme court judgement In civil W.P. no.202/95 on12.12.96)

GoI has asked state govts. To define forest/Uttarakhand scenario

Uttarakhand HC Judgement dated 26th October 2017 (WPMS No. 2764 of 2011)

Rescinding the earlier notification DATED 28.09.2011 under IFA 1878

State govt. to take mendatory permission/clearance from MoEF&CC

- **FC ACT 1980 DOES NOT APPLY TO BONAFIED USE OF SLATES and RBM BY RIGHT HOLDERS OF UTTARAKHAND.**

MINING

- **Mining:**
 - a. On Forest Land:
 - b. On private Land:
 - Environmental Clearance and NOC from different agencies
- **District Mining Committee**
- River Training Policy/ In context of disaster prevention/mitigation (2016 G.O. of state Govt.)
- Committee headed by DM to recommend and DM to pass order under DMAct
- E-Ravanna (Issued by individual/agency from web site of mining department) and E-Transit (Reform)
- **District Mineral Foundation** (25% of Royalty. Who pays!)

THANKS

