



The Indian Forest (Manipur Amendment) Act, 2018

Act No. 7 of 2018

Keywords:

Forest

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GOVERNMENT OF MANIPUR
SECRETARIAT : LAW & LEGISLATIVE AFFAIRS DEPARTMENT

NOTIFICATION
Imphal, October 12, 2018

No. 2/11/2018-Leg/L : The following Act of the Legislature, Manipur which received assent of the President of India on 17-09-2018 is hereby published in the Official Gazette:

THE INDIAN FOREST (MANIPUR AMENDMENT) ACT, 2018
(MANIPUR ACT NO. 7 OF 2018)

AN
ACT

to amend the Indian Forest Act, 1927(16 of 1927) in its application to the State of Manipur.

Be it enacted by the Legislature of Manipur in the Sixty-ninth Year of the Republic of India as follows:

- 1. (1) This Act may be called the Indian Forest (Manipur Amendment) Act, 2018. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

of Act 16
1927

2. In section 2 of the Indian Forest Act, 1927 (hereinafter called the Principal Act), for clause (1), the following clauses shall be substituted namely:

- "(1) "Authorized officer" means an officer not below the rank of Range Forest Officer authorized by the State Government under sub-section (2) of section 52 of the Act; Amendment of section 2.
- (1A) "Cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids;
- (1B) "Conservator of Forests" means such officers holding

Amendment
of section 42.

3. In sub-section (1) of section 42 of the Principal Act, for the words "which may extend to five hundred rupees", the words "with minimum of one thousand rupees which may extend to ten thousand rupees" shall be substituted.

Substitution
of section
52.

4. For section 52 of the Principal Act, the following shall be substituted, namely:-

Seizure of
property
liable to
confiscation.

"52. (1) When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce, together with all tools, boats, vehicles, cattle, carts, ropes, chains or any other article used in committing any such offence, may be seized by any Forest Officer or Police Officer.

(2) Every Officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized and shall, as soon as may be, either produce the property seized before an officer not below the rank of the Range Forest Officer of the concerned Territorial Forest Division authorized by the State Government in this behalf by notification in the official Gazette (hereinafter referred to as the authorised officer) or where it is, having regard to quantity of bulk or other genuine difficulty, not practicable to produce the property seized before the authorised officer or where it is intended to launch criminal proceedings against the offender immediately, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made;

Provided that when the forest produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

(3) Where the authorized officer upon production before him of property seized or upon receipt of report about seizure, as the case may be, is satisfied that a forest offence has been committed in respect thereof, he may by order in writing and for reasons to be recorded, confiscate forest produce so seized together with all tools, vehicles, cattle, carts, boats, ropes, chains, or any other article used in committing such offence. A copy of the order of the confiscation shall be forwarded without any undue delay to the Conservator of Forests in charge of the circle in which the timber or forest-produce, as the case may be, has been seized or confiscated.

(4) No order confiscating any property shall be made under sub-section (3) unless the authorized officer:

26

- (a) sends an intimation about initiation of proceedings for confiscation of property to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made;
- (b) issues a notice in writing to the persons from whom the property is seized, and to any other person who may appear to the authorized officer to have interest in such property;
- (c) affords an opportunity to the person referred to in clause (b) of making a representation within such reasonable time as may be specified in the notice against the proposed confiscation; and
- (d) gives to the officer effecting the seizure and the person or persons to whom notice has been issued under clause (b), a hearing on a date to be fixed for such purpose.

(5) No order of confiscation under sub-section (3) of any tools, vehicles, boats, carts, cattle, ropes, chains, or any other article (other than timber or forest produce seized) shall be made if any person referred to in clause (b) of sub-section (4) proves to the satisfaction of the authorized officer that any such tools, vehicles, boats, ropes, chains or other articles were used without his knowledge or connivance or as the case may be, without the knowledge or connivance of his servant or agent and that all reasonable and necessary precautions had been taken against use of the objects aforesaid for commission of forest offence."

5. After section 52 of the Principal Act, the following new sections 52 (A), 52(B) and 52(C) shall be inserted, namely:-

"52(A). (1) Any person aggrieved by an order of confiscation may within thirty days of the order, or if the fact of such order of confiscation has not been communicated to him, within thirty days of the date of knowledge of such order, prefer an appeal in writing, accompanied by such fee payable in such form as may be prescribed, along with the certified copy of the order of confiscation to the Conservator of Forests (hereinafter referred to as Appellate Authority) having jurisdiction over the area in which the forest produce has been seized.

Explanation: The time requisite for obtaining certified copy of the order of confiscation shall be excluded while computing period of thirty days referred to in this sub section.

(2) The Appellate Authority referred to in sub-section (1) may, where no appeal has been preferred before him, "suo-motu" within thirty days of the date of receipt of copy of confiscation by him, and shall on presentation of memorandum of appeal, issue a notice for hearing of appeal or as the case may be, of "suo motu" action, to the officer effecting the seizure and/ or to any other person

Insertions of new sections 52(A), 52(B) and 52(C).

Appeal against order of confiscation.

(including appellant, if any) who in the opinion of the Appellate Authority, is likely to be adversely affected by the order of the confiscation, and may call for the records of the case:

Provided that no formal notice of appeal need to be issued to such amongst the appellant, officer effecting the seizure and other person likely to be adversely affected as aforesaid as may waive the notice or as may be informed in any other manner of the date of hearing of the appeal by the Appellate Authority.

- (3) The Appellate Authority shall send intimation in writing of lodging of appeal or about *suo motu* action to the authorized officer.
- (4) The Appellate Authority may pass such order of interim nature for custody, preservation or disposal (if necessary) of the subject matter of confiscation as may appear to be just or proper in the circumstances of the case.
- (5) The Appellate Authority, having regard to the nature of the case or the complexities involved, may permit the appellant to be represented by his legal practitioners.
- (6) On the date fixed for hearing of appeal or "*suo motu*" action, or on such date to which the hearing may be adjourned, the Appellate Authority shall peruse the record and hear the parties to the appeal if present in person, or through any agent duly authorised in writing or through a legal practitioner, and shall thereafter proceed to pass an order of confirmation, reversal or modification of order of confiscation:

Provided that before passing any final order the Appellate Authority may if considered necessary for proper disposal of the appeal or for disposal of "*suo motu*" action, make further inquiry or cause it to be made by the authorised officer, and may also allow parties to file affidavits for asserting or refuting any fact that may arise for consideration and may allow proof of facts by affidavits.

- (7) The Appellate Authority may also pass such orders of consequential nature, as it may deem necessary.
- (8) Copy of final order or order of consequential nature shall be sent to the authorized officer for compliance or for passing any other appropriate order in conformity with the order of the Appellate Authority.

28

52(B). (1) Any party to the appeal, aggrieved by the final order or by order of consequential nature passed by the Appellate Authority, may within thirty days of the order sought to be impugned, submit a petition for revision in the Court of Sessions Judge whereof the headquarters of the Appellate Authority situate.

Revision before Court of Sessions against order of Appellate Authority.

Explanation: In computing the period of thirty days under this sub-section, the time requisite for obtaining certified copy of the order of Appellate Authority shall be excluded.

(2) The Court of Sessions Judge may confirm, reverse or modify any final order or any order of consequential nature passed by the Appellate Authority.

(3) Copies of the order passed in revision shall be sent to the Appellate Authority and to the authorized officer for compliance or for passing such further orders or for taking such further action as may be directed by such Court.

(4) For entertaining, hearing and deciding a revision under this Section, the Court of Sessions Judge shall, as far as may be, exercise the same powers and follow the same procedure as it exercises and follows while entertaining, hearing and deciding a revision under the Code of Criminal Procedure, 1973.

(5) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973, the order of the Court of Sessions passed under this section shall be final.

Central Act No. 2 of 1974.

Central Act No. 2 of 1974.

52(C). On receipt of intimation under sub section (4) of section 52 about initiation of proceedings for confiscation of property by the Magistrate having jurisdiction to try the offence on account of which the seizure of property which is the subject matter of confiscation has been made, no court, tribunal or Authority (other than the authorized officer, Appellate Authority and Court of Sessions referred to in sections 52, 52(A) and 52(B)) shall have jurisdiction to make orders with regard to possession, delivery, disposal or distribution of the property in regard to which proceedings for confiscation initiated under section 52, notwithstanding anything to the contrary in this act or any other law for the time being in force.

Bar to jurisdiction of Court etc. under certain circumstances.

Explanation: Where under any law for the time being in force, two or more Courts have jurisdiction to try forest offence, then receipt of intimation under sub-section (4) of section 52 by one of the Courts of Magistrate having such jurisdiction shall be construed to be receipt of intimation under that provision by all courts and the bars to exercise jurisdiction shall operate on all such Courts."

(89)

- Amendment of section 53, 54 and 65.** 6. In section 53, 54 and 65 of the Principal Act, the word "Magistrate" shall be substituted by the words "authorised officer".
- Amendment of section 55.** 7. In sub-section (1) of section 55 of the Principal Act, the words "carts and" shall be substituted by the words "carts, vehicle and".
- Substitution of section 58.** 8. For section 58 of the Principal Act, the following shall be substituted namely:-
"58. The authorised officer upon production of the seized forest produce before him which is subject to speedy and natural decay of the produce and on his personal satisfaction may authorize the sale of such property and deal with the proceeds as he would have dealt with such property as if it had not been sold and shall report every such sale to his immediate superior officer."
- Procedure as to perishable property seized under section 52.** 9. In section 59 of the Principal Act, for the word "Court" and "Magistrate" the words "authorized officer" shall be substituted.
- Amendment of section 59.** 10. In section 63 of the Principal Act, the word "fine" shall be replaced by the words "fine of a minimum of twenty thousand rupees".
- Amendment of section 63.** 11. In section 64 of the Principal Act, the word "Magistrate" shall be substituted by the words "authorised officer" and in sub-section (1), the words "search the premises of or" shall be inserted between the words "warrant," and "arrest".
- Amendment of section 64.** 12. In sub-section (3) of section 68 of the Principal Act, the words "a Ranger and is in receipt of a monthly salary amounting to at least one hundred rupees" shall be substituted by the words "an Assistant Conservator of Forests" and the words "fifty rupees" shall be substituted by the word "five thousand rupees".
- Amendment of section 68.** 13. After section 72 of the Principal Act, a new section 72 (A) shall be inserted, namely:-
- Amendment of section 72.** "72A. (1) A Forest Officer not below the rank of a Conservator of Forests considering the facts and circumstances of the offence may authorize payment by way of reward of a sum of money as he deems fit to a maximum of 25% out of the proceeds of property confiscated or, the value of forest produce in compounded forest offence under the Act to any person(s) who furnished the information leading to and assisting in the seizure of the illegally transported forest produce as well as all tools, vehicles, carts etc. used in committing the forest offence and subject to the successful disposal of the offence case against the offender(s).
- Rewards out of proceeds of confiscation and compounding of offence.**

36

(2) A Forest Officer who has been instrumental in detecting the forest offence and in disposal of the offence case under the Act or, any other Acts and Rules extended in the State of Manipur, may be entitled for the reward under sub-section (1).

(3) No appeal to any authority shall lie against the quantum of reward paid under sub-section (1) under the Act by the competent authority.

(Patience Panmei)
Under Secretary (Law),
Government of Manipur

Copy to :

1. The Secretary to Governor, Raj Bhawan, Imphal.
2. The Secretary to Chief Minister, Manipur.
3. P.S. to Minister (Law & Legislative Affairs), Manipur.
4. P.S. to Minister (Forest & Environment), Manipur.
5. Staff Officer to Chief Secretary, Government of Manipur.
- ✓ 6. The Additional Chief Secretary (Forest & Environment), Government of Manipur.
7. The Secretary, Manipur Legislative Assembly, Imphal.
8. The Director, Printing & Stationery, Manipur for publication in the Manipur Gazette Extra-Ordinary dated 12-10-2018 and to send 5 (five) copies of the publication to the Law & Legislative Affairs Department, Government of Manipur.
9. Guard File.