

LEGAL PROVISIONS FOR JOINT FOREST MANAGEMENT

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Introduction

Participatory Forest Management, Joint Forest Management, Community Forestry are the emerging trends in forestry, which have convinced foresters, public and policy makers that they offer the most effective solution to solve the problems of rapid dwindling forests of India. A letter dated 1/6/90 (No. 621/89 - F.P.) issued from Ministry of Environment and Forests, Government of India to all the States and Union Territories has given the guide lines for involvement of village communities and voluntary agencies in the regeneration of degraded forest lands. Following suit, many of the State Governments have adopted this to suit to their local conditions.

In Bihar State also, after the adoption of resolution No. 5244 dt. 8/11/90 more than 1385 Village Forest Management and Protection Societies have been constituted covering 6903 km² of forests.

But still, there are good number of sceptical forest officers at senior level, not to talk about lot of junior field forest staff, who are not very clear about the origin of this new system of forest management. In the foresters community itself, many of them are not sure of the legal position of the new resolution and its consequential effects. They are still in doubt whether the new resolution and rules framed there after are contradictory to any forest act, law etc. This paper makes an attempt to make it clear that the present resolution is in consonance

with our National Forest Policy and also in tune with the main forest Act, i.e. the Indian Forest Act, 1927.

Past History

Glancing at the past history of Indian forestry, we find that in some remote parts of India where the influence of the state or the local landlord was absent, some traditions of community management of forest resources developed. One such example is "Devara Kadus" jungle in the Coorg District of Karnataka, where the influence of the state was missing and the local temple priest managed these forests with the help of the people.

Royal Commission on Agriculture in 1928 had recommended that management of non-timber forests such as revenue forests, wastelands, minor forests, village woodlots, fuel plantations etc. should be handed over to the Forest Department. It also recommended the setting up of a second Forest Division in each District for managing such forests and forest officers inclined to work for the development of people should be made in charge of such Division.

This concept of JFM (in its present shape) was tried by a Forest Officer for the first time in Arabari, West Bengal way back in 1972. The Arabari experiment was then successfully followed up by a number of forest officers in West Bengal and other States e.g. Ratlam, Jhabua and Harda in M.P. and Dangs in Gujarat.

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In Bihar, Shri J.N. Sinha, the then C.C.F. Bihar in 1958 and 1959 transferred the management and protection of large chunks of workable P.F. to panchayats for management and protection, in turn forest produce from the annual coupe was first distributed among right holders, the surplus was handed over to the village Cooperative Society and the sale proceeds were deposited in panchayat, to be spent for the well being of the village.

National Forest Policy 1988

The National Forest Policy of 1988 is the source, which envisages peoples involvement in the development and protection of forest. This policy document envisages it as one of the essentials of forest management that the forest communities should be motivated to identify themselves with the development and protection of forests from which they derive benefits.

Theoretically, a National Forest Policy reflects the nation's objectives. The 1988 Forest Policy marks a significant and important change for the forestry sector. One of the basic objectives of this policy's (2.1) is as follows :

(2.1) Creating a massive people's movement with the involvement of women, for achieving these objectives and to minimize pressure on existing forest.

An important highlight of the 1988 policy is, the peoples participation which has received due attention.

(4.3.4.2) The holders of customary rights and concessions in forest areas should be motivated to identify themselves with the protection and development of forests from which they derive benefits. The rights and

concessions from forests should primarily be for the bonafide use of the communities living within and around forest areas, specially the tribals.

(4.8.3) Grazing in forest areas should be regulated with the involvement of the community.

(4.10) Forest Extension - Forest conservation programme cannot succeed without the willing support and cooperation of the people.

Hence, it is clear that National Forest Policy 1988 has endorsed the view that people's involvement in planning and management of forests is essential.

Indian Forest Act, 1927

Chapter III of Indian Forest Act, 1927 deals with "Village forest and empowers the State Government to assign any village community, the rights of Government to or over any land which has been constituted a reserved forest and further empowers to make rules for regulating management of such forest".

Chapter XIII deals with the provisions of the management of the forest jointly held by Government and the other persons.

Section 28 of Indian Forest Act, 1927 - Formation of village forest

(1) The State Government may assign to any village community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment. All forests so assigned shall be called village forests.

(2) The State Government may make rules

for regulating the management of village forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest produce or pasture, and their duties for the protection and improvement of such forests.

(3) All the provisions of this Act relating to reserved forests shall (so far as they are not inconsistent with the rules made) apply to village forest.

Comments

This section which deals with village forests and empowers the State Governments to assign to any village community the rights of Government to or over any land which has been constituted a reserved forest and further empowers to make rules for regulating management of such forests [1965 M.P.L.J. 541 (High Court)].

The constitution of such village forest and assignment of rights to village community solely depends upon the discretion of the State Government. The inhabitants have been given no statutory rights. The exercise of their rights are subject to rules and conditions prescribed by the State Government. Under this section the State Government has also power to cancel such assignment as and when it thinks fit to do so. There is no statutory bar in the cancellation of such assignment of powers conferred upon the village communities.

The various States have amended this section to give more scope of flexibility to this section, e.g.

- (a) Gujarat : (i) in sub section (1) -
(a) after the words "reserved forest", or

called a "protected forest";

(b) after the words "village community" insert the words and figures "Village panchayat established under the Bombay village Panchayat Act, 1993, Cooperative society registered or deemed to be registered";

(ii) In Sub-section (2) -
after the words "community" insert the words "Panchayat or society"

(iii) In Sub-section (3) -
(a) after the word "Village forest" insert "according as the forests assigned are reserved or protected forest".

Similarly, in Section 28 of IFA (U.P. Amendment Act XXI of 1960) has extended this provision to P.F. or any Government owned forests.

Section 29 of Assam Forest Regulation of 1891 and Mysore Forest Act of 1963 empowers the State Government to extend this provision to any Government owned forest or land.

Section 28 of Rajasthan Forest Act of 1953 also has the corresponding provisions.

Resolution No. 10F (Pron) - 47/88/17240/FFAH of Orissa Government dt. 1.8.1988, regarding JFM in reserve forests adjoining to villages has legal basis in Section 24 of the Orissa Forest Act, 1972.

Section 80, of IFA 1927 - Management of forests the joint property of Government and other persons.

(1) If the Government and any person be jointly interested in any forest or wasteland, or in the whole or any part of the produce

there to, the State Government may either (a) undertake the management of such forest, wasteland or produce accounting to such person for his interest in the same, or (b) issue such regulations for the management of the forest, wasteland or produce by the person so jointly interested as it deems necessary for the management thereof and the interest of all parties therein.

(2) Where the State Government undertakes under clause (a) of Sub-section (1) the management of any forest, wasteland or produce, it may, by notification in the official Gazette, declare that any of the provisions contained in Chapters II and IV shall apply to such forest, wasteland or produce, and there upon such provisions shall apply accordingly.

Comments

Articles 2, 3(i), (ii), (iii), (iv), (v), (vi), (vii) of letter No. 6.12/89-FP dated 1-6-90 of Secretary (Environment and Forests), Government of India addressed to Forest Secretaries of all States and Union Territories is in accordance with the above quoted Section 80 of I.F.A., 1927.

Section 81, I.F.A., 1927. Failure to perform service for which a share in produce of Government is enjoyed.

If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights or the any part of the forest produce of which the government is entitled, upon the condition

of duly performing any service connected with such forest, such share be liable to confiscation in the event of the fact being established to the satisfaction of the State Government that such service is no longer so performed.

Provided that no such share shall be confiscated until the person entitled there to, and the evidence, if any, which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the State Government.

Comments

Article 3(xiv) of the letter No. 6.21/89 FP dated 1.6.90 of Secretary (Environment and Forest) Govt. of India addressed to Forest Secretaries of all States and UTs is in accordance with above quoted Section 81 of I.F.A., 1927.

The above given details, make evident that guidelines issued on 1.6.90 by Govt. of India, Ministry of Environment and Forests on J.F.M. are in accordance with both National Forest Policy 1988 and various laws of the country and States.

Conclusion

It is hoped that this legal basis of JFM will put the foresters on more sound footing in their endeavour to conserve and manage forests and wildlife with the ultimate aim of balanced growth of environment and national development.

SUMMARY

The legal provisions in respect of guide lines for involvement of village communities and voluntary agencies in the regeneration of degraded forest lands have been discussed in this paper.

संयुक्त वन प्रबन्ध पर एक टिप्पणी

एच०एस० गुप्त

सारांश

प्रस्तुत अभिपत्र में संयुक्त वन प्रबन्ध द्वारा समुचित और बुद्धिसंगत ढंग से वनों का प्रबन्ध करने का विवेचन किया गया है।

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