

8. INSTRUCTION ON FOREST AND ENVIRONMENT

FOREST AND EXCISE DEPARTMENT FORESTS NOTIFICATION

24-Parganas – No. 7737 For, 29th May 1943 – under the provisions of section 20 of the Indian Forest Act, 1927 (XVI of 1927), the Governor is pleased to declare that the lands in the Sundarbans of the 24-Parganas district measuring more or less 404,097 acres including waterways (217,916 acres), namely (1) Moore Island or New Island, Police Station Sagar, (2) The Muriganga river, Police Station Sagar and Kakdwip inclusive of any chars within it, (3) G plot – mouza Mahisani jurisdiction list No.63, Police Station Kakdwip (the portion lying towards the south of the lands which were disafforested as per notifications No.1024 For, dated the 29th August 1935, and No.5174 For, dated the 2nd May 1939, (4) The Pitt's creek, Police Station Kakdwip (the portion between the Bay and the Southern boundary of Uttar Mahisani, Jurisdiction list No.62, Police Station Kakdwip), (5) The portion of Cadastral Survey Plot No.1998 locally known as Chilapara Khal of Mouza Rajnagar, Jurisdiction list No.58, Police Station Kakdwip, between the Pitt's creek and the point due north of the northern extremity of Patibunia, Jurisdiction list No.68, Police Station Kakdwip, (6) Edward's Creek, Police Station Kakdwip, between the Bay and the South of the Sahebkhali Khal, (7) The Khal bearing Cadastral Survey Plot Nos. 1762, 1708 and 3366 known as Sahebkhali Khal in mouza Sibarampur jurisdiction list No. 57, Police Station Kakdwip, (8) Bakkhali river, Police Station Kakdwip, (9) Frederick Island, Police Station Kakdwip, (10) Henry Island, police Station Kakdwip, (11) Ghughudanga river, Police Station Kakdwip, from the Chunpuri Khal up to the south-eastern corner of mouza Gangadharpur, jurisdiction list No.34, Police Station Kakdwip, (12) Saptamukhi river, Police Station Kakdwip and Mathurapur inclusive of any char within it, (13) Dia Island, jurisdiction list No.165, Police Station Mathurapur, (14) Prentice Island, Police Station Mathurapur, (15) Lothian Island, Police Station Mathurapur, (16) E Plot 6th portion, Jurisdiction list No.176, Police Station Mathurapur, (17) Habills creek or Welsh creek, Police Station Mathurapur, between the south-eastern corner of mouza Bhagabatpur, jurisdiction list No.175, Police Station Mathurapur and Saptamukhi river, (18) G Plot 6th portion, jurisdiction list No.215, Police Station Mathurapur, (19) Jagatdal Gang, Police Station Mathurapur, between the Rose creek and the Bay; (20) Rose creek or Dhanchi Khal, Police Station Mathurapur, (21) L Plot 2nd portion, Police Station

Mathurapur, (22) Thakuran river, Police Station Jaynagar and Mathurapur, between the Moni river and the Bay, (23) Durgi Island, Police Station Mathurapur, (24) Swan Island, Police Station Mathurapur, (25) Olian Khal, Police Station, Joynagar, (26) Gura or Makri or Serfala Khal, Police Station Jaynagar, (27) Bainchapi Khal, Police Station Jaynagar, (28) Manik Khal or Chitrudhi Khal, Police Station Jaynagar, (29) Lot No.121, jurisdiction list No.159, Police Station Jaynagar, (30) Lot No.120, jurisdiction list No.160, Police Station Jaynagar, (31) Lot No.118, jurisdiction list No.169, Police Station Jaynagar, (32) Keikalmari river, Police Station Joynagar, (33) Ajmalmari river, Police Station Joynagar, (34) Dhulibhasani Gang, Police Station Joynagar, (35) Suin Gang, Police Station Joynagar, (36) Chulkati Gang, Police Station Joynagar, (37) Komligang, Police Station Joynagar, (38) Pogimari Gang, Police Station Joynagar, (39) Gokhaltali Gang, Police Station Joynagar, (40) Bulchari Khal, Police Station Joynagar, (41) Haliday Island, Police station Joynagar, (42) Bulchuri Island, Police Station Joynagar, (43) Matla river, Police Station Joynagar and Canning between the Bheval Khal or Jira Khal and the Bay, (44) Bhaval Khal, Police Station Canning, (45) Baidya river, Police Station Canning, between the Bhaval Khal and the Matla river, (46) Lot No.126 and portion, jurisdiction list No.175, Police Station Canning, (47) Lot No.125, jurisdiction list No.176, Police Station Canning, (48) Lot No.124, jurisdiction list No.177, Police Station Canning, (49) Chota Bidya Khal, Police Station Canning, (50) Chotematle Khal, Police Station Canning, (51) Catalia Gang, Police Station Canning as situated within the boundaries specified below are received and shall be deemed to be a reserved forest from the 20th July 1943.

BOUNDARIES

From the southern more points of Moore Island or New Island in the Bay of Bengal proceeding northward along the western boundary of that island, crossing the channel to the southern most points of few char, proceeding again along the western boundary of new char and crossing the Bay of Bengal in a northerly direction to the south-eastern corner of the grant called Dablat in Sagar Island then northward along the western bank of channel creek (or Muriganga or Beretala river) to the junction with the Bhanga ganga, thence crossing the said Bhanga Ganga to the north-eastern corner of ghoramara, thence following the western bank of the channel creek to its junction with Hooghly river, thence north-eastward crossing the channel creek to the north-western corner of Lot No.6 thence south ward along the eastern bank of channel creek to the south-western corner of the northern portion of G Plot of Mahisani Island (which was disafforested as per notification No.1024 For. dated the 29.8.1935) thence eastward following the southern boundary of the northern portion of B Plot of Mahisani Island to the north-western corner of the part of the southern portion Plot of Mahisani Island

which was disafforested as per notification No.517 For. dated 2.5.1939; thence southward, eastward and northward following the boundary of this plot back to the southern boundary of the northern portion of B Plot of Mahisani Island, and following the same eastward to the western bank of Pitt's creek; thence north-eastward along the western bank of the dead Pitt's creek to a point a little higher up than a point on the same bank just opposite to the mouth of Chilapara Khal which lies between C Plot, 4th portion, and C Plot, reserved portion, thence east across the said Pitt's creek to its eastern bank and southward along this bank to the mouth of Chilapara Khal thence north-eastward along the northern bank of Chilapara Khal and Southern Boundary of C Plot, 4th portion, to a point due north of the northern extremity at C Plot, reserved portion, thence crossing to the said Chilapara Khal and following its southern bank to the western bank of Pitt's creek, thence south-westward and south-eastward along its eastern bank to the south-western corner of C Plot, reserve portion, northern part which was disafforested as per Government Notification No.1024 For. Dated 29th August, 1935 thence north-eastward along the southern boundary of that Plot to the western bank of Edwards Creek (or patibunia or Narayantala Khal) thence northward and eastward along the western bank of the said Narayantala Khal to the South of the Sahebkhali lying between C Plot, 5th portion, and C Plot reserve portion; thence north-westward along the western bank of Saheb Khali Khal to a point which bears $119^{\circ} 30'$ at a distance of 3,104 feet from the aforesaid extreme point on Chilapara Khal due north of the northern extremity of C Plot, reserved portion, thence crossing the Saheb Khali Khal to its eastern bank as along this bank to Edward's creek; thence south-westward crossing the said Edward's creek and following its western bank upto its month; thence south-eastward along the south-western boundary of Fresargang to the mouth of Bakkhali (or Pukurbari Khal) which lies between Fresargang and Frederick Island (Bakkhal); thence north-eastward along the northern bank of Bakkhal to the Saptamukhi river; thence northward along the western bank of the Saptamukhi river to the South of Chunpuri Khal (or Chundri Khal) lying between the seventh and eighth portions of lot no.111; thence northward crossing the said Chunpuri Khal to the southern west point of the eighth portion of lot no.111; thence along the eastern bank of Ghughudanga gang (that is along the western boundary of the eighth, ninth, tenth and eleventh portions of lot no.111); thence southward crossing the Saptamukhi river to the south-eastern corner of second portion of lot no.112; thence southward along the eastern bank of Saptamukhi river to the South-western corner of the north block of E Plot sixth portion; thence at a bearing of 90° eastward along the boundary line between the northern and southern blocks of E Plot, sixth portion, to a point on the bank of Habills Creek (or Welsh Creek) corresponding to the south-eastern corner of E Plot, sixth portion, north block; thence south-eastward crossing Habills creek to the western most point of F Plot, third portion; thence proceeding south-eastward along the south-western boundary of F Plot, third portion to the mouth of Curzon creek; thence proceeding south-eastward crossing the said Curzon creek to the mouth of Mosher Khal which lies between C Plot first portion, "D" and "G" Plot, second portion; thence southward along the eastern bank of the Saptamukhi river to the south-west corner of G Plot fifth portion; thence eastward along a straight line having a bearing of 90° drawn from the said corner along the boundary

between the fifth and sixth portions of G Plot to a point on the bank of the Jagadal gang (or river) corresponding to the south-eastern corner of G Plot fifth portion; thence northward along the western bank of Jagadal gang (or river) that is along the eastern boundary of G Plot, fifth, fourth and second portions, G Plot first portion "D" and "G" Plot first portion "C" and along the southern boundary of "G" Plot first portion "C" and along the southern boundary of "G" Plot first portion "C" to the south-eastern corner of the last named plot; and thence across Jagadal gang to the Mount of Rose Creek or Dhanchi Khal; thence eastward along the northern bank of the said Rose Creek lying between L Plot first portion and L Plot second portion to the Thakuran or Jamira river; thence northward along the western bank of the said Thakuran or Jamira river to the mouth of Moni Nodi which lies between Lot No.116 east portion and Lot No.29; thence southward crossing the Thakuran river to the north-eastern boundary of Plot No.119 third portion thence southward along the eastern boundary of the Thakuran to the mouth of the Olian nala (or one Madla creek) which lies between lots nos. 117 and 118; thence northward along western and northern bank of the said Olian nala to the Sherfala Khal (or Makri or Srifala Khal) which lies between plot nos. 110 and 120; thence northward, eastward and southward along the western, northern and eastern bank respectively, of Gura Khal (or Sherfala or Makri Khal) to the Bainchapi Khal which lies between lot no.119 first portion and lot no.121 first portion; thence northward along the western bank of the said Bainchapi Khal to the mouth of Patkulchand Khal; thence north-eastward crossing the said Patkulchand Khal to south of the Manik Khal or Chaitrudhi Khal which lies between lot no.122 seventh portion and lot no.121 first portion; thence along the northern bank of Manik Khal to the Matla river; thence northward along the western bank of the Matla river to a point due west of the mouth of Dhabal Khal or Jira Khal which lies between lot no.126 first portion and lot no.126 second portion; thence due east across the Matla river to the mouth of the said Chatal Khal; thence along the northern bank of the said Dhabal Khal and along a demarcated straight line 2,153 feet in length at a bearing of 63° to a point on the western bank of the Bidya river; thence due eastward the Bidya river to its eastern bank; thence southward along the eastern bank of the Bidya river to its junction with Dhumri Khal; thence southward along the western boundary of the reserved forest of 24-Parganas, Sundarbans, in the midstream of the Bidya and Matla rivers and to the east of Haliday Island to the Bay of Bengal; thence westward along the southern boundary of the 24-Parganas District in the Bay of Bengal to the southern west point of Moore Island or New Island.

By Order of the Governor
H. Graham, Secretary.

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NOTE

Sub : Hon'ble Supreme Court's Order on Shrimp culture industry / Ponds.

A copy of instructions issued to the S.D.O.s is enclosed. Attention is invited to directions of the Hon'ble Court in paras 5, 6 and 9 of the Order. Strict orders may be issued to all the Officers of the L. & L.R. Set-up for compliance with the Court's directions. The B.L. & L.R.O.s should be made responsible for ensuring that no new Shrimp culture industry / pond is set up or permitted (through conversion of land use) in the prohibited zone i.e. 500 metres from the high-tide line.

To
DL&LRO
South 24-Pgs.

Syed Zakir Hussain
District Magistrate
17.02.97
South 24-Parganas

Memo No.10/4382 – 4411/P/93

Dt. 3.3.97

Copy forwarded for information and compliance of the orders to :

1. The S.D.L. & L.R.O. Sadar Alipore / D. Harbour / Addl. S.D.L. & L.R.O. Baruipur at Hd. Qrts.
2. The B.L. & L.R.O. _____

D. K. Chaudhuri
District Land & Land Reforms Officer
South 24-Parganas, Alipore.

**DISTRICT MAGISTRATE & COLLECTOR
SOUTH 24-PARGANAS, ALIPORE
CALCUTTA - 700 027
Tele:479 3713 / 479 1774
Fax: 479 3456.**

No.264/Con.

Dated the 17th Feb. 1997.

**To
The Sub-Divisional Officer,
Diamond Harbour / Kakdwip / Canning/Baruipur / Alipore (Sadar).**

A copy of operative portion of the order dated 11.12.1996 of the Hon'ble Supreme Court in Writ Petition (Civil) No.561 of 1994 is enclosed for information and guidance.

2. Paragraphs 3, 4, 5, 6, 9, 10, 13 and 16 are important at present. But immediate action is necessary on paragraph 4 as read with paragraph 3.

3. Under para 2(i) of the CRZ Notification dated 19-2-1991 the following activities are declared as prohibited within the Coastal Regulation Zone (CRZ) :

“Setting up of new industries and expansion of existing industries, except those directly related to water front or directly needing foreshore facilities.”

The Hon'ble Supreme Court has given the ruling that shrimp culture industry is neither “directly related to water front” nor “directly needing foreshore facilities” and has held that setting up of shrimp culture farms within the prohibited areas under the CRZ Notification cannot be permitted.

4. Therefore, Shrimp / Prawn culture industry / ponds cannot be permitted to be set up or to continue to operate within 500 meters from the high-tide line. The prohibition applied to the area lying between low-tide line and high-tide line also. This

clarifies the Hon'ble Court's direction in para 3 to be complied with as directed in para 4 of the Hon'ble Court's Order.

5. Please identify all such Shrimp / Prawn culture industry / ponds operating within 500 metres of the high-tide line on the sea shore, rivers, bays, creeks, estuaries and back waters and furnish the list with full particulars like name of the unit, if any, location area, name of owners and their complete address, number of employees working in those units etc. to the undersigned by name by 5-3-1997.

6. The Hon'ble Court's direction does not apply to "traditional and improved traditional types of technologies" as defined in Alagaraswami's report. The description of traditional and improved traditional as given in Alagaraswami's report may be seen in the enclosed extracts of his report. The list to be prepared as instructed in the preceding paragraph should also indicate whether the unit is using traditional or improved traditional type of technology.

7. The SDPO/OCs of PSs may be involved in the exercise as the S.P. and the D.M. have been directed by the Hon'ble Supreme Court to demolish and remove all affected units by 31st March, 1997. A compliance report has to be sent to the Hon'ble Court before 15th April, 1997.

Syed Zakir Hussain
District Magistrate, South 24-Parganas.

Extract of the order dtd. 11.12.1996 of the Hon'ble Supreme Court.

We therefore order and direct as under :-

(1) The Central Govt. shall constitute an authority under section 3(3) of the Environment (Protection) Act 1986 and shall confer on the said authority all the powers necessary to protect the ecologically feagile coastal areas, sea water front and other coastal areas and specially to deal with the situation created by the shrimp culture industry in the coastal States / Union territories. The Authorities shall be handled by a reputed Judge of High Court. Other members preferably with expertise in the field of Acqua Culture, pollution control and environment pollution shall be appointed by the Central Govt. The Central Govt. shall confer on the said authority the power to issue direction under section 3 of the Act and for taking measures with respect to the matters referred to in Clauses (v), (vi), (vii), (viii), (ix), (x) and (xii) of sub-section (2) of Section 3. The Central Govt. shall constitute the authority before January 15, 1997.

(2) The authority so constituted by the Central Govt. shall implement "The precautionary Principles" and "The Poluter pays" principles.

(3) The shrimp culture industry / the shrimp ponds are covered by the prohibition contained in para 2(1) CRZ Notification. No shrimp culture pond can be constructed or set up within the coastal regulation zone as defined in the CRZ Notification. This shall be applicable to all seas, bays, estuaries, creeks, rivers and back-waters. This direction shall not apply in traditional and improved traditional type of technology (carried in Alagaraswamy report) which are practiced in the coastal low line areas.

(4) All Acqua industry / shrimp culture industry / shrimp culture ponds operating / set up in the coastal regulation zone as defined under the CRZ Notification shall be demolished and removed from the said area before March 31st, 1997. We direct the Supdt. of Police / Dy. Commissioner of Police and the District Magistrate / Collector of the area to enforce this direction and close / demolish all acqua culture industries / shrimp culture industries / shrimp culture ponds on or before March 31st 1997. A compliance report in this respect shall be filed in this Court by these authorities before April 15th, 1997.

(5) The farmers who are operating traditional and improved traditional systems of acqua culture may adopt improved technology for increased production / productivity and return with prior approval of the "Authority" constituted by this order.

- (6) The agricultural lands, salt pan lands, mangroves, wet lands, forest lands, land for village for common purpose and the land meant for public purposes shall not be used / converted for construction of shrimp culture ponds.
- (7) No aquaculture industry/shrimp culture industry / shrimp culture ponds shall be constructed / set up within 1000 meter of Chilka Lake and Pulicat lake (including bird sanctuaries namely Yaourapattu and Nelapattu).
- (8) Acquaculture industry / shrimp culture industry / shrimp culture ponds already operating and functioning in the said area of 1000 metre shall be closed and demolished before March 31st 1997. We direct the Supdt. of Police / Dy. Commissioner of Police and the District Magistrate / Collector of the area to enforce this direction and close / demolish all aquaculture industries / shrimp culture industries, shrimp culture ponds on or before March 31st, 1997. A compliance report in this respect shall be filed in this Court by these authorities before April 15th, 1997.
- (9) Acquaculture industry / shrimp culture industry / shrimp culture ponds other than traditional & improved traditional may be set up / constructed outside the coastal regulation zone as defined in the CRZ Notification and outside 1000 metres of Chilka and Pulicat lake with the prior approval of the authority as constituted by this Court. Such industries which are already operating in the said areas shall obtain authorisation from the "Authority" before April 30, 1997, failing which the industry concerned shall stop functioning with effect from the said date. We further direct that any aquaculture activity including intensive and semi-intensive which has the effect of causing salinity of soil, or the drinking water of wells and/or by the use of chemical feeds increases shrimp or prawn production with consequent increase in sedimentation which on precipitation has a potential health hazard, apart from causing salination turbidity of water courses and estuaries with detrimental implication on local fauna and Flora shall not be allowed by the aforesaid Authority.
- (10) Acquaculture industry / shrimp culture industry / shrimp culture ponds which have been functioning / operating within the coastal regulation zone as defined by the CRZ Notification and within 1000 mtrs from Chilka and Pulicat Lakes shall be liable in compensation the affected persons on the basis of the "Polluter pays" principle.
- (11) The authority shall, with the help of expert opinion and after giving opportunity to the concerned polluters assess the loss to the ecology / environment and the affected areas shall fixed compensation for individuals / families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals / families. The authority shall further determine the compensation to be recovered from the polluters as costs of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.
- (12) The authority shall compute the compensation under two heads namely for reversing the ecology and for payment to the individuals. A statement showing the detail amount payable to each of them shall be forwarded to the Collector / Dist. Magistrate of the area concerned. The Collector / Dist. Magistrate shall recover the amount from the polluter, if necessary as arrears of land revenue. He shall disburse the compensation awarded by the authority to the affected persons / families.
- (13) We further direct that any violation or non compliance of the directions of this Court shall attract the provisions of the Contempt of Courts Act in addition.
- (14) The compensation amount recovered from the polluters shall be deposited under a separate head called "Environment Protection Fund" and shall be utilised for compensation to the affected persons as identified by the authority and also for restoring the damaged environment.
- (15) The authority in consultation with expert bodies like NEERI, Central Pollution Control Board, respective State Pollution Control Boards shall frame scheme / schemes for reversing the damage caused to the ecology and environment by pollutions in the coastal States / Union Territories. The scheme / schemes so framed shall be executed by

the respective State Govts / Union Territory Govts. under the supervision of the Central Govt. The expenses shall be met from the "Environment Protection Fund" and from other sources provided by the respective State Govts. / Union Territory Govts and the Central Govt.

(16) The Workmen employed in the shrimp culture industries which are to be closed in terms of this order, shall be deemed to have been retrenched with effect from April 30th, 1997 provided they have been in continuous service as defined in Section 25(b) of the Industrial Dispute Act, 1947 for not less than one year in the industry concerned before the said date. They shall be paid compensation in terms of section 25(b) of the Industrial Dispute Act 1947. These workmen shall also be paid in addition 6 years wages of decided compensation. The compensation shall be paid to the workmen before 31st May, 1997. The gratuity amount payable to the workmen shall be paid in addition.

The writ petition is allowed with costs.

We quantify the cost as Rs.1,40,000/- (Rupees one lakh forty thousand only) to be paid by the States of Gujrat, Maharastra, Orissa, Kerala, Tamilnadu, Andhra Pradesh and West Bengal in equal shares of Rs.20,000/- each. The amount of Rs.1,40,000/- realised from the seven coastal states shall be paid to Mr. M.C.Mehta, Advocate who has associated us in this case throughout. We place on record our appreciation for the assistance rendered by Mr. Meheta.

New Delhi,
December 11, 1996.

KULDIP SINGH
S. SAGIR AHMAD

Extract from Alagarwami report

The Food and Agriculture Organisation (FAO) – an Organ of United Nations Organisation (UNO) – published a report in April, 1995 on a Regional Study and workshop on the Environmental Assessment and Management of Aquaculture Development. Copy of the report has been placed on record by Mr. Santosh Haque, Learned Manager for the State of Karnataka. India was one of the 16 countries participated in the workshop. Dr. K. Alagarwami, Director, Central Institute of Brackishwater Aquaculture, Madras presented a paper titled "the current status of aquaculture in India, the present phase of development and future growth potential". (hereinafter called Alagarwami report). It has been published as an Annexure to the workshop report published by the FAO. Para 5.1.2 of Alagarwami report gives various types of technologies adopted by the aquaculture industry in India. It would be useful to reproduce the same hereunder :-

"5.1.2. Types of technology – changes in technology with time

Traditional : Practised in West Bengal, Kerala, Karnataka and Goa, also adopted in some areas of Orissa. Coastal low-lying areas with tidal effects along estuaries, creeks and canals; impoundments of vast areas hanging from 2-200 ha in size. Characteristics ; fully tidally-fed; salinity variations according to monsoon regime; seed resources of mixed species from the adjoining creeks and canals by auto-stocking; dependent on natural food, water intake and draining managed through sluice gates depending on local tidal effect; no feeding; periodic harvesting during full and new moon periods; collection at sluice gates by traps and by bag nets; seasonal fields alternating paddy (monsoon) crop with shrimp / fish crop (Inter monsoon); fields called locally as Bheries, pokkali fields and khazan lands.

Improved traditional : System as above but with stock entry control; supplementary stocking with desired species of shrimp seed (*P. monodon* or *P. indicus*); practised in ponds of smaller area 2-5 ha.

Extensive : New pond systems; 1-2 ha ponds; tidally fed; no water exchange, stocking with seed; local feeds such as clams, snails and pond-side prepared seed with fishmeal, soya, oilcake, cereal flour etc.; wet dough ball form; stocking density around 20,000/ha.

Modified Extensive : System as above; pond preparation with filling; liming and fertilisation; some water exchange with pumpsets; perfect seeds indigenous or imported; stocking density around 50,000/ha.

Semi-intensive : New pond systems; ponds 0.25 to 1.0 ha in size; elevated ground with supply and drainage canals; pond preparation methods carefully pollocked; regular and periodic water exchange as required; pond aerators (pond's wheel) at 8 per ha; generally imported feed with FCR better than 1:1.5 or high energy indigenous feeds; application of drugs and chemicals when need arises; regular monitoring and management stocking density 15-25/m².

Intensive : Ponds 0.25 – 0.50 ha on size; management practices as above; 4 aerators in each pond; salinity manipulation as possible; central drainage system to remove accumulated sludge; imported feed;"

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GOVERNMENT OF WEST BENGAL
Office of the Director of Land Records and Surveys and
Joint Land Reforms Commissioner, West Bengal
35, Gopalnagar Road, Alipur, Calcutta – 700 027.

Memo. No.7/5197-5214/C/2000.

Dated, Alipur, the 29th August, 2000.

To
The District Land and Land Reforms Officer,

Subject : Administrative co-ordination with the Forest & Environment Department.

The Forest Department has been vested with the concern of scientific management of the forest resources, maintenance of the eco-systems within the forests and the increase of area under forest cover. As essentially, it involves the use of land and resources arising out of land the following areas of interaction and collaboration by the L.R. Department officials with the Forest Department officials are bound to arise.

1. The Operation of the Forest (Conservation) Act, 1980:

The Indian Forest Act, 1927 is the primary legislation under which the State Government by official notification constitutes a reserved forest area u/s 3 of the IF Act, 1927 and a protected forest area u/s 29 of the IF Act, 1927 over land which is Government property or over land which the Government has proprietary rights. Both types of nomenclature impose a ban on change of classification to non-forest use, felling of trees, collection of forest produce, quarrying for minor minerals, etc. However, the restrictions in case of a reserved forest area, are extremely stringent and even public access can be denied totally.

The Forest (Conservation) Act, 1980 amended in 1988 by which the amended sections 3A and 3B came into effect from 15.03.1989, has made matters extremely stringent and has prescribed punishment for conversion of forest area to non-forest use in cases of involvement of Government officials either directly or through their subordinates or through their negligence. This Act came into effect from 25.10.1980 and u/s 2 of the F.C. Act has made any order made without the prior approval of the Central Government for the de-reservation of forest area, conversion of forest land to non-forest use, lease / transfer of any forest land to a private person or agency not owned, managed or controlled by Government and clearing of trees for re-afforestation an offence. It has also banned any commercial cultivation of crops and use of forest land for any purpose other than re-afforestation in the process. More than that, any case of violation or abetment by a Government official is punishable u/s 3A with simple imprisonment for 15 days and the burden of proof u/s 3 is on him/her to prove that it was done outside

his knowledge or that he tried diligently to prevent the commission of such offence or that it was not due to his negligence.

The Supreme Court on 12.12.96 in WP (Civil) No.202 of 1995 in T.N.Godavarman Thirumulkpad vs. Union of India had made certain directions, such as :

(a) Forest land would be any land recorded as such in Government records irrespective of ownership (i.e. can be private also) due to which the provisions of the FC Act would be applicable.

(b) No felling of trees in any forest land can be done except according to the working plan of the Forest Deptt.

(c) Running of Saw mills, etc. in forest areas was banned;

(d) Any conversion of forest land to non-forest use would be as per guidelines framed under FC Act, 1980.

2.0 Implications of the enforcement of FC Act, 1980.

2.1 Recording of forest land :

This unfortunately is a completely neglected aspect of the land records work. A copy of all the notifications of reserved / protected forests should be collected by the DL&LRO from the D.F.O(s) immediately and should be intimated to the concerned BL&LROs. After intimation, BL&LROs shall not issue any patta or shall allow mutation or conversion of the land whatsoever the owner of the land may be. Any violation shall be deemed to be a violation of the FC Act.

The lands classified as forest in our records needs to be clarified. Classification of 'jungle', 'bon', 'salbon', 'jhaubon' can be treated as forest area but 'jhathi jungle' if it is not a notified forest area cannot be treated as forest area. Hence lands so classified, as mentioned above cannot also be alienated or converted into non-forest use at all as per Supreme Court ruling.

In case of directions of Courts, involving any form of divesting, it should also be verified as to whether the lands involved, are notified as forests. If they are notified so, then record - of - rights correction cannot be permitted under the Supreme Court ruling and it should be so mentioned in the written order disposing off the petition.

2.2 Conversion of forest land to non-forest use :

It is quite possible that for development purposes, it would become quite necessary to seek the transfer of some forest land for certain unavoidable purpose. The Manual on F.C. Act, 1980 of the Forest Department is fairly comprehensive. The salient features are :

(a) Regularisation or post-facto approval of any violation made by the State Government agencies would not be permitted by the Central Government ;

(b) Every proposal for diversion of forest land should contain the cost-benefit analysis, the basic parameters of the project, the map of the area to be de-forested, the classes and size of trees to be felled, etc. The proposal should also include the details of the non-forest area being offered for compensatory afforestation and the funds to be placed for compensatory afforestation.

The proposal should be routed through the State Forest Department to the Regional Chief Conservator of Forests at Bhubaneshwar if the area involved is less than 1 (one) hectare and any area greater than that, would have to be cleared by the Ministry of Environment and Forests, Government of India.

2.3 Quarrying of minor minerals :

Mining is treated as a non-forest activity. Grant of mining lease and renewal of a mining lease by the State Government under the Mines & Minerals (R&D) Act, 1957 cannot be done without the prior approval of the Central Government. Boulders, other stones, etc. in the river-beds located within forest areas cannot also be removed without

the prior approval of the Central Government. Hence, it goes without saying that no quarry permit for any minor mineral can be issued on a notified forest area.

2.4 Regularisation of Encroachments on Forest land:

This problem is quite acute in the Hill areas of Darjeeling district, Jalpaiguri district and in the Sundarbans area. The policy for regularisation spelled out is that only those cases where the State Government had taken decisions for the regularization of encroachments of forest land prior to 25.10.1980 can be taken up for the process. Hence even if encroachments had taken place prior to 25.10.1980 but are not covered by any decision of the State Government cannot be taken up for survey towards regularization. A more lenient view had been taken towards the conversion of forest villages into revenue villages where human settlements had been made for forestry operations. A proposal ought to be sent to the Environment Ministry and after approval, some form of conferment of heritable and inalienable rights can be made. Lands handed over to tribal or rural poor prior to 25.10.1980 by way of pattas or leases shall continue to maintain their status-quo and would not be evicted.

3.0 Felling of Trees.

3.1 The Hon'ble Green Bench of the High Court, Calcutta in its order dated 15.7.98 in regarding cutting of Trees at Mankundu had passed certain directions to be followed. It would be best that the DLLROs of all districts uniformly take it up with their District Collectors to issue an uniform order in compliance to the High Court order as was done in Midnapore. (A copy is enclosed at Annexure A). Harassment of applicants should be avoided as far as possible. Where trees are felled after obtaining prior permission, the D.F.O. or his authorised officer can issue a Transit Pass (TP) for the transport of the timber under the W.B. Forest Produce Transit Rules, 1956. The guidelines of the PCCF as Chairman of the Trees Cutting Committee are also helpful in this respect.

3.2 Panchayats had also made extensive plantations of social forestry on vested lands and as strip plantations along roads, canals, water bodies, etc. By G.O. No.474-L. Ref. dated 19.06.1987 (at Page 2 of Vol. III of the Compendium of LR Instructions) lands had been handed over to Panchayat bodies for management but subsequently, by G.O.No.7073(16)-GE dated 4.8.1988 (Page 28 of Vol. IV of Compendium of LR Instructions) these lands were resumed. During this period and probably after it also extensive plantations were made by Panchayat bodies under the NREP, JRY and other developmental schemes. As the management of these lands had been given only, they can be permitted to fell the trees only after the trees attain maturity and that too according to the working plan prepared by the Forest Department and with the prior approval of the Forest Department and recover the entire proceeds out of it as the total financial investment had been made by them provided the Forest Department so permits. In case of plantations strip or otherwise made with the collaboration of Forest Department separate norms for recovery of plantation costs and setting up of fund for future plantations would be enforced by Forest Department.

3.3 Felling of Orchard Trees :

Felling of orchards was rampant all along the Bagri areas of West Bengal in Murshidabad, Malda, Nadia and North 24-Parganas. Mango orchards have been cut down and in turn the land has been sold by the owners for homestead purposes at a profit. The Calcutta High Court has intervened in this process too at the last moment to retain the balance. Previously unscrupulous orchard owners had obtained orders from Calcutta High Court on ground of replacement of old trees but after waiting for a long period, have converted the land for commercial purpose on the sly. Mr. Justice A. Kabir in Bishwanath Kumar & others Vs. State of West Bengal reported in 1996 CHN(II)407 on 17.9.96 has passed necessary orders which if enforced can stop this process.

According to the order a raiyat owning an orchard who wants to fell some trees shall have to give a notice fifteen days in advance to the Collector giving all the details of the trees to be felled along with an undertaking to replace the old / unproductive trees with new saplings within 2 weeks of the felling operation. He / she cannot fell more than one unproductive out of ten unproductive trees in two years and that too fresh felling

would only be allowed after the replacement trees are successfully growing. This ratio would be 1:5 if the orchard has less than 10 trees. The Collector has to dispose the application within 15 days from the receipt of the application. The Collector is also responsible to ensure that the raiyat ensures that the replacement saplings do not wither away due to the negligence and if it so happens then punitive action u/s 4B, 4C and 4D of the WBLR Act, 1955 can be taken up against the raiyat. If all the formalities are followed, the DFO shall issue the Transit Pass (TP). This order was also referred to by the High Court in disposing off WP No.18064 (WP)/97 Smt. Fulo Mala Debi Vs. State of West Bengal and others wherein the Court had directed the Chief Secretary of West Bengal to intimate the District Magistrates of Malda and Murshidabad.

3.4 Felling of trees in the Hill regions of Darjeeling District.

The felling of trees within the Darjeeling Sadar, Kalimpong and Kurseong subdivisions is extremely restricted U/s. 4A of the W.B.L.R. Act 1955. The sub-section (1) stipulates that not more than one tree at a time can be felled after prior permission and the District Collector can give directions regarding the form of cultivation to be followed by the raiyat. The Rule 474 and Appendix VII of the Land Reforms Manual delineates the procedure for the processing of permission to be granted by the S.D.O. after the R.I. conducts the enquiry and the case is processed by the B.L. & L.R.O. and S.D.L & L.R.O. The number of trees to be replanted should also be not less than ten in number for a tree felled.

3.5 Felling of Shade Trees inside Tea Gardens

The felling of shade trees normally should follow the guidelines stipulated under the Green Bench order dated 15.7.1998. The Tea Planter's Association had filed a writ petition seeking a shorter process for the disposal of their applications of no.13223 (W) of 1998 and the Division Bench of the Calcutta High Court on 4.1.2000 had made a minor change with respect to the disposal in that the application should be disposed off within 4 weeks from the date of filing and an opportunity of hearing should be given to the applicant. The applicant should obtain a clearance from the District Magistrate or his nominee also before the receipt of any felling order from the D.F.O. As per the PCCF guidelines the felled trees should also be offered for sale to the West Bengal Forest Development Corporation Limited to avoid misuse of T.Ps. by private purchasers of timber.

3.6 Tree cards

A process for the simplification of the disposal of trees raised commercially on maturity by raiyats was initiated through the issue of tree cards by Forest Department's G.O. No.8786-FN dated 26.11.1991. The BL & LRO had been coopted in process for certifying the land ownership details but unfortunately there are a number of reservations of our officials to the process as there could be a time lag for the updation of land records without which the BLLRO cannot take the responsibility of certifying the ownership of the land and the trees. Moreover, the concurrence of the Land & Land Reforms Department was not taken in this issue due to which no administrative instruction can also be given committing the subordinate offices to the process. At the moment we need not be involved in the process.

4.0 Implications due to the Declaration of the Coastal Regulation Zone (CRZ) in the coastal areas of the State.

Coastal Regulatory Zone (CRZ), is a band of area all along the sea coast and consists, of two part, (a) the area between the Low Tide Line (LTL) to the High Tide Line (HTL) (b) the area 500 metres beyond the HTL towards land. A notification w.e.f. 20.02.1991 had been made u/s 3(1) and 3(2) of the Environment (Protection) Act 1986 declaring this area to be the CRZ. This restricts the economic development or exploitation of the land lying in this zone to preserve the pristine quality of beaches and sea coasts and to protect the marine environment. Around 220 Km. of sea coast stretching from Midnapore District to the Sundarbans area of North and South 24-Parganas Districts constitutes the Coastal Zone. As a part of the coastal management

plan strict regulations have been imposed on the development of land upto a distance of 500 m from the High Tide Line (HTL).

Within the CRZ the following activities are totally banned and hence appropriately mutations and conversion of any land lying within 500 m from the HTL should be prohibited.

- 1) Setting up of new industries and expansion of new industries.
- 2) Manufacture or handling or storage of hazardous substances.
- 3) Setting up of fish / prawn processing units. In fact the Supreme Court in S. Jaganathan -Vs- Union of India (1997) 2SCC87 had interlia directed that no shrimp culture ponds should be constructed within the CRZ and all existing shrimp culture infrastructure within CRZ should be removed or demolished by force.
- 4) Waste effluent disposal.
- 5) Land filling / land reclamation / dumping of waste / dressing of altering of sand dunes, etc.
- 6) Mining of any form.
- 7) Construction activity subject to the classification of CRZ as CRZ-I/CRZ-II/CRZ-III/CRZ-IV. A mouza-wise classification of the CRZ for the 200 km. of the coastline shall be available shortly. The general principles in short are as follows :
 - a) CRZ-I: Highly sensitive area and no development up to 500m from HTL. All uninhabited islands in the Bay of Bengal and islands such as Frezarganj and Gangasagar also. In Digha and Shankarpur area, the area upto the sand dunes.
 - b) CRZ-II : In urban and municipal areas adjoining coastline, development can take place beyond the road towards land ward side only. For example near the Haldia Port Complex area, part of Digha and Shankarpur area.
 - c) CRZ-III: Relatively undisturbed areas. Construction can take place only beyond 200 m from the HTL, Hotels and Beach Resort can only be built in CRZ – III areas and that too with certain stipulations.

Interestingly the CRZ in Haldia Development Authority area is 100 m from HTL and the CRZ does not go beyond north of the Diamond Harbour Municipality in the R.Hooghly which excludes the Falta, and metropolitan areas of Calcutta.

5.0 Filling up of Tanks and Ponds

This action has led to extreme unrest in urban / municipal areas whenever it has been done by un-scrupulous promoters involved in real estate business. Tanks, ponds or other water bodies are extremely necessary for the purpose of drainage in urban areas and the cleansing of environment. Hence, the filling up of tanks should be prevented as far as possible and people purchasing land previously classified as tanks / pond/ water body should also be warned of the dangers involved.

The section 17A of the WB Inland Fisheries Act, 1984 is a more powerful section than the section 4C of the WBLR Act, 1955. The salient features are :

- a) A natural or artificial depression or a water area equal to or exceeding 5 cottahs or 0.035 hectare which is capable of being used as fishery or holds water for at least six months in a year cannot be used for any other use other than pisciculture U/S 17A(1) or can not be converted to solid land or fragment the water body for a purpose other than a fishery.
- b) U/S 17A(2) the competent authority can take over the management and control of the water area if any contravention takes place for a period not exceeding 25 years u/s 17A(6). The management and control can be given to another person for proper utilization u/s 17A(4) for periods upto 10 years at a time.

- c) The competent authority can enforce the restoration of the water area to its original state and recover costs u/s 17A (10).
- d) Punishment has been made very severe. An offence is cognizable and non-bailable and is punishable with an imprisonment of upto 2 years or fine of upto Rupees two lakhs or with both.
- e) The Fisheries Department has notified the following officers to act as competent authority under section 2 of the W.B.Inland Fisheries Act, 1984.

NAME	JURISDICTION
Municipal Commissioner, Calcutta Municipal Corporation	All wards of Calcutta Municipal Corporation.
Commissioner, Howrah Municipal Corporation.	All wards of Howrah Municipal Corporation.
Chief Executive Officer, Chandannagore	All wards of Chandannagore Municipal Corporation.
Chief Executive Officer, Asansol Municipal Corporation and ADM Asansol.	All wards of Asansol Municipal Corporation.
Chief Executive Officer, Siliguri Municipal Corporation.	All wards of Siliguri Municipal Corporation.
Executive Officer of any Municipality.	All wards of the Municipality.
Chairman of Notified Area Authority (NAA)	All wards of the N.A.A.
Block Development Officer.	Jurisdiction of the Block Development Officer.

The provisions of section 4C of the WBLR Act, 1955 can be utilized for all cases involving the filling up of ponds, tanks. What is of utmost importance is that on the receipt of any information, the persons filling the tank should be given a notice and the local Police should be requisitioned and used to physically stop the process or to seize any vehicle transporting earth, etc. Only such actions can deter the process. If no action is taken it would seriously demoralize the public and would erode public faith in the Land Reforms Administration.

Enclosed: Annexure 'A'.

S. Suresh Kumar.
Director of Land Records and Surveys
& Joint Land Reforms Commissioner,
West Bengal.

Memo No.7/6265-340/C/2000

Dated, Alipur, the 29th August,
8th November, 2000.

Copy to :

1. Sub-divisional Land & Land Reforms Officer,
2. All Officers of the Directorate.
3. Principal Secretary, Land & Land Reforms Department and Land Reforms Commissioner, West Bengal.
4. Joint Secretary, Land & Land Reforms Department
5. Secretary, Environment, Paribesh Bhawan, Salt Lake.
6. Member – Secretary, Pollution Control Bond, Paribesh Bhawan, Salt Lake.

S. Suresh Kumar
Director of Land Records and Surveys
& Joint Land Reforms Commissioner,
West Bengal.