

No.APCCF(WP)/RFO/CR-14/
2013-14

Office of the
Additional Principal Chief Conservator of Forests,
Working Plan,
Bangalore, date:20-05-2014

To,

The Chief Conservator of Forests (Territorial Circles)
Bangalore, Belgaum, Bellary, Canara
Chamarajanagar, Chikmagalur,
Dharwad, Gulbarga, Hassan, Kodagu,
Mangalore, Mysore and Shimoga.

and

Chief Conservator of Forests
Working Plan and Survey
Shimoga

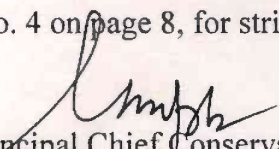
Conservator of Forests
Working Plan and Survey
Belgaum, Bellary, Chikmagalur
Dharwad and Mysore.

Sub: Constitution of District, Divisional and
State Level Committees for verification
and finalization of village and survey
number wise extent of deemed forest areas
in the State -reg.

Ref: Government Order No. FEE 185 FAF
2011, dated: 15-05-2014.

Please find enclosed herewith the copy of the proceedings of the Government of Karnataka and the Government Order No. FEE 185 FAF 2011 Bangalore, dated: 15-05-2014 for your guidance in verifying and classifying deemed forests as listed by the reconstituted Expert Committee-I

Your attention is drawn to the para in Sl No. 4 on page 8, for strict guidance.


Additional Principal Chief Conservator of Forests
Working Plan, Bangalore.

Copy for information and further immediate necessary action :-

1. Additional Principal Chief Conservator of Forest (Project Tiger), Mysore.
2. All the Deputy Conservator of Forests (Territorial) (Working Plan) and (wildlife) divisions.

Copy submitted to:-

1. Principal Chief Conservator of Forest (HoFF), Bangalore for information.

HoFF

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CP: 736

PROCEEDINGS OF THE GOVERNMENT OF KARNATAKA

Subject: Constitution of District, Divisional and State Level Committees for verification and finalisation of village and survey number wise extent of deemed forest areas in the State – reg.

READ: 1. Government Order No. FEE 2 FFM 1997, dated: 10.01.1997.
2. Government Order No. FEE 270 FGI, 2002, dated: 25.09.2002.

PREAMBLE:

The Forest (Conservation) Act, 1980 (Central Act) is enacted to conserve the dwindling forest resources in the country. Section (2) of Forest (Conservation) Act, 1980 puts some restrictions on the de-reservation of forests or use of forest land for non-forest activities.

2. The Hon'ble Supreme Court of India in WP (Civil) 202/1995 (Godavarman Thirumulpad vs Union of India & others) has defined the scope of 'forest' and 'forest land' as mentioned in the Forest (Conservation) Act, 1980 vide its order dated 12/12/1996 as under:

FFO
12/12/96

it has emerged at the hearing, that there is a misconception in certain quarters about the true scope of Forest(Conservation) Act-1980 (for short the 'Act') and the meaning of the word 'forest' used therein. There is also a resulting misconception about the need of prior approval of the Central Government, as required by Section 2 of the Act, in respect of certain activities in the forest area which are more often of a commercial nature. It is necessary to clarify that position.

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The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore the provisions made therein for the conservation of forests and for matters connected herewith must apply to all forests irrespective of the nature of ownership or classification thereof. The word 'Forest' must be understood according to its dictionary meaning. This description covers all statutorily recognised forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(1) of the Forest Conservation Act. The term 'forest land', occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as 'forest' in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act-1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof.

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17 MAY 2002
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The Hon'ble Supreme Court further ordered that

Each State Government should constitute within one month an Expert Committee to:

- i. identify areas which are 'forests' irrespective of whether they are so notified, recognised or classified under any law and irrespective of the ownership of the land of such forest;

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- ii. identify areas which were earlier forests but stand degraded, denuded or cleared; and
- iii. identify areas covered by plantation trees belonging to the Government and those belonging to private persons".

3. The Government of Karnataka has constituted Expert Committee-I as per the directions of the Hon'ble Supreme Court vide its Order No.FEE 2 FFM 97, dated 10-01-1997 read at (1) above with a mandate to study and submit a report as per the directions of the Apex Court dated 12.12.1996. Accordingly, the Expert Committee-I submitted its report to Government on 02/04/1997.

4. After examining the report of Expert Committee-I, Government of Karnataka has filed an Affidavit before Hon'ble Supreme Court on 05/04/1997 read with Affidavit dated 25.09.1997 based on the recommendations of the Expert Committee -I.

5. In the Affidavit it is stated that the survey and demarcation of areas identified as 'forest' under the control of the forest department is complete and however in respect of the additional area identified as "forest", the listing of the areas, survey number wise, village, taluk and district-wise needs to be undertaken. Hence, in the affidavit, request was made for one year time to consolidate the additional forest areas (other than statutory forests) identified (survey number, village, taluk and district-wise).

7. The Central Empowered Committee (CEC) of the Supreme Court of India observed that no action has been taken as per the Affidavit filed by Government of Karnataka even though the State Government had undertaken to complete the work of compiling detailed information of 'forests' within one year of filing the Affidavit. The CEC has recorded that on the basis of the affidavit filed by the State Government indicating 46,32,615 Ha of 'forest' in the State, further classification of this extent (a) Notified forest area as per Government Records (b) Deemed forests (other than (a)). The 'Deemed forests' should be further categorised survey number, village and district-wise. The 'Deemed forest' may be the part of the private forest, thickly wooded areas on Government lands which are not notified as 'forests' and others.

8. In view of this observation of CEC, the Government vide its Order No. FEE 270 FGL 2002 dated 25/09/2002 read at (2) above, has reconstituted the Expert Committee-I to submit a report within two months.

9. The Revised Expert Committee-I has categorised the 'forests' into 'Notified forests' (33,23,854 Ha) and Deemed forests (9,94,881 Ha) with a total area of 43,18,735 Ha. It has excluded strip plantations, roadside plantations, Canal bank plantations from the list of 'deemed forests'. The details of the 'Notified Forests' and 'Deemed Forests' classified by the Committee are shown in the Annexure to this Government Order.

10. The Government of Karnataka has now, decided to have a relook on the report of the Revised Expert Committee-I since some of the "statutory forests" were categorised as "deemed forests". In other cases, where areas have been categorised according to "dictionary definition", it is not based on a well defined pre-determined field criteria that can be applied and verified in field. This has resulted in subjective classification of areas into 'deemed forests'. This has also led to serious differences with other Government Departments, particularly Revenue, Irrigation, PWD and Energy Departments that the areas without any tree growth have been classified as 'deemed forests', particularly in case of C&D class lands handed over to forest department by the Revenue Department, consequently making the areas subject to Forest Conservation Act, 1980 for diverting them to non-forestry purposes and made the following observations:-

- a) Areas proposed for notification under Section 4 of Karnataka Forest Act, 1963 are included in 'deemed forest'. Out of this, only areas that can be called as 'forests' by dictionary definition of forest (by applying the field criteria) only have to be considered.
- b) Amrit Mahal kaval lands are assigned as grazing lands for Amrit mahal breed of cattle owned by Government, even from the time of Tipu Sultan and are not 'District Forest' as per the definition, though rules for management of district forests are made applicable to these kavals. Hence, Amrit mahal kavals, which have tree growth as per dictionary definition of forest, only are to be included as "forests".
- c) Bane, Kumki lands are "forest lands" where certain privileges are allowed under subsection (2) of Section 79 of Karnataka Land Revenue Act. Rules for management of Kumki Lands were all through notified under the Madras Forest Act. Coorg revenue Manual & Karnataka Revenue Survey Manual defines Bane lands as "Forest land (emphasis supplied) granted for the service of the holding of wetland, to be held free of revenue by the cultivator for grazing and to supply leaf manure, firewood and timber required for the agricultural and domestic purposes of the cultivator, so long as he continues in possession of the wetland".
- d) Paisari lands are "all wasteland and forest lands which are declared to be the property of Government and which have been not notified as protected forest or as forest reserved" as per the Karnataka Revenue Survey Manual. Hence, out of paisari lands, forest paisari lands (emphasis supplied) are forest lands (based on revenue settlement entries/ RTC entries).
- e) All the areas in categories 10,11,13,15,16,17 to 23 of Reconstituted Expert Committee-I Report (refer annexure) needs review based on a pre-determined criteria for classification, for inclusion of these areas as forests by dictionary definition of 'forest', as they do not fall into either 'statutory forests' or 'forests as per Govt. records'.
- f) Only block plantations on Govt. lands which can be called as "forest" as per the set pre-determined criteria based on dictionary definition of 'forest', shall be included as "forests" and hence, strip, roadside, school, canal bank, institutional plantations are to be excluded from categorisation as 'deemed forests'.

11. In the light of the directions of Apex Court vide its order dated 12/12/1996 to have more clarity on the issue of identification of forest in Karnataka state, the whole issue may be dealt as follows:-

a) Statutorily recognised 'forests' ('Notified Forests' in CEC criteria): The details of the statutorily recognised 'forests' in the State of Karnataka are as follows:

	Class	Statutory Provisions
1	Reserved Forests	<p>i) As per section 2 (14) in the Karnataka Forest Act, 1963. 'Reserved forest' means any land settled and notified as such in accordance with the provisions of chapter II of the Karnataka Forest Act, 1963;</p> <p>ii) As per section 23 in the Karnataka Forest Act, 1963, any forest which has been notified as a state forest under the Mysore Forest Act, 1900, or as a reserved forest under the Indian Forest Act, 1927, the Madras Forest Act, 1882, or the Hyderabad Forest Act, 1355 F., prior to the date on which this Act comes into force, shall be a reserved forest under the Karnataka Forest Act, 1963.</p>
2	Village Forests	As per section 2 (22) in the Karnataka Forest Act, 1963, 'Village forest' means any land notified as such in accordance with the provisions of chapter III of the Karnataka Forest Act, 1963;
3	District Forests	<p>As per section 2 (2) in the Karnataka Forest Act, 1963, the 'District forest' includes all land at the disposal of Government not included within the limits of any reserved or village forest nor assigned at the survey settlement as free grazing ground or for any other public or communal purposes; Provided that it shall be competent for the State Government to modify or set aside such assignment and constitute any such land as reserved, village or district forest or devote the same to any other purpose it may deem fit ;</p> <p>I. Protected Forests:</p> <p>(i). As per section 2 (13) in the Karnataka Forest Act, 1963, 'Protected forest' means any area at the disposal of Government which has been placed under special protection under clause (ii) of sub-section (2) of section 33 or is declared to be a protected forest under section 35;</p> <p>ii) As per section 35 in the Karnataka Forest Act, 1963, any forest in the state which has been notified as 'minor forest' under the Mysore Forest Act, 1900, or as 'protected forest' under the Indian Forest Act, 1927, or the Hyderabad Forest Act, 1355 F., prior to the date on which this Act comes into force, shall be a protected forest under this Act and the provisions applicable to a protected forest shall be applicable to such forests. As per rule 31 in the Karnataka Forest Rules, 1969, the rules for the management of district forests shall, mutatis - mutandis, be applicable to Protected Forests.</p>

		<p>2. Sub-section (2) of Section 79 of the Karnataka Land Revenue Act, 1964 (Act No. 12 of 1964) reads as follows: "(2). Notwithstanding anything contained in sub-section (1) but subject to such general or special orders that may be issued by the State Government from time to time the privileges that are being enjoyed either by custom or under any order such as privileges in respect of Kumki lands, Bane lands and Kane lands in South Kanara District, Betta lands and Hadi lands in North Kanara District, Kan and Soppina Betta lands in Mysore area, Jamma and Bane lands in Coorg District and motasthal wet lands in Hyderabad Area shall continue."</p> <p>Sub-section (3) of Section 94-B of the Karnataka Land Revenue Act, 1964 (Act No. 12 of 1964) reads as follows: "94-B. Grant of land in certain cases: XXXX (3). Nothing in this section shall apply to forest land except any land referred to in sub-section (2) of Section 79 which is classified as forest land."</p>
		3. under clause (f) of sub-section (1) of section 143 of the Coorg Land and Revenue Regulation, 1899, made rules for the regulation of certain matters relating to paisari lands, vide notification No. 79, dated 30th September 1901. Forest Paisari lands are forests.
		4. Any area set apart for forest reserve under Section 71 of the Karnataka Land Revenue Act, 1964.
		5. Any area reserved and transferred to the forest department under the provisions in sub-section (3) of section 77 of the Karnataka Land Reforms Act, 1961.
		5. All the land parcels notified in the Official Gazette under the provisions of Section 4 of the relevant Forest Act, which are in the process of Forest settlement for the final notification as 'Reserved Forest' under Section (17) of Karnataka Forest Act, 1963.
4	Private Forests	<p>i) As per section 36 in the Karnataka Forest Act, 1963, any land containing trees and shrubs, pasture lands and any land whatsoever which the state government may, by notification under this section, declare to be a forest, is a private forest.</p> <p>ii) As per section 39 in the Karnataka Forest Act, 1963, any land notified by the State Government under this section for the protection of forests for special purposes is a private forest.</p>

b) **Areas recorded as 'forests' in the Government records:** All the land parcels that are recorded as forest, aranya, kadu, marakadu, jungle etc., (i) in the land records (RTC Pahani etc.) maintained under the provisions of the Karnataka Land Revenue Act, 1964 (Act No. 12 of 1964) and allied statutes till 30th June 1981; (ii). All classes of lands in the survey settlement records prepared during the process of land revenue settlement; (iii). Forest Working Plans; (iv). District Census Handbooks of all the districts in the State of Karnataka; (v) All classes of lands designated as forests in the Karnataka Revenue Survey Manual, could be defined as "forest" for the purpose of the Forest (Conservation) Act, 1980.

c) **'Forests' as understood in the dictionary sense:**

The following field criteria is approved by the Government for determining the 'Forests' as understood in the dictionary sense (i) All Government land parcels (excluding those which are "statutory forests" and 'forests as per Government records'), of an area of two hectares and above having at least a density of 50 naturally grown trees per hectare, of gbh of 30 cm and above (OR) All plantations on Government lands of an area of 2 Ha and above (excluding those which are "statutory forests" and 'forests as per Government records') with a minimum density of 100 planted trees/ Ha of gbh of 30 cm and above. (gbh is girth of tree at breast height measured at a height of 4.5 feet from ground)

d) Plantations of any kind on private lands shall not be considered as 'forests'. Private lands with naturally grown trees, with 50 trees per hectare of gbh 30 cm and above, on an extent of 5Ha and above shall only be treated as "private forests".

12. After exclusion of all the above 'forests', the remaining areas out of the lands at the disposal of Govt. as per the definition of "District Forests" under Section 2(2) of the Karnataka Forest Act, 1963 can be excluded from the purview of Forest Conservation Act, 1980 after seeking necessary orders from Apex Court by filing an Affidavit/Interlocutory Application in the Court in WP(Civil) 202/1995 with proper justification for such exclusion. The lands so excluded shall be reserved for public purpose like Health, Education, Irrigation, Social Welfare, Rural Housing and essential Rural Infrastructure.

Now, the Government of Karnataka examined all the aspects in the light of the above facts and decided to issue the following order:-

GOVERNMENT ORDER NO: FEE 185 FAF 2011
BANGALORE, DATED: 15-05-2014

After careful examination all the aspects and to ensure compliance of the order of the Supreme Court dated 12/02/1996 the Government constitutes the following committees:

The Committees will verify/review the areas included as 'Deemed Forests' in the report of Revised Expert Committee-1. The total extent of deemed forests should be categorised into a) statutory forests b) recorded as "forests" in Government records c) areas which are 'forests' as per dictionary definition based on field verification as per the criteria and methodology approved at Para (11) of Preamble. The Committees will also consider those areas not included in the Revised Expert Committee report as deemed forest, but eligible for inclusion based on Government records or approved field criteria.

(A) District Level Committee:

- a) Deputy Commissioners of the District.
- b) Deputy Conservator of Forests (territorial) at District Headquarters – Convenor.
- c) Deputy Conservator of Forests (territorial)/Wildlife, where the district has two or more divisions.
- d) Deputy Directors of Land Records concerned.

(B) Revenue Divisional Level Committee:

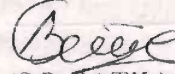
- a) Regional Commissioner of the Revenue Division.
- b) Chief Conservator of Forests of the Forest Circle stationed at Revenue Divisional Headquarters -Convenor.
- c) Chief Conservators of Forests of the Territorial Circles in the Revenue Division.
- d) Joint Directors of Land Records

(C) State Level Committee:-

- a) Additional Chief Secretary to Government.
Forest, Ecology and Environment Department.
 - b) Principal Secretary/Secretary to Government, Revenue Department
 - c) Principal Chief Conservator of Forests (HOFF).
 - d) Commissioner for Survey Settlement and Land Records.
 - e) Additional Principal Chief Conservator of Forests, Working Plans-Convenor
- 1) The District Committees will organise field teams for applying the approved field criteria to arrive at forest areas as per Dictionary definition. These field teams shall visit the areas listed by Revised Expert Committee as 'Deemed Forests', as well as areas left out by Revised Expert Committee, but otherwise fit to be a "forest" as per the field criteria or as per the entries in Government records. The District Committees may meet as many times as required, but a monthly review is mandatory, as the task assigned herein should be completed in a **six months**.
 - 2) The state level committee will review the progress and issue further guidelines/clarifications as deemed necessary for proper conduct of the review.
 - 3) The Regional Committee will review, monthly, the progress of the District teams.
 - 4) Principal Chief Conservator of Forests (HOFF) should ensure that none of the statutorily notified forests such as Reserved Forests, Protected Forests, Village Forests, areas notified under Sec(4) of Karnataka Forest Act,1963, overlap with the forests areas to be finalised now under the categories of forest by dictionary definition (by applying field criteria) and forests as per Government Records. Necessary instructions be issued to the field officers in the matter.
 - 5) During the pendency of the review, if any area is required for public purpose such as health, education, social welfare, irrigation and other essential rural infrastructure out of the Government lands (excluding statutory 'forests' and forests as per Govt. records), the pre-determined 'field criteria' as in para 11 approved will be applied to decide whether the proposed area falls under 'forest' or otherwise.

- 6) On completion of the review, the reports shall be placed before the Cabinet for consideration and after approval by the Cabinet an Affidavit will be filed before the Hon'ble Supreme Court, accordingly.

By ORDER AND IN THE NAME OF THE
GOVERNOR OF KARNATAKA,


(S.P. PATIL)

UNDER SECRETARY TO GOVERNMENT,
FOREST, ECOLOGY AND ENVIRONMENT
DEPARTMENT.

To:

The Complier, Karnataka Gazette, Bangalore for publication in the next issue of Gazette and supply 200 copies to the Principal Chief Conservator of Forest (Head of Forest Force), Aranya Bhavan, 18th Cross, Malleshwaram, Bangalore-560 003. And 50 copies to the above authority.

Copy to:-

- 1) The Chief Secretary to Government.
 - 2) Principal Secretary to Government, Revenue Department.
 - 3) Principal Chief Conservator of Forests (HOFF), Aranya Bhavan, 18th Cross, Malleshwaram, Bangalore-560 001.
 - 4) Commissioner, Survey, Settlement and Land Records.
 - 5) Additional Principal Chief Conservator of Forest (Working Plans).
 - 6) All the Regional Commissioners in the State.
 - 7) All The Deputy Commissioners of Districts in the State.
 - 8) All the Chief Conservators of Forests (Forest Circles).
 - 9) All the Deputy Conservators of Forests (Territorial and Wildlife Divisions).
 - 10) Section Guard file/Spare Copies.
- } Through
PCCF (HoFF)

Annexure

Forest areas as per the report of Revised Expert Committee - I

SL No	Categories of Forests	Total Area (ha)
1	2	3
	NOTIFIED FORESTS	
I		
I A	Reserved Forests	
1	Declared under Section 17 of KFA	17,62,919.76
2	Section 17 of Mysore Forest Regulation	5,94,778.32
3	Section 20 of IFA	2,94,493.94
4	Section 16 of Madras FA	2,58,781.95
5	Section 19 of Hyderabad FA	44,048.40
	Sub Total	29,55,022.37
I B	Protected Forests /Minor Forests (Section-33 & Section -35)	
1	Declared under Section 4 of KFA	1,78,673.47
2	Protected Forests	1,69,512.43
3	Devara Kadu	2,956.67
4	Urudve	2,733.80
5	Others -Sandal-Teak reserves etc.	4,644.66
	Sub Total	3,58,521.03
I C	Village Forests Section -29	4,904.76
I D	Private Forest Section -36	5,406.82
	Total	33,23,854.98
	Notified Forests	
II	DEEMED FORESTS	
II A	District Forests	
1	Proposed for Section 4 of KFA	1,21,716.01
2	Betta land	7,652.43
3	Bane	79,957.41
4	Jamamalai	4,953.28
5	Forest porampoke	3,981.35
6	Forest Paisari land	44,051.23
7	Kans	20,218.25
8	Kumki	37,703.90
9	Amrith Mahal Kaval	30,112.30
10	Assessed waste lands	35,850.80
11	Kharab	7,447.26
12	Submerged lands	-
	i) Mangrooves	998.80
	ii) Wet lands	-
	iii) Others	20,795.04
13	River catchment & Sea erosion area	583.14
14	Land classified as Forest / Jungle in Revenue records	10,393.34
15	Forest Inam land	3,569.62

16	Gomal lands where plantations have been raised	41,160.84
17	Thickly wooded areas (of revenue department not handed over to KFA)	1,01,184.94
18	C & D without any plantation but with KFD	3,07,859.87
19	Thickly wooded area noted as Forest in Revenue records and recommended to be taken over by the KFD	16,908.38
20	Thickly wooded lands distributed but not cultivated, no tree felled	116.31
21	Water bodies	-
	i) Lakes	-
	ii) Tanks	3,326.25
22	Plantations	-
	i) Strip	415.80
	ii) Roadside	15,770.01
	iii) Canal bank	772.90
	iv) Foreshore	10,314.19
	v) School	3,187.53
	vi) Community land	1,498.04
	vii) Plantations raised by institutions	2,297.30
	viii) Other plantations	55,265.02
23	Others	11,778.28
	Total Deemed Forests	10,11,839.82
	Grand Total(ha)	43,35,694.80

Total Deemed Forests		10,11,839.82
Deductions		
Strip	- 415.80	
Road side	-- 15,770.01	16,958.71
Canal bank	- 772.90	
Total (ha)		9,94,881.11

B. Patil

(S.P. PATIL)

Under Secretary to Government,
Forest, Ecology and Environment Department