

Subject:- General approach in regard to dealings with forest offences.

**GOVERNMENT OF MAHARASHTRA**  
**REVENUE AND FORESTS DEPARTMENT**

**Circular No. TRS 1082/36/F-6,**  
Mantralaya, Bombay 400 032, dated 8 September, 1982.

**CIRCULAR**

A Committee headed by the Minister for Forests was set up by Government to consider, among other things, matter relating to prevention of large scale illicit felling of trees.

2. The Committee noted with concern, that with growing lawlessness in certain forest areas, proximal to bigger towns and metropolitan cities and along the inter-state border, the problem of forest protection had become increasingly difficult and alarmist. Districts like Thane, Raigad, Dhule and Nanded, in particular, had acquired notoriety in this respect. The loot of some of the forests was organized and premeditated. If our valuable forest are to be preserved inviolate from this vandalism and depredation, it is imperative to devise stringent measures and tighten vigilance all round. At present, as an interim measure, SRP units and other police force have been deployed to some of the vulnerable forest areas in the above districts. The Committee was of the view that all efforts be made to provide a deterrent, by meting out prompt and condign punishment to the culprits. The Committee observed, that hithertofore, the practice in the Forest Department was not to launch prosecution, except in very exceptional circumstances. By and large, forest offences were sought to be compounded under the Indian Forest Act, 1927. The Committee was of the view that, while this approach may be in order, in respect of petty and trivial forest offences, recourse to prosecution was necessary in forest offences of grave - magnitude, if lawlessness was to be effectively checked.

3. The Committee considered the relevant merits of prosecution, both under the Indian Forest Act, 1927 (IFA) as well as the Indian Penal Code (IPC) and noted the following advantages in taking action in forest offences under the former :-

- (a) Under Section 69 of the Indian Forest Act, 1927, there is a presumption that forest produce belongs to Government until the contrary is proved. The onus of proof that the forest produce does not belong to Government would thus lie on the accused.
- (b) In the course of investigation of forest offences, a Forest Officer can receive or record evidence, and such evidence is admissible in any subsequent trial, provided it has been taken in the presence of the accused person, vide section 72(2) of the Indian Forest Act, 1927. As against this, the statements recorded by the police under the Code of Criminal Procedure (C.C.P.) are not admissible in evidence, except for the limited purpose corroboration of contradiction.
- (c) Under Section 67 of the Indian Forest Act, 1927, First Class Magistrate can be specially empowered to try forest offences summarily. This facility of summary trial of offences would not be available in respect of offences under the Indian Penal Code.

4. The Committee was of the view, that the above advantages were very significant and therefore, recommended that the Forest Department take advantage of the relevant useful provisions under the Indian Forest Act, 1927, to launch prosecutions in a much larger number of cases than hitherto, depending

upon the criminality of the offence so that this could act as an effective deterrent to recidivism in forest offences.

5. While the Indian Forest Act, 1927 had certain advantages most of the offences under that Act or the Rules thereunder were punishable with imprisonment not exceeding six months or fine upto Rs.500/- or both. The penalties under the Indian Penal Code were much higher. In view of this, the Committee felt, that it would be advantageous to launch prosecution under the Indian Penal Code in grave cases theft of forest produce, so that convictions under the Indian Penal Code coupled with higher punishment could secured. In particular, the Committee recommended that all cases of robbery and dacoity be invariably taken up with and investigated by the Police Department for prosecution under the Indian Penal Code.

6. The Committee, therefore, recommended the following general approach in regard to prosecution of forest offences:-

- (a) shall and petty cases of theft and other forest offences should continue to be compounded as hithertofore.
- (b) However, habitual offenders and those involved in bigger cases of theft should be prosecuted under the Indian Forest Act, 1927.
- (c) Cases involving robbery and dacoity should invariably be taken up with the Police Department for prosecution under the Indian Penal Code. In addition special cases of theft involving substantial forest produce or requiring extensive investigation should also be passed on to the police.

7. Government has examined carefully the above recommendations of the Committee in regard to the general approach to composition and prosecution of forest offences as outlined in the preceding paragraph, and is pleased accept the same. Government is further pleased to issue the following guidelines in regard

to composition and prosecution of forest offences in elaboration of the above general approach:-

- (a) Offences of illicit traffic in fuelwood headloads be considered as petty and compounded. Special care should be taken to ensure that persons carrying fuelwood headloads according to local sanctioned privilege are not obstructed or harassed in any way.
- (b) The offence of illicit traffic in fuelwood by carts, trucks, tractors, rail and such other means be considered as serious and the offenders be prosecuted.
- (c) Offences involving theft of timber, the value of which in each case, is less than Rs.2,000/- may be compounded, where the value of material (timber) exceeds Rs.2,000/- the offender be prosecuted.
- (d) Habitual offenders should be prosecuted regardless of the nature of offence.

By order and in the name of the Governor of Maharashtra.

Sd/-  
(L.H.A.REGO)  
Deputy Secretary to Government  
Revenue and Forest Department.

To,

The Chief Conservator of Forests,  
Maharashtra State, Pune.