

CHAPTER IX

PENALTIES AND PROCEDURE

52. *Seizure of property liable to confiscation and forfeiture :*

- (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 or cattle used in committing any such offence may be seized by any Forest officer or Police-Officer.
- (1A) Any Forest-officer or Police officer may, if he has reason to believe that a vehicle has been or is being used for the transport of forest-produce in respect of which there is reason to believe a forest offence has been or is being committed require the driver or other person in charge of such vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to the goods carried which are in the possession of such driver or other person in charge of the vehicle.
- (2) Every officer seizing any property under this section shall place on such property, or the receptacle or vehicle (if any) in which it is contained, a mark indicating that the same has been so seized and shall, as soon as may be, 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;

Provided further that, where the offence on account of which the seizure has been made is in respect of timber, sandalwood, firewood, charcoal or such other forest-produce as may be notified by the State Government from time to time (hereinafter referred to as the "notified forest produce") and which is the property of the State Government, such officer shall make a report of such seizure also to the concerned authorised officer under section 61A.

Explanation – For the purposes of this Chapter, the expressions "property of Government" and "property of the State Government" include the property belonging to the Forest Development Corporation of Maharashtra Limited.

53. *Power to release property seized under section 52 :* Any Forest-officer of a rank not inferior to that of a Ranger who, or whose subordinate, has seized any tools, boats, vehicles or cattle under section 52 may subject to section 61 G, release the same on the execution by the owner thereof a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try offence on account of which the seizure has been made.

58. Procedure as to perishable property seized under section 52 : The Forest Officer who made the seizure under section 52 may, notwithstanding anything contained in this Act or any other law, sell any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold and shall report about every such sale to his official superior.

59. Appeal from orders under section 55, section 56 or section 57 : The officer who made the seizure under section 52, or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under section 55, section 56 or section 57, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order, passed on such appeal shall be final.

60. Property when to vest in Government : When an order for the forfeiture of any property has been passed under section 55 or section 57, as the case may be, and the period limited by section 59 for an appeal from such order has elapsed, and no such appeal has been preferred or when on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all encumbrances.

61. Saving of power to release property seized : Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the State Government from directing at any time the immediate release of any property seized under section 52 which is not the property of Government and the withdrawal of any charge made in respect of such property.

61A. Confiscation by Forest Officers of forest produce where forest offence is believed to have been committed :

- (1) Notwithstanding anything contained in the foregoing provision of this Chapter or any law, where a forest-offence is believed to have been committed in respect of timber, sandalwood, firewood, charcoal or any other notified forest-produce which is the property of the State Government, the officer seizing the property under sub-section (1) of section 52 shall without any unreasonable delay produce it, together with all tools, boats, vehicles and cattle used in committing such offence, before an officer authorised by the State Government in this behalf by notification in the *Official Gazette*, not being an officer below the rank of an Assistant Conservator of Forests (hereinafter referred to as "the authorised officer").
- (2) The State Government may authorise one or more officers for any local area under sub-section (1).

- (3) Where an authorised officer seizes under sub-section (1) of section 52 any timber, sandalwood, fire-wood, charcoal or any other notified forest-produce which is the property of the State Government or any such property is produced before an authorised officer under sub-section (1) and he is satisfied that a forest-offence has been committed in respect of such property, such authorised officer may, whether or not a prosecution is instituted for the commission of such forest-offence, order confiscation of the property so seized together with all tools, boats, vehicles and cattle used in committing such offence.
- (4) (a) Where the authorised officer, after passing an order of confiscation under sub-section (3), is of opinion that it is expedient in the public interest so to do, he may order the confiscated property or any part thereof and the tools, boats, vehicles and cattle to be sold by public auction.
- (b) Where any confiscated property or the tools, boats, vehicles and cattle are sold, as aforesaid, the proceeds thereof, after deduction of the expenses of any such auction or other incidental expenses relating thereto shall, where the order of confiscation made under this section is set aside or annulled by an order under section 61C or 61D, be paid to the owner thereof or to the person from whom it was seized as may be specified in such order.

61B. *Issue of show-cause notice before confiscation under section 61A:*

- (1) No order confiscating any timber, sandalwood, fire-wood, charcoal or any other notified forest-produce tools, boats, vehicles or cattle shall be made under section 61A except after notice in writing to the person from whom it is seized and considering his objections, if any:

Provided that no order confiscating a motor vehicle shall be made except after giving notice in writing to the registered owner thereof, if in the opinion of the authorised officer it is practicable to do so, and considering his objections, if any.

- (2) Without prejudice to the provisions of sub-section (1), no order confiscating any tool, boat, vehicle or cattle shall be made under section 61A if the owner of the tool, boat, vehicle or cattle proves to the satisfaction of the authorised officer that it was used in carrying the timber, sandalwood, fire-wood, charcoal or any other notified forest produce without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the tool, boats, vehicle or cattle and that each of them had taken all reasonable and necessary precautions against such use.

61C. *Revision :* Any Forest Officer not below the rank of Conservator of Forests specially empowered by the State Government in this behalf by notification in the *Official Gazette* may, *suo motu* call for and examine the record of the order of the authorised officer under section 61A, and may make such inquiry or cause such inquiry to be made and may pass such order as he

deems fit:

Provided that no such record shall be called for after the expiry of 30 days from the date of such order, and no order under this section shall be passed if, in the meanwhile, an appeal has been filed under section 61D against the order of the authorised officer :

Provided further that no order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

61D. Appeal :

- (1) Any person aggrieved by any order passed under section 61A or section 61C may, within thirty days from the date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area in which the property and the tools, boats, vehicles and cattle to which the order relates has been seized and the Sessions Judge shall, after giving an opportunity to the appellant and the authorised officer or the officer specially empowered under section 61C, as the case may be, to be heard, pass such order as he may think fit confirming, modifying or annulling the order appealed against.
- (2) An order of the Sessions Judge under sub-section (1) shall be final and shall not be questioned in any Court.

61E. Award of confiscation not to interfere with other punishments : The award of any confiscation under section 61A or section 61C or section 61D shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act or any other law for the time being in force.

61F. Property etc., confiscated when to vest in Government : When an order for confiscation of any property or any tools, boats, vehicles or cattle is passed under section 61A or section 61C or section 61D and such order has become final in respect of the whole or any portion of such property, or tool, boat, vehicle or cattle, such property or portion thereof or tool, boat, vehicle, or cattle or if it has been sold under clause (a) of sub-section (4) of section 61A the sale proceeds thereof, as the case may be, shall vest in the State Government free from all encumbrances.

61G. Bar of jurisdiction in certain cases : Whenever any timber, sandalwood, firewood, charcoal or any other notified forest produce which is the property of the State Government, together with any tool, boat, vehicle or cattle used in committing any offences is seized under sub-section (1) of section 52, the authorised officer under section 61A or the officer specially empowered under section 61C or the Sessions Judge hearing an appeal under section 61D shall have,

and notwithstanding anything, to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, any other officer, court, tribunal, or authority shall not have, jurisdiction to make orders with regard to the custody, possession, delivery, disposal or distribution of such property and any tool, boat, vehicle or cattle.

62. *Punishment for wrongful seizure :*

- (1) Any Forest officer or Police officer who vexatiously and unnecessarily seize any property on pretence of seizing property liable to confiscation and forfeiture under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees or with both.
- (2) Any fine so imposed, or any portion thereof, shall, if the convicting court so directs, be given as compensation to the person aggrieved by such seizure.

63. *Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks :* Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code (XLV of 1860)-

- (a) knowingly counterfeit upon any timber or standing tree a mark used by Forest-Officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or
 - (b) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest-Officer; or
 - (c) alters, moves, destroys or defaces any boundary mark of any forest or waste land to which the provisions of this Act are applied;
- shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

64. *Power to arrest without warrant :*

- (1) Any Forest-Officer, Police Officer or Revenue Officer may, without orders from a Magistrate and without a warrant arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest offence punishable with imprisonment for one month or upwards.
- (2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Act as to release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case, or to the officer in charge of the nearest police station.
- (3) Nothing in this section shall be deemed to authorise such arrest for any act which is an offence under chapter IV, unless such act has been prohibited under clause (c) of section 30.