

Annexure VIIIA (12), (Vide Article - 8.02)

~~CONFIDENTIAL~~
Regularisation of encroachment on forest
lands during 1-4-1972 to 31-3-1978
for cultivation.

Government of Maharashtra,
Revenue and Forests Department,
Resolution No. MLD-1079/1366-F-3,
Mantralaya, Bombay-400 032.
Dated:-12th September.1979.

Read:- Government Resolution, Revenue and Forests Department,
No. LEN-1078/3483-G-1 dated 27-12-1978.

RESOLUTION:-

Under Government Resolution, Revenue and Forests Department No. LEN-1078/3483-G-1 dated 27th December 1978 orders were issued for the regularisation of encroachments, made for cultivation on Government waste lands, Galran lands, revenue forest lands and forest lands in-charge of the Forest Department. The criterion prescribed for regularisation was that the encroacher should be in possession of the encroached land on 31st March, 1978. It has been represented to the Government that the ambit of the Resolution should be enlarged to provide for regularisation of encroachments made from 1-4-1972 to 31-3-1978 irrespective whether an encroachment was ~~substantiating~~ ^{subsisting} on 31-3-78 or not.

2. Government has considered and accepted the demand that the land so encroached upon within the aforesaid period should (subject to the conditions appearing hereafter) be made available for regularisation. This is designed to benefit large number of encroachers, whose encroachments were removed, in the past and majority of whom are Adivasis and landless. Accordingly Government is pleased to direct as under:-

3. All forest lands which were encroached upon during the period from 1-4-1972 to 31-3-1978, irrespective of the period for which they were encroached, should be released for distribution. Following categories of encroached lands during the same period, shall be, however, excluded:-

- i) Lands eligible for regularisation being subsisting encroachments as on 31-3-1978 and regularised or being regularised under the provisions of Government Resolution No. LEN-1078/3483-G-1 dated 27-12-1978;
- ii) Lands brought under plantation, afforestation, fodder development or put to some specific use like construction of roads, buildings, etc., after the encroachments thereon were removed;
- iii) Lands already disforested or proposed to be disforested in favour of any Government Department, Zilla Parishad or a public institution; and
- iv) Lands situated in the midst of the forest or on slopes of gradient exceeding 10 percent. (However, if the encroached land is not utilized or proposed to be utilized in terms of sub-para (ii) and (iii) above, an equivalent suitable area shall be made available either on the fringe of the forests or some other Government land nearby).

4. Government is further pleased to direct that until the encroached forest land to be released for distribution, is identified, all existing encroachments (except those made on the lands mentioned in para 3 supra and those eligible for regularisation under Government Resolution dated 27th December 1978) should be treated as new encroachments and removed summarily.

5. The Forest Department shall first prepare village-wise list in form I) of all the encroachments made in any one year during the period 1-4-1972 to 31-3-1978. Thereafter two separate lists-in Form 1A and Form 1B shall be prepared. In Form 1A, the details of encroachment made in any one year during 1-4-1972 to 31-3-1978) on the fringe of forests shall be entered. The total of column 9 shall be the area available for distribution and to be transferred to Revenue Department for allotment to the eligible encroachers. In Form 1B a separate list of encroachments made in the midst of Forest or on a forest land with more than 10% gradient, shall be prepared. This area being in the midst of forest, or with more than 10% gradient is not to be released, but an area equivalent to the total area mentioned in column 9 of Form 1B shall be made available either on the fringe of the forests or from some other Government lands nearby. It is hereby clarified that all encroached lands which are governed by paragraph 2 (ii) and (iii) i.e. they are either brought under plantation or otherwise proposed to be used are not to be made available for distribution. Only the lands which are now available or equivalent area against the area in the midst of forest or more than 10% gradient which have not been planted or otherwise put to any other use, are to be released for distribution. Subsequently another list giving details of encroached lands which is available for distribution, shall be prepared in Form II hereafter, the lists in Form 1A, Form 1B and Form II should be forwarded to the Collector for deciding the eligibility of the erstwhile encroachers.

6. After receipt of the list of eligible persons (Form. II) from the Collector, the Divisional Forest Officer should release the area which is available for distribution. Naturally the area to be released would be on the fringe of the forest.

7. The lands which are released by the Forest Department would be granted to the erstwhile encroachers (who had encroached in any one year during the period 1-4-1972 to 31-3-1978) notwithstanding that they comprise one or more fragments, provided:-

The erstwhile encroacher is-

- a) a person belonging to backward class, i.e. Scheduled Castes, Schedule Tribes, Nomadic Tribes, Vimukta Jatis, or Neo Buddhist or a person whose total annual income including the income of members of his family does not exceed Rs. 3,600/-.
- b) a person whose usual place of residence is within the radius of 2 kilometers from the land which was encroached upon;
- c) a person who is landless or the total land lawfully held by him in any capacity is less than 2 hectares of jirayat land;
- d) a person whose name appears in voters' list of the last assembly election of this State.

8. The encroached land to the extent of an area equal to the standard area (as determined under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947) of jirayat land shall only be granted. Where the erstwhile encroacher is holding land either as owner or in any other capacity, the grant shall be limited to a standard area or to such area as would bring his total holdings equal 2 hectares of jirayat land, whichever is less.

9. After deciding the eligibility of the erstwhile encroacher to get the land for cultivation, the extent of land to be granted to erstwhile encroacher and the procedure to be followed shall be as follows:-

Contd.. 3..

If the erstwhile encroached land is less than the "standard area (as determined under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947) and only one person is a claimant, the erstwhile encroached land shall be granted to him.

- II) If the erstwhile encroached land is less than the "Standard area" and the number of claimants are more than one-
- a) the land shall be granted to the claimant who is landless; if however there are more than one claimants who are landless, than lots should be drawn and the person in whose favour, lot is drawn should be granted the land;
 - b) If none of the claimants are landless persons, then the claimant whose private holding is the least should be granted the land.
- III) If the erstwhile encroached land is more than one unit of 'standard area' (as determined under section 5 of the Bombay-Prevention of Fragmentation and Consolidation of Holdings Act, 1947) and
- a) if any one person is a claimant, he should be granted land equal to the standard area only;
 - b) if the claimants are more than one, the land should be first divided into units of standard area and each eligible claimant should be granted one unit; provided priority is given to those who are landless; followed by those whose private holdings are the least. If the number of landless claimants or the claimants whose private holdings are the least, are more than the units available for distribution, then the units should be distributed after drawing lots, surplus units, if any, should be granted to landless encroachers, whose encroached land is not available for distribution, because of the conditions in para 3(ii)(iii) and (iv) above.
 - c) fragment resulting from the division of the area into units of standard area should be granted to the person whose unit is adjacent to it.
10. Wis forestation and distribution of the land should be done as per the time bound programme given in Annexure "A" appended to this Wament Resolution].

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

Sd/-

(D. N. ADIVERSEKAR)

Under Secretary to Government,
Revenue and Forests Department.

The Chief Conservator of Forests, Pune.
All Territorial Conservators of Forests.
All Sub Divisional Karext Officers.
All Divisional Forest Officers and sub Divisional Karext Officers of Independent Sub Divisions.

ANNEXURE - A

Time-Bound Programme for distribution of land under encroachments
between 1-4-1972 to 31-3-1978

Sr. No.	Stage	Time limit	Action to be taken by
1.	Preparation of list of encroachers and the lands encroached in Form-I, I-A, I-B and forwarding it to the Collector.	15th October 1979	Forest - Department.
2.	Preparation of list encroached lands available for distribution & showing encroachers of the same in Form II and forwarding it to the Collector.	15th November 1979	Forest - Department.
3.	Preparation of a list of eligible persons and area to be granted to each of them, in Form III.	31st December, 1979	Revenue - Department.
4.	Note: This list is to be prepared with reference to details in Form II.		
4.	Rough demarcation of the encroachment qualifying for distribution and of the alternate forest lands to be given on the fringe of the forests.	29th February, 1980	Forest - Department.
5.	Clearance of tree growth, if any from the demarcated patches.	31st March, 1980.	Forest - Department.
6.	Laying out of plots and their distribution.	30th April, 1980.	Revenue Depart- ment,/Land- Records Deptt.
	Final Demarcation measurement and allotment of survey members/levy of assessment etc.	31st May, 1980.	Revenue Depart- ment/Land Record Department.