

१८० महाराष्ट्र शासन राजपत्र, अंगक १८, १९८४/भाग २७, मके १९०६ [३] २

peal of 4. (1) The Indian Forest (Maharashtra Amendment) Ordinance, 1984, is hereby Mah.
 2. Ord. Ord.
 III of repealed. III of 1984.
 34 and (2) Notwithstanding such repeal, anything done or any action taken (including
 saving any rule framed, any order issued or any licence granted or renewed) under the
 said Ordinance shall be deemed to have been done, taken, framed, issued, granted
 or renewed, as the case may be, under the principal Act, as amended by this Act.

असा. क्र. २१



महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

शनिवार, अंगक १८, १९८४/भाग २७, मके १९०६

स्वतंत्र सरकलन म्हणून काढित करण्यात आले पा मागला वेळी पृष्ठ क्रमांक दिले आहेत

भाग चार

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रस्थापित केलेले अध्यादेश व केलेले विनियम

अनक्रमिका

PAGES

MAHARASHTRA ACT No. XXIII OF 1984 - An Act further to amend the Indian Forest Act, 1927, in its application to the State of Maharashtra 18-137

The following Act of the Maharashtra Legislature, having been assented to by the President on the 16th August 1984, is hereby published for general information.

D. N. CHAUDHARI,
 Secretary to the Government of Maharashtra,
 Law and Judiciary Department.

MAHARASHTRA ACT No. XXIII OF 1984.

(First published, after having received the assent of the President, in the Maharashtra Government Gazette " on the 18th August 1984.)

An Act further to amend the Indian Forest Act, 1927, in its application to the State of Maharashtra.

WHEREAS it was noticed that large scale illicit cutting of trees and quick conversion thereof into timber used to take place in saw mills located in or within some distance from Government forests;

AND WHEREAS there was no provision in the Indian Forest Act, 1927, in its application to the State of Maharashtra, empowering the State Government to make rules for regulating by grant of licences for the cutting or conversion of timber in saw mills within the forest limits or certain distance therefrom;

भाग चार-१३

(१८४)



AND WHEREAS such illicit cutting and conversion of timber from Government forests and consequent loss of revenue could not, therefore, be arrested effectively;

AND WHEREAS by the Indian Forest (Maharashtra Amendment) Act, 1964, Maharashtra, had been amended by inserting clause (b) therein to regulate by grant of licenses within the forest limits or such distance therefrom not exceeding eighty kilometers as may be determined, the converting or cutting of timber in a saw mill, and prescribe fees and conditions, subject to which such license may be granted;

AND WHEREAS in writ petition No. 788 of 1964 (Ashok Narayan Thakur of Yavatnal versus Divisional Forest Officer, Yavatnal Zone, Yavatnal and another) and some other such writ petitions filed in the High Court of Bombay (Ayanur Bantur), the provisions of the said clause (b) of sub-section (2) of section 41 have been challenged *inter alia* on the grounds that the provisions of sub-section (1) of the said section 41 did not empower the State Government to regulate by grant of licenses the converting or cutting of timber in a saw mill outside the limits of forests, and there was no substantive provision for that purpose in that section and, therefore, they were an *intra vires* and further that they were unconstitutional and violative of sub-clause (2) of clause (1) of article 19 of the Constitution of India inasmuch as the previous sanction of the President required under the provisions of the proviso to clause (b) of article 304 of the Constitution had not been obtained before the introduction of the Bill, which, after it was passed, had been enacted as Maharashtra Act No. XV of 1965;

AND WHEREAS with a view to arresting the large scale illicit cutting of trees and conversion thereof into timber in the saw mills located within the forest limits and certain distance therefrom, it was expedient that power should be taken with retrospective effect to the State Government to make rules for regulating by grant of licenses within the forest limits or such distance therefrom not exceeding eighty kilometers as may be determined, the converting or cutting of timber in a saw mill, and prescribing fees and conditions, subject to which license may be granted, and the manner in which, and the authority to whom, an appeal against the order of refusal, suspension or revocation of a license may be filed, and for that purpose to amend section 41 of the Indian Forest Act, 1927, in its application to the State of Maharashtra a *sanad*;

AND WHEREAS it was also expedient to provide for the validation of such rules made, the licenses granted or renewed and in force and anything done or any action taken thereunder;

AND WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Indian Forest Act, 1927, in its application to the State of Maharashtra, for the purposes hereinafter appearing; and therefore promulgated the Indian Forest (Maharashtra Amendment) Ordinance, 1964;

AND WHEREAS, it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Thirty-fifth Year of the Republic of India as follows:—

Short title 1. (1) This Act may be called the Indian Forest (Maharashtra Second and Amendment) Act, 1984.

(2) It shall be deemed to have come into force on the 22nd June 1984.

XVI 2. In section 41 of the Indian Forest Act, 1927, in its application to the State of Maharashtra,—

(6) after sub-section (1), the following sub-section shall be inserted, and shall be deemed to have been inserted, with effect from the 15th day of September 1960, namely:—

“(7A) Notwithstanding anything contained in any law for the time being in force, the State Government may make rules to regulate by grant of licenses within the forest limits or such distance therefrom not exceeding eighty kilometers as may be determined, the converting or cutting of timber in a saw mill, and prescribe fees and conditions, subject to which such license may be granted, and the manner in which, and the authority to whom, an appeal against the order of refusal, suspension or revocation of a license may be filed.”

(3) In sub-section (2), clause (b) shall be deleted, and shall be deemed to have been deleted, with effect from the 10th day of February, 1965.

XVI 3. It is hereby declared that section 41 of the Indian Forest Act, 1927, in its application to the State of Maharashtra (hereinafter in this section referred to as *the principal Act*), having been retrospectively amended by this Act, with power of the State Government to make rules for the purposes referred to in section 41 of the principal Act, as amended by this Act,—

(a) rule 88 under the heading “1. Conversion of Timber within certain distance of Forest” in Chapter VI of the Bombay Forest Rules, 1942 and the Form in Schedule EE thereto or any other provisions in relation to the grant of such licenses contained in the said rules and the corresponding provisions contained in any other rules applicable in the Maharashtra and the Vidarbha Region, as amended from time to time, and in force on the day immediately preceding the date of commencement of this Act shall be deemed to have been validly made and effective and continuously in force as if they have been made under the principal Act, as amended by this Act;

(b) all licenses granted under the said rules and subsisting on the date of commencement of this Act shall be valid for the period for which they are granted or renewed;

(c) anything done or any action taken under the principal Act, as amended by this Act (including the rules made thereunder), shall be deemed to be as if it shall be deemed always to have been, validly done and taken, and shall be called in question in any Court or before any authority, merely on the ground that there was no valid rule-making power vested in the State Government or that the amendments to the rules were not validly made or that the rules or amendments made thereto and the licenses granted or renewed thereunder as aforesaid did not fit in the rule-making power of the State Government or on such other ground.