

**THE AZAD GOVERNMENT OF THE STATE OF JAMMU &
KASHMIR, LAW AND PARLIAMENTARY AFFAIRS
SECRETARIAT**

MUZAFFARABAD,
the 17th October, 1972.

No. 2430/SL/72. The following Ordinance approved by the Legislative Assembly of Azad Jammu and Kashmir under Section 24 of the Azad Jammu and Kashmir Government Act, 1970, at its meeting held on the 27th of June, 1972, is hereby published for general information:-

**THE AZAD JAMMU AND KASHMIR CONSTITUTION OF
FOREST SPECIAL COMMITTEES ORDINANCE, 1972.**

(ORDINANCE IX OF 1972)

An Ordinance to provide for the constitution of Special Committees for the protection of forests and disposal of forest damage cases under the Forest Law Manual;

Whereas it is expedient to provide for the constitution of Special Committees for the protection of forests and disposal of forest damage cases under the Forest Law Manual;

And whereas the legislative Assembly is not in session and the President is satisfied that circumstances exist and the emergency has arisen which renders immediate legislation necessary;

Now, therefore, in exercise of the powers conferred by section 24 of the Azad Jammu and Kashmir Government Act, 1970 and all powers enabling him in that behalf, the President Azad Jammu and Kashmir is pleased to make and promulgate the following Ordinance:-

1. **Short title, commencement and extent:-** (1) This Ordinance may be called the Azad Jammu and Kashmir Constitution of Forest Special Committees Ordinance, 1972.
 - (2) It shall come into force at once.
 - (3) It shall extend to the whole of Azad Jammu and Kashmir Territory.
2. **Definitions:-** In this Ordinance, unless there is anything

repugnant in the subject or context:

(1) 'Appellate Authority' means District Magistrate or any Magistrate nominated by the Government;

(2) 'Chairman' means the Chairman of the Special Committee who shall be the member of Azad Jammu and Kashmir Legislative Assembly elected for the area which falls within the jurisdiction of the Special committee or such other person as may be nominated by the Government;

(3) 'Forest Law' means: -

(i) The Azad Jammu and Kashmir Forest Regulation No. 2 of 1930;

(ii) The Jammu and Kashmir Forest (Sale of Timber) Regulation No. 3 of 1930;

(iii) The Cattle Trespass Regulation No. 8 of 1920;

(iv) The Kuth Regulation No. 1 of 1921; and

(v) Miscellaneous Ailans, Notifications, Rules, Orders and instructions relating thereto.

(4) 'Forest Department' means the Forest Department of Azad Government of the State of Jammu and Kashmir;

(5) 'Government' means the Azad Government of the State of Jammu and Kashmir;

(6) 'Member' means the official and non-official member of the Special Committee;

(7) 'Revenue Department' means the Revenue Department of Azad Government of the State of Jammu and Kashmir;

(8) 'Special Committee' means a committee constituted under this Ordinance.

3. **Special Committee:-** (1) Notwithstanding anything contained to the contrary in any law for the time being in force, the Government may constitute, a Special Committee or Committees for the trial and final disposal of cases to which this Ordinance applies.

- (2) The Special Committee shall consist of:-
- (a) a Chairman;
 - (b) non-official members not less than three and not exceeding nine in number, as may be appointed by the Government on the recommendation of the concerned Deputy Commissioner in consultation with Conservator of Forests;
 - (c) a representative of the Revenue Department; and
 - (d) a representative of the Forest Department.
- (3) The Secretary of the Special Committee shall be appointed by the Government.
4. **Jurisdiction of the Special Committee:-** The jurisdiction of every Special Committee, unless otherwise prescribed by the Government, shall extend to the area which, falls within the local limits of a Police station. The Special Committee shall not be competent to take notice of any dispute arising out of a forest Contract or lease.
5. **Trial of cases by Special Committee:-** (1) All cases to which this Ordinance applies shall in future be instituted in the competent Special Committee constituted under this Ordinance:

Provided that cases which have not been with drawn or dropped under the Forest Law Manual shall, if instituted in the Courts before coming into force of this Ordinance, be transferred to the Special Committee.

(2) When the Chairman is of the opinion that case should be tried by an ordinary Court on the ground that in case of conviction, punishment of imprisonment would be appropriate or the transfer of the case is necessary for any other reason, he may forward the case to the Court of a Magistrate competent to try the same under the law:-

(a) The Special Committee shall be competent to direct an accused to pay compensation for the damage done to the Forest which shall be assessed as follows: -

- (i) In case of illicit cutting of trees by the concessionists, the price shall be charged at full 'Zamindari' rates in addition to charging compensation equal to 'the price as calculated at the rate prevalent at the time of disposal of the case.
 - (ii) In case of non-concessionists, the price of illicitly cut trees shall be charged at commercial rates prevalent at the time of disposal of the case in addition to charging compensation equal to the price so calculated.
 - (iii) In case of illicit lopping of trees the price of the lopped tree or trees at 'Zamindari' rates prevalent at the time of disposal of the case shall be assessed as compensation.
 - (iv) In case of damage other, than illicit cutting and lopping of trees in forest closures, the compensation shall extend to one hundred rupees but shall not be less than twenty five rupees.
 - (v) Where forest land has been cleared for purposes of encroachment the compensation shall be assessed upto five hundred rupees subject to a minimum of rupees twenty five per kanal in addition to the price of trees cut, lopped or girdled in the area at twice the 'Zamindari' rates prevalent at the time of disposal of the case.
 - (vi) Where trees are cut from revenue assessed or evacuee land by an owner allottee without the permission of the competent authority, or where the trees are cut for the purpose of sale, gift or transfer and not for his own bonafide personal use, the amount of compensation shall be assessed at the price of the trees at commercial rates prevalent at the time of disposal of the case.
 - (vii) In other case under Forest Law Manual the amount of compensation to be awarded in each case may extend, to one thousand rupees, but shall not be less than one hundred rupees, in addition to the price of the Forest Produce at market rates to be fixed by the Special Committee.
- (b) The amount of price and compensation awarded by the Special Committee shall be recoverable as arrears of land revenue through the Collector.

(c) Where a person has been found by the Special Committee to have encroached upon or been in unlawful possession of Government or forest land, he shall be liable to be ejected through the Collector of the District even if he has been acquitted by the Special Committee or by the ordinary Court.

6. **Procedure:-** Notwithstanding anything contained to the contrary in any other law;

(1) All cases to which this Ordinance applies, shall be tried summarily according to the procedure laid down in the code of Criminal Procedure in force in Azad Jammu and Kashmir for summary trials;

(2) The Chairman shall exercise the Powers of a Magistrate, Class First for the purposes of summoning of accused person or persons and witnesses and for compelling their attendance by issuing warrants of arrest.

(3) Where an accused person absents himself from the Special Committee, the trial shall proceed against him in his absence.

(4) A Legal Practitioner may appear before a Special Committee to conduct the case on behalf of a party.

(5) The decision of the Special Committee shall be according to the opinion of the majority of the members of the Committee hearing the case when the members are so divided that majority cannot be ascertained, the Chairman shall have a casting vote and decision shall follow accordingly.

(6) Subject to the provision of appeal under Section 9 of the Ordinance, decision of the Special Committee shall be final and shall not be called in question in any court or by way of a Civil suit.

(7) The decision of the special Committee shall be in writing and shall be signed by Chairman and the members of the Special Committee who heard the case.

(8) The record of the proceedings of the case and of statements recorded shall be maintained properly.

(9) The judgment shall specify the allegation of: the prosecution the plea of the accused, the points for determination, the

evidence in support and the evidence in support of the points and the decision thereon.

(10) Any member of the Special Committee may record a dissenting judgment.

7. **Meeting:-** (1) The meeting of the Special Committees shall be convened by the Chairman from time to time. The Special Committee shall meet at least once in a month.

(2). The quorum for a meeting of the Special Committee shall be 51 percent of the members of the Committee including official members.

(3) A Member who absents from any meeting of the Committee without valid reason to the satisfaction of the Chairman shall cease to be a member of the Committee.

8. **Appeal:-** (1) An appeal shall lie against the decision of the Special Committee to the District Magistrate or to any other Magistrate specially empowered by the Government within 30 days.

(2) The Appellate Authority may confirm, modify or set aside a decision of the Special Committee or remand the case.

(3) The decision of the Appellate Authority shall be final: and shall not be called in question in any Court by way of appeal or revision or by way of a civil suit.

9. **Other functions and powers of the Special Committee:-** (1) Subject to the general control and instructions of the Chief Conservator of Forests, the function of allotting timber to concessionists every year during the usual periods, shall be performed .by the Special Committee within its local jurisdiction.

(2) The Special Committee shall be competent to accord sanction to the cutting of trees from revenue assessed land to owners of such land and to allottees of evacuee land, and the Special Committee shall grant trees from revenue assessed and allotted evacuee land strictly for self utilization purposes.

(3) The grant of the establishment of timber and fire wood depots on behalf of the public shall be given on the

recommendation of the Special Committee.

(4) Where it is proposed to effect closures in a forest, the Forest authorities shall obtain the views of the Special Committee before final action is taken. If views of the Committee are not made available within 60 days, the Forest Department will proceed to close the forest.

10. **Collective compensation:-** In case of damage to a forest where a culprit or culprits cannot be specified, the Special Committee may, after such local enquiry as may be necessary, impose a collective compensation for the loss so caused and direct the same to be paid by such persons residing in the locality, as may be specified by the Special Committee.
11. The Government may, by order, direct that a percentage of compensation recovered under the provision of this Ordinance may be utilized for the administration of this Ordinance and for the development of any particular area in the locality where such recovery is made.
12. The Government, may from time to time, make rules for implementation of this Ordinance.

Sd/-

Sardar Mohammad Abdul Qayyum Khan,

President,

Azad Government of the State of Jammu & Kashmir.
