

**THE AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIAMFNTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the October 12, 1980.

No. 5847/SL/80. The following Ordinance made by the President on the 12th day of October, 1980, is hereby published for general information:-

(ORDINANCE CLXXIII OF 1980)

AN

ORDINANCE

to provide for the law relating to the Forests protection and distribution of timber through local bodies

WHEREAS it is expedient to provide for the law relating to Forest protection and distribution of timber through local bodies;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President is pleased to make and promulgate the following Ordinance:-

1. **Short title, extent and Commencement.**- (1) this Ordinance may be called the Azad Jammu and Kashmir Protection of Forests and Distribution of Timber Ordinance, 1980.
 - (2) It extends to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
2. **Definitions.**- All words used but not otherwise defined in this Ordinance, shall be deemed to have the same meanings as attributed to them in the Forest Regulation, 1930.
 - (a) 'Chairman' means the Chairman of the Union Council;
 - (b) "Collector" means the collector appointed under the Land Revenue Act;
 - (c) 'Committee" means committee constituted under this Ordinance;
 - (d) "Forest Department" means the Forest Department of the Azad Government of the State of Jammu and Kashmir;
 - (e) "Member" means the elected or co-opted member of the Union Council;

- (f) "Revenue Officer" means the Revenue officer of the Revenue Department of the Azad Government of the State of Jammu and Kashmir;
- (g) 'Union Council' means the Council constituted under the Azad Jammu and Kashmir Local Government Ordinance, 1979.

3. **Composition of Forest Committee.-** Notwithstanding anything contained to the contrary in any other law for the time being in force, in each Union Council, the Chairman shall constitute a Committee known as forest Committee consisting of three elected members of the Union Council besides the Chairman of the Union Council who will be the Chairman of this Committee, one official of the Forest Department will be the co-opted member of this Committee for trial and final disposal of the forest cases under this Ordinance.

4. **Jurisdiction of Forest Committee.-** (1) The jurisdiction of the Forest Committee, unless otherwise prescribed by the Government, shall extend to the area, which falls within the Local limits of Union Council concerned. Union Council Forest Committee shall not be competent to take notice of any disposal arising out of a forest contract or a lease.

(2) All forest damage cases upto the value of rupees one thousand to which this Ordinance apply shall be instituted into Union Council;

Provided that such cases which have not been withdrawn under the laws for the time being in force, may, instituted in the Courts before coming into force of this Ordinance be transferred to the respective Union Councils.

5. **Powers.-** (1) The Committee shall be competent to direct an accused to pay the compensation and price for the damage done to a forest which shall be assessed as provided in the forest Regulation, 1930 as amended from time to time.

(2) In case of damage to the forests, where culprits cannot specified, the Committee may impose a collective compensation for the damage so caused and direct the same to be paid by the persons residing in the locality.

(3) Where a person is found to have encroached upon or is in unlawful possession of the forest land, he shall be ejected by the Committee. Local Revenue, Forest and Police authorities shall render all possible help to the Committee in this respect.

6. **Compensation Recovery.-** (1) The price and compensation so recovered from the culprits under this Ordinance, half of such

compensation and price shall be deposited in the Government Treasury as forest revenue, whereas the remaining half of the compensation so realized may be utilized with consultation of the Forest Department for the development and protection of the forests of that area or locality. Proper accounts be maintained shall by the Union Council/Committee for the amount.

(2) The amount of price and compensation awarded by the Union Council/Committee may be recovered as arrears of the land revenue through the Collector.

7. **Procedure.-** Notwithstanding any thing contained to the contrary in any other law;

(1) The concerned Forest official shall get the damage report registered in the Range Office and the Range Officer shall immediately forward the case to the concerned Union Council through Block Officer for settlement. The Block Officer (Incharge Block) shall appear before the Committee as a representative of the Forest Department for conducting the case.

(2) When the Chairman is of the opinion that the case should be tried by an ordinary court on them grounds that in case 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 Magistrate competent to try the same under the law.

(3) All cases under this Ordinance shall be tried summarily according to the procedure laid down in the Code of Criminal Procedure as in force in Azad Jammu and Kashmir for summary trials.

(4) The Chairman shall exercise the powers of a Magistrate of first class for the purpose of summoning of accused person or persons and witnesses and for compelling their attendance by issuing warrants of arrest. The summons or warrants shall be Served through the village Police. If no village Police is constituted till then through local Police.

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

(6) The decision of the 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.

(7) A legal practitioner may appear before the Committee to conduct the case on behalf of the party.

(8) The decision of the Committee shall be in writing and shall be signed by the Chairman and the members of the Committee hearing the case.

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

(10) The judgment shall specify the allegation of the prosecution, the plea of the accused, the points of determination, the evidence in support and the decision thereof.

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

8. **Meeting.-** The meeting of the Committee shall be convened by the Chairman from time to time, but at least twice a month for disposal of forest cases. The quorum for meeting of the Committee shall be 51% of the members of the Council or Committee.
9. **Appeal.-** An appeal shall lie within 30 days against the decision of the Committee to the Forest Magistrate specially empowered by the Government in this behalf.
10. **Other functions and powers of the Union Council.-** (1) Subject to the general control and supervision of the Chief Conservator of Forests, Conservators of Forests and Divisional Forest Officers, the function of allotting the trees and timber to the concessionists every year during the usual period (April and October) shall be performed by the Union Councils. The concerned Divisional Forest Officer shall get the marking of trees conducted in advance. The marking lists specifying the quantity or number of trees or timber to be issued at concession and Zamindari rates separately (for distribution every year), shall be sent to the concerned Union Council for distribution purpose. The concerned Union Council shall allot trees or timber to the persons whose needs are genuine and entitled to such concessions. List of persons with particulars, who have been allotted timber or trees, shall be sent to the concerned Range Officer for issuing permits in their favour.
- (2) Where Revenue record particularly field map is available, the Chairman Union Council will be competent to accord sanction to the, cutting of maximum of two trees from the revenue assessed land to owners of such land and to allottees of evacuee land for the repairs or construction or reconstruction of their own houses. Where the field map is not available, the Union Council after getting verification from the Local Revenue and Forests staff may recommend the case to the Forest Range

Officer for according permission to cut upto maximum two trees for self utilization:

Provided that where tree is cut from revenue assessed or evacuee land except where the competent authority grants permission for bonafide personal use or gifting the tree for use in the same village, the amount of compensation shall be assessed at the price of the trees at lease rates or Zamindari rate, as the case may be, prevalent at the time of the disposal of the case.

(3) The Divisional Forest Officer shall sanction upto a maximum of two trees free of cost, at the recommendation of the Chairman, Union Council, for the reconstruction of houses destroyed by natural calamities.

(4) The Divisional Forest Officer shall sanction upto a maximum of two trees free of cost, at the recommendation of the Chairman, Union Council, for the construction or repairs of village Mosques.

(5) The Deh and Union Councils shall provide every assistance to the local forest staff in tracing out culprits in forest damage cases.

(6) It shall be the duty of the members of Deh and Union Council to accept "superdnama" of the confiscated or seized material during the course of investigation of forest damage.

(7) Where it is proposed by the Forest Department to effect closures in the forest and private areas, it shall be the duty of the members of the Union or Deh Council to preserve such areas for reforestation or regeneration purposes.

(8) The grant of the establishment of timber and firewood depots on behalf of the public shall be given on the recommendation of the Union Councils.

(9) Each Deh Council shall establish cattle ponds at appropriate places within their jurisdictions and maintain the same as provided in Cattle Trespass Regulation 8 of 1920 and rules made thereunder.

(10) It shall be the duty of the Union Council concerned to furnish a certificate to the Divisional Forest Officer concerned regarding the proper and bonafide personal use of the tree or timber issued to the concessionists.

11. **Power to make Rule.-** The Government may make rules for carrying out the purposes of this Ordinance.
12. **Savings.-** Notwithstanding any judgment, decree or Order of any court including High Court, every thing done, all actions taken, notification issued, Orders or appointments made, proceedings initiated, jurisdiction or powers exercised under the provisions of

