

The Jammu and Kashmir State Forest Corporation Act, 1978

JAMMU & KASHMIR

India

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Act 12 of 1978

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The Jammu and Kashmir State Forest Corporation Act, 1978(Act No. 12 of 1978)[Received the assent of the Governor on 9th May, 1978 and published in Government Gazette dated 10th May, 1978].An Act to provide for the establishment of a Corporation for better preservation, supervision and development of forests and better exploitation of forest produce within the State and for matters connected herewith.Be it enacted by the Jammu and Kashmir State Legislature in the Twenty-ninth Year of the Republic of India as follows:-Chapter-I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Jammu and Kashmir State Forest Corporation Act, 1978.(2)It extends to the whole of the State of Jammu and Kashmir.(3)[It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint in this behalf.] [Enforced vide SRO-359 dated 30th June, 1979 w.e.f. 1st July, 1979.]

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"Corporation" means the Jammu and Kashmir State Forest Corporation established under this Act;(b)"Government" means the Government of Jammu and Kashmir State;(c)"Local Body" means the Municipal Committee, Town Area Committee or Notified Area Committee, Panchayat or similar body to be established under any other law in the State;(d)"Managing Director" means the Managing Director of the corporation appointed under sub-section (2) of section 4;(e)"Prescribed" means prescribed by rules made under his Act;(f)"Regulations" means regulations made under this Act.Chapter-II Establishment and Constitution of the Corporation

3. Establishment of the Corporation.

(1)The Government shall by notification in the Government Gazette and with effect from a date to be specified therein, constitute a Corporation by the name of the Jammu and Kashmir State Forest Corporation.(2)The Corporation shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall have the power to acquire, hold and dispose of property for the purposes of this Act.(3)The Corporation shall for all purposes be a local authority.(4)The Corporation shall have its head office at Srinagar and may have offices at such other places as it may consider necessary.

4. Constitution of Corporation.

(1)The Corporation shall comprise-

(a) Minister Incharge Forest

Ex
Officio Chairman

(b) Minister of State or Deputy Minister of Forests, if any.

Ex
Officio Vice-Chairman.

(c) Seven members to be appointed by the Government five fromamongst its officers and two from the Legislature as Directors ofthe Corporation[x x x x] [Proviso omitted by XXXIII of 1978, section 2.].

(2)The Government may, by notification in the Government gazette appoint one of the Director as Managing Director of the Corporation.(3)The Chairman may invite any person having special knowledge and practical experience in matters relating to preservation, supervision and development of forests and better exploitation of forest produce to render advice to the Corporation with regard to any such matters.

5. Disqualification for being a member.

- A person shall be disqualified to be appointed as, and for being a member of the Corporation, if he-(a)has been convicted of an offence which, in the opinion of the Government, involves moral turpitude; or(b)is an undischarged insolvent; or(c)is physically or mentally incapable of action as such member; or(d)in the opinion of the Government, has failed to act or has become incapable of acting in the best interests of the Corporation or has so abused his position as the member as to render his continuance as such detrimental to the interests of the Corporation or the general public; or(e)has directly or indirectly by himself or by any partner, employer or employee any share or interest, whether pecuniary or of any other nature, in any contract or employment with, by or on behalf of the Corporation; or(f)is a Director, Secretary, Manager or other officer of any company which has any share or interest in any contract or employment with, by or on behalf of the Corporation :Provided that a person shall not be disqualified under clause (f) by reason only of his or the company in which he is a Director, Secretary, Manager or other officer having a share or interest in-(i)any sale, purchase, lease or exchange of immovable property or any agreement for the same; or(ii)any agreement for loan of money, or any security for payment of money only; or(iii)any

newspaper in which any advertisement relating to the affairs of Corporation is published; or (iv) an occasional sale of the Corporation up to a value not exceeding ten thousand rupees in any year, of any article in which he or the company regularly trades. Explanation. - A person shall not be deemed to have any share or interest in any contract or employment with, by or on behalf of, the Corporation by reason only of his being a share holder of the company which has such share or interest.

6. Terms of office of the members.

(1) The term of office of a member of the Corporation shall be three years unless he is disqualified earlier under section 5: Provided that the Government may, if satisfied that it is necessary so to do in the interest of the Corporation, terminate the term of a member of the Corporation before the period of three years: Provided further that an outgoing member, if otherwise qualified, shall be eligible for re-appointment. (2) A member of the Corporation may at any time, by writing under his hand addressed to the Government, resign his office and on such resignation being accepted, he shall be deemed to have vacated his office.

7. Casual vacancy.

- A casual vacancy caused by the resignation of any member under sub-section (2) of section 6 or for any other reason shall be filled by fresh appointment.

8. Appointment of employees of the Corporation.

(1) The Corporation shall have the following officers who shall be appointed by it in consultation with the Government :- (a) Financial Adviser-cum-Chief Accounts Officer, (b) General Manager, and (c) Secretary. (2) The Corporation may appoint such employees, as it considers necessary for the efficient performance of its functions under this Act.

9. Salaries and allowances.

(1) [The Managing Director] [Substituted by XXXIII of 1978, section 3.] shall be entitled to draw such salaries and allowances and be subject to such other conditions of service as may be determined by regulations. (2) The employees of the Corporation shall be entitled to receive from the fund of the Corporation such salaries and allowances and shall be governed by such other conditions of service as may be determined by regulations.

10. Control by Managing Director.

- Subject to the superintendence of the Corporation, the general control over the employees of the Corporation shall be vested in the Managing Director.

11. Meetings.

(1)The Corporation shall meet at such times and places and shall observe such procedure in regard to the transaction of business in its meeting as may be determined by regulations.(2)In the absence of the Chairman and the Vice-Chairman any member elected by the members present from amongst themselves, shall preside at the meeting of the Corporation.(3)All questions at the meeting of the Corporation shall be decided by majority of votes of the members present and voting and in the case of equality of votes, the Chairman, the Vice-Chairman or in their absence the member presiding shall have a second or casting vote.(4)The Chairman may invite any person to attend a meeting of the corporation, for the purpose of assisting or advising it on any matter and the person so invited may take part in the discussions of the corporation, or its meeting but shall have no right to vote.

12. Disqualification for participating in proceedings on account of Interest.

- A member, who is directly or indirectly concerned or interested any contract, loan, arrangement of proposal, entered into or proposed to be entered into by or on behalf of the Corporation, shall, at the earliest possible opportunity disclose the nature of his interest of the Corporation and shall not be present at any meeting thereof when any such contract, loan, arrangement or proposal is discussed, unless his presence is required by other members for the purpose of eliciting information, and no member so required to be present shall vote on any such contract, loan, arrangement or proposal.

13. Acts not to be invalidated by vacancy etc.

- No act done or proceedings taken under this Act, by the Corporation shall be deemed to be invalid 'by reasons merely of any vacancy or defect in the constitution of the Corporation.

Chapter-III
Functions and Powers of the Corporation

14. Functions of the Corporation.

- Subject to the provisions of this Act, and to any general or special directions of the Government, the functions of the Corporation shall be,-(a)to undertake removal and disposal of trees and exploitation of forest resources entrusted to it by the Government;(b)to undertake research programmes relating to forests and forest products and render technical advice to Government on matters relating to forestry;(c)to manage, maintain and develop such forests as are transferred or entrusted to it by the Government till these are handed back to the Government; and(d)to perform, such functions as the Government may from time to time require.

15. Powers of the Corporation.

(1)The Corporation shall, subject to the provisions of this Act, have power to do all such acts as may be necessary or expedient for carry: g out its functions under this Act.(2)Without prejudice to the generality of the foregoing provisions such powers shall include the power,-(a)to set up workshop or factories for processing forest raw materials;(b)to establish, maintain and operate laboratories, and

experimental and research stations;(c)to enter into such contract or arrangement with any person as the Corporation may deem necessary for performing its functions under this Act :(d)to borrow money, issue debentures, bonds or stocks and manage its funds; and(e)to incur expenditure and grant advances for performing its functions under this Act.

16. Powers of the Corporation to undertake projects at the instance of others.

- The Corporation may undertake the execution of any afforestation project at the request of the Government or, with the previous approval of the Government at the request of any other person on such terms and conditions as may be agreed upon.

17. Fund of the Corporation.

(1)The Corporation shall have and maintain its own fund to which shall be credited all moneys received by or on behalf of the corporation.(2)The fund shall be applied towards meeting expenses incurred by the Corporation in the discharge of its functions under this Act and for no other purpose.(3)All moneys constituting the fund referred to in sub-section (1) shall be kept in the Jammu and Kashmir Bank Ltd. or in such other scheduled or Nationalized Bank as may be determined by the Government:Provided that nothing in this sub-section shall be deemed to preclude the Corporation from retaining such balance in cash as may necessary for current payment of day to day expenditure at any time of the year.(4)At the close of the financial year the Corporation shall determine the profits that may have accrued to the Corporation during the preceding year and remit the profits to the State exchequer as revenue of the Government :Provided that in determining the profits, the Corporation shall also take into account all expenses due on account of taxes and dividends, repayment of loans, liabilities incurred but not redeemed and such reserves as the Government may prescribe for the Corporation to build and maintain for the smooth running of the affairs of the Corporation.

18. Subventions to the Corporation.

- The Government may, after due appropriation by law of the State Legislature, from time to time, make subventions to the Corporation for the purposes of this Act on such terms and conditions as the Government may determine.

19. Loans to the Corporation.

- The Government may, time to time, advance loans to the Corporation for the purposes of this Act on such terms and conditions as the Government may determine.

20. Repayment of loans.

- The Corporation shall, for the purpose of repayment of any loan raised by it, establish a Sinking Fund in such manner as may be prescribed.

21. Budget.

- The Corporation shall prepare every year budget in respect of the financial year next ensuring showing its estimated receipts and expenditure.

22. Accounts and Audit.

(1)The Corporation shall maintain proper accounts and prepare annual statement of accounts including balance sheet.(2)The accounts of the Corporation shall be audited annually by such qualified Chartered Accountant as the Government may appoint. The Auditor so appointed shall have the right to demand the production of books, accounts and connected vouchers, documents and papers and to inspect any of the offices of the Corporation.(3)The accounts of the Corporation, as certified by the Auditor or any person authorised by him in that behalf together with the audit report thereof, shall be forwarded annually to the Government.(4)The Government shall,-(a)cause the accounts of the Corporation together with the audit report thereon, received by it under sub-section (3) to be laid annually before each House of the State Legislature, and(b)cause the accounts of the Corporation to be published in the prescribed manner and make available copies thereof for sale at a reasonable price.

23. Liability for loss, damage etc.

(1)The Chairman, Vice-Chairman, the Managing Director or any other member or any employee of the Corporation shall be liable to damages for the loss, waste or misapplication of any money or property of the Corporation, if such loss, waste or misapplication is a direct consequence of his misconduct while acting as such Chairman; Vice-chairman, Managing Director or other member or employee.(2)The procedure for fixing liability shall be such as may be prescribed.
Chapter-IV
External Control

24. Direction on the question of policy.

(1)In the discharge of its functions under this Act, the Corporation shall be guided by such directions on questions of policy as may be given to it by the Government.(2)If any question arises whether any matter is not a matter as respects which the Government may issue a direction under subsection (1) the decision of the Government thereon shall be final.

25. Annual Report.

(1)The Corporation shall, as soon as may be after the end of each financial year, prepare and submit to the Government before such date and in such form as the Government may direct, a report giving an account of its activities during the previous financial year and such report shall also give an account of the activities, if any which are likely to be undertaken in the next financial year and the Government shall cause such report to be laid before each House of the State legislature, as soon as may be after it is received by the Government.(2)The Corporation shall furnish to the Government

at such times and in such form and manner as the Government may direct such statistics and returns and such particulars in regard to any proposed or existing activities of the Corporation as the Government from time to time require. Chapter-V Miscellaneous

26. Local Bodies to assist the Corporation.

(1) Every local body shall render such assistance and furnish such information to the Corporation and make available for its inspection and examination such records, maps, plans and other documents as it may require in connection with the performance of its functions under this Act. (2) Notwithstanding anything contained in any other law for the time being in force, the Government may give to any local body such directions as in its opinion are necessary or expedient for enabling the Corporation to perform its functions under this Act and thereupon it shall be the duty of the local body to comply with such directions.

27. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the Government or the Corporation or the Chairman or the Vice Chairman or the Managing Director, or any other member thereof or any employee of the Government or of the Corporation for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

28. Members etc. deemed to be public servants.

- The Chairman, Vice-Chairman, Managing Director and other members and employees of the Corporation shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act to be public servants within the meaning of section 21 of the State Ranbir Penal Code, Samvat 1989.

29. Authentication of proceedings, orders and other instruments of the Corporation.

- All proceedings of the Corporation shall be authenticated by the signature of the Chairman or the Vice-Chairman, as the case may be, or the member presiding in the meeting of the Corporation in the absence of the Chairman, or the Vice-Chairman and all orders and other instruments issued by the Corporation shall be authenticated by the Signature of such employees of the Corporation as may be authorised by it in this behalf.

30. Recovery of sums.

- All sums due to the Corporation shall be recoverable as arrears of land revenue : Provided that no such sum shall be so recovered unless it is certified by the person authorised by the Government in this behalf.

31. Delegation of Powers.

- Subject to the provision of this Act and the rules made thereunder the Corporation may by general or special order, delegate either unconditionally or subject to such conditions, including the conditions as may be specified in the order, to the Chairman or the Vice Chairman or the Managing Director or any other member or employees of the Corporation any of its powers and duties other than the power to make regulations under section 34.

32. Government may invest the officers with powers of the Forest Officer.

- The Government may invest the Managing Director or any employee of the Corporation with any of the powers of the Forest Officer under the Jammu and Kashmir Forest Act, Samvat 1987 and the managing Director or such employee in relation to such powers shall be deemed to be a Forest Officer within the meaning of section 2 of the Jammu and Kashmir Forest Act, Samvat 1987.

33. Power to make rules.

(1)The Government may, within one year of the commencement of this Act by notification in the Government Gazette, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing powers such rules may provide for all or any of the following matters, namely :-(a)the manner in which the Sinking Fund shall be established, maintained, invested and applied under section 20;(b)the procedure in respect of liability under section 23 including the provision of appeal if any, in respect thereof;(c)any other matter which has to be or may be prescribed.(3)Every rule made under this Act shall be laid, as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or two successive sessions, and if, before the expiry c: the session in which it is so laid or the session immediately following both Houses agree that the rule should be either modified or annulled the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

34. Regulations.

(1)The Corporation may, with the previous approval of the Government, make regulations not inconsistent with the Act and the rules made thereunder for the administration of the Corporation.(2)In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :-(a)salaries and allowances and conditions of service of the employees of the Corporation;(b)time and places of, and the procedure in regard to the transaction of business in the meeting of the Corporation;(c)any other matter for which provision is to be or may be made in the regulations.(3)Until any regulations are made by the Corporation under sub-section (1) any regulations which may be so made by it may be made by the Government and any regulations so made, may be altered or rescinded by the Corporation in exercise of its powers under sub-section (1).