

The Bihar Restoration and Improvement of Degraded Forest Land Taxation Act, 1992

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Act 12 of 1992

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The Bihar Restoration and Improvement of Degraded Forest Land Taxation Act, 1992(Act 12 of 1992)Objects and Reasons. - To provide adequate resources for restoration and improvement of degraded unproductive forest land, compensate losses caused by the use of forest land for non-forest purposes and improve life support system for which an Ordinance, namely The Bihar Restoration and Improvement of Degraded Forest and Taxation Ordinance, 1992 was promulgated. To enact the provisions of the Ordinance is the purpose of this Bill.Assented to by the Governor on 17.8.1992.An Act to provide for resources for restoration of degraded land and improvement in forest areas.Be it enacted by the Legislature of the State of Bihar in the fortythird year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Bihar Restoration and Improvement of Degraded Forest Land Taxation Act, 1992.(2)It extends to the whole of the forest land in the State of Bihar.(3)It shall come into force at once.

2. Definition.

- In this Act unless the context otherwise requires, -(a)"appellate authority" means an authority appointed under sub-section (1) of Section 7 by the State Government;(b)"biological reclamation" means restoration of vegetal cover by such means as may be deemed suitable;(c)"Collector" means the Collector of the District, and the Additional Collector and any other officer, specially empowered as Collector by the State Government under this Act;(d)"excavation" means making hollows either on surface or underground by whatsoever means;(e)"forest land" means any land notified as such under any Act and/or recorded as forest in revenue records;(f)"forest use" means use of forest land

for the purpose of forestry, agriculture, horticulture, or any allied and ancillary activities;(g)"Government" means the Government of the State of Bihar;(h)"mechanical reclamation" means restoring the original contour as far as possible and/or filling up of void;(i)"non-forest use" means any use other than forest use;(j)"open cast excavation" means an excavation confined to land surface only;(k)"occupier" means a person in possession of an area of excavated and voided land;(l)"prescribed" means prescribed by the Rules framed under this Act;(m)"user" means a person who used or shall use an area of forest land for non-forest purpose or propose or proposes, to use such area of forest land;(n)"vegetative density" 1.0, 0.9, 0.8, 0.7, 0.6, 0.5, 0.4, 0.3, 0.2 and 0.1 density means 100, 90, 80, 70, 50, 40, 30, 20 and 10 per cent respectively of a unit area of the forest land not receiving sunlight due to effective tree growth or green canopy;(o)"Void" means any area of left over forest land from where soil, any mineral or rock or ore or anything being fastened with the earth has been removed for non-forest purpose, transported or dumped at a place other than the place from where the same was taken;(p)"Zero density" means a forest land having only bushes and grass but no trees.

3. Levy and collection of Tax.

(1)There shall be levied, assessed and collected a tax called the Bihar Restoration and Improvement of Degraded Forest Land Tax for mechanical and biological reclamation of forest land and for rehabilitation so that the land is reclaimed as far as possible and the tax shall be levied, assessed and collected at the rate specified under the Schedule appended to this Act in the manner as may be prescribed:Provided that the Government shall have the power to amend the Schedule by Rules as and when considered necessary.(2)The tax under sub-section (1) shall be payable by-(a)every user allowed by the State Government to use forest land for non-forest purpose;(b)every occupier responsible for creating void/voids by indulging in any developmental activities including mining.(3)(a)The rate of taxation given against serial numbers (a), (b) and (c) of the Schedule shall apply to forest land already voided immediately before the date of commencement of this Act, and the areas of the forest land being voided, or the area that may be voided after the date of commencement of this Act;(b)The rate of taxation given against serial numbers (d) to (f) of the Schedule shall be applicable in case of use of forest land with different vegetative density which is used for non-forest purpose;(c)An user/occupier engaged in excavational activities against serial numbers (a), (b) and (c) and also using forest land for non-forest purpose against serial numbers (d), (e) and (f) shall be liable for taxation at the rate as specified in the Schedule.(4)The State Government may frame Rules to impose a lump sum tax in addition to the tax under sub-section (1).

4. Assessment of Tax.

(1)The Collector shall levy, collect and realise the tax at the rate mentioned in the Schedule;(2)The Collector shall cause a demand notice served on the occupier/user of the forest land who shall, within 30 days of service of the notice, deposit the tax in the State Treasury under the appropriate Revenue Head.

5. Penalty for non-payment within the specified time.

- If any amount of tax payable is not paid within the period specified in the demand notice, the Collector may impose a penalty on the assessee which shall not be more than the amount of the tax.

6. Exemption of any area or land from levy of tax.

- The State Government with due regard to the object of this Act and the situation of the area or the land, in public interest, may by notification and subject to such conditions or restrictions, exempt any area or land from levy of tax.

7. Appeals.

(1) Any user/occupier on levy of tax aggrieved by an order or demand or an order of imposing penalty may prefer appeal, in such form and in such manner and within such period as may be prescribed, before an Appellate Authority appointed under this sub-section by the State Government. (2) No such appeal shall be entertained unless 40% of the tax levied/ demanded is deposited along with the appeal: Provided that the Appellate Authority on its discretion, in appropriate cases may after granting relaxation by an order, entertain the appeal, on an application by the party. (3) After the receipt of an appeal under sub-section (1) the Appellate Authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of appeal as expeditiously as possible. (4) Every order passed in the appeal shall be final and shall not be called in question in any court of law.

8. Recovery of money due to Government.

- All money payable to the State Government under this Act or under any rule framed thereunder may, if not paid when due, be recovered as an arrear of land revenue.

9. Public Servants.

- Any person discharging any duty under this Act shall be deemed to be a public servant within the meaning of the Indian Penal Code.

10. Protection of action taken in good faith.

- No suit shall lie against any public servant for any thing done by him in good faith under this Act.

11. Power of authorisation.

- The State Government may, by notification in the Official Gazette, invest any authority to any functionary with all or any of the following powers:-(a) Power to enter upon any land and to survey, demarcate, take measurements and to make a map/maps of the same. (b) Power of a Civil Court to

compel the attendance of witnesses and others and the production of documents and material objects.(c)Powers to hold an enquiry and, in course of such enquiry to receive and record evidences.

12. Power to make Rules.

- The State Government may, by notification in the Official Gazette, make Rules for carrying out all or any of the purposes of this Act without prejudice to the generality of the provisions of this Act and such Rules may provide for all or any of the following matters:-(a)Guidelines, Forms and procedures wherever required;(b)Fees, taxes and lump-sum taxes and its enhancement as and when necessary to meet the objective;(c)Any other matter which has to be or may be prescribed under the provisions of this Act.

Schedule

(See Section 3)

Assessment of tax on excavation & use of forest land for non-forest purposes	
1	2
(a) In respect of mechanised open cast excavation.	Rs. 40/M ³ of land voided, subject to a maximum of Rs. 55.00 lacs per hectare of land excavated;
(b) In respect of non-mechanised open cast excavation.	Rs. 21/M ³ of land voided.
(c) In respect of underground excavation/subsidence area.	Rs. 30/M ³ of land voided/subsided subject to a maximum of Rs. 45.00 lacs per hectare of land excavated/subsided.
(d) In respect of use of forest land of density 1.0 (1.0 density means 100% of a unit area of the land not receiving sunlight due to effective growth of tree or green canopy).	Rs. 125 lacs per hectare land for use for 50 years thus Rs.2.50 lacs per hectare for one year.
(e) For forest land with density varying from 0.9 to 0.1	Tax in proportion to the rates in category (d) in accordance with density.
(f) In respect of use of forest land having zero density (Not tree, only bushes and grass).	Rs. 6 lacs per hectare of land for use for 50 years thus Rs.12,000 per hectare of land for one year.