

GOVERNMENT OF KERALA

Abstract

Forest Officers - Supply of fire arms to the trained forest Officers - Using fire arms for self protection and protection of forest wealth - Orders issued.

FOREST & WILDLIFE(F) DEPARTMENT

G.O.(MS) No.80/95/F&WLD Dated,Thiruvananthapuram, 18-10-1995

Read:- Chief Conservator of Forests D.O.Lr.No.P2-38828/87 dated 19.7.95.

ORDER

Government have been considering various measures to curtail the growing number of forest offences, including illicit cutting and transportation of valuable Timber, smuggling of Sandal Wood, teak etc to the neighbouring States and also poaching of Wild Life. In order to protect the forest wealth from the forest offenders it becomes necessary to equip forest officials with fire arms. Many of the smugglers carry fire arms. Therefore, for self protection forest officials need fire arms. In the circumstances Government are pleased to order for supply of fire arms to forest Officials and for its use by them with the following directions:

2. (i) the fire arms will be used by the Forest Officers of the rank of Forest Guard and above to protect forest property as well as the life from the forest Offenders. They could use minimum possible force in due discharge of their duties, exercising the right of private defence as conferred under the Indian Penal Code(Central Act XLV of 1860).
- (ii) the power to use fire arms for dispersal of unlawful assembly need not be conferred on the Forest Officials.
- (iii) While in the discharge of their duties, any firing is resorted to, a magisterial enquiry by the Executive I Class Magistrate of the concerned area, should be ordered in all such cases, and as a consequence of such enquiry, if it is held after such enquiry that there was unnecessary, unwarranted or excessive use of force, a criminal case could be instituted against the delinquent Officers after examination by the Government. Till the recommendation of the magisterial enquiry is known, police should not arrest or proceed against the Officers who had opened fire.

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3. Instructions regarding use of fire arms by the Forest Officials are appended to this order.

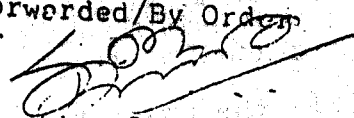
By Order of the Governor,

JOHN MATHAI  
SECRETARY TO GOVERNMENT  
FOREST & WILDLIFE DEPT.

To

- The Principal Chief Conservator of Forests  
(General)
- All Chief Conservators of Forests
- The Director General of Police, Thiruvananthapuram
- The Secretary, Revenue Board, Thiruvananthapuram
- All Collectors
- All Inspector General of Police (Through Director  
Genl. of Police)
- All Superintendents of Police (Through D.G.P.)
- The Registrar, High Court, Ernakulam
- The Secretary to Governor, Thiruvananthapuram
- The Director, Public Relations Department  
for issue of press release
- The Home Department
- Revenue Department
- Law Department

Forwarded/By Order

  
Section Officer.

ap/19.

## INSTRUCTIONS REGARDING USE OF FIRE ARMS BY FOREST OFFICIALS

### A. POWERS OF FOREST OFFICIALS

There are no specific provisions of law in Indian Penal Code, Criminal procedure Code, Forest Act, Wildlife Protection Act, etc. giving them power to use firearms. Like other citizens, the Forest Officials also can exercise their right of private defence under sections 98 Indian Penal Code to 106 Indian Penal Code. However they will enjoy a certain amount of protection from criminal presentation by Police, for the action done by them in good faith.

### B. CIRCUMSTANCES UNDER WHICH FOREST OFFICIALS CAN OPEN FIRE:

1. It must be clearly understood that the Forest Officials can use their firearms inside the Reserve Forest areas only. Here also, where there are villages, forest settlements and hamlets of hill tribes, they should not use firearms.

2. Unlike Police Officers, the Forest Officials have not been given powers to disperse an unlawful assembly by use of firearms and hence the Forest Officials should not use of fire arms and hence the Forest Officials should not use firearms for this purpose even inside the R.F. area. If there is resistance to arrest, execution of warrant, recovery of stolen property etc. by villagers inside the R.F. area, they should not use firearms and they should take the help of legal police having jurisdiction. There are provisions to provide armed Police men, to help the Forest Officials in clearing encroachments and for giving protection in the discharge of their official duties, on such occasions, the senior-most forest Officials will take the responsibility.

3. Under the right of private defence, the forest Officials can open fire for:

a. protecting the forest property including Wildlife.  
b. Protecting the lives of forest officials when there is no other alternative.

c. Some of the examples are given below:

i) When the forest offenders are cutting valuable timber and they do not surrender when challenged by forest Officials.

ii) When valuable timber is being transported either on headloads or in vehicles, and they not stop when ordered by Forest Officials.

iii) When poachers armed with weapon and preparing or actually committing an offence or going with Wildlife trophies and they refuse to stop and handover the properties when ordered to do so by Forest Officials.

iv) When outsiders enter the Reserve Forest area with arms or shooting without licence, and they refuse to hand over weapons when ordered to do so by Forest Officials.

v) When the party of Forest Officials is outnumbered by offenders and there is imminent danger to lives of forest officials or firearms carried by them.

vi) When the offenders surround or confront the forest officials with superior weapons and there is imminent danger to the lives of forest officials or their weapons.

vii) When any forest official is taken to hostage by offenders and there is no time to get reinforcements and hence they have to rescue their colleague.

5. These examples are only illustration and the officer using firearms should use his discretion and he would be able to justify that he had to use firearms, as the last resort.

6. The power to use firearm is to stop the criminal and hence the purpose should be to injure rather than to kill. Firing should not be done indiscriminately and vindictively. In other words, firing should be stopped as soon as the objective is achieved. During enquiry the forest officials are to justify the use of firearms.

#### C. ACTION TO BE TAKEN AFTER OPENING FIRE:

(i) As far as possible, firing should be avoided during night time because it may not be possible to aim and fire and innocent person may be injured/killed.

(ii) The Senior-most Officer going with the party should order opening of fire and similarly he should control the fire and own responsibility.

(iii) As soon as firing is done, there are 3 possibilities.

- (a) None may be injured due to firing.
- (b) One or more offenders may be injured due to firing.
- (c) One or more offenders may be killed.

In all cases, a message should be sent by telegram/telephone/wireless/messenger without loss of time, to the following authorities:

- (i) Near Police Station
- (ii) Divisional Forest Officer
- (iii) Chief Conservator of Forests
- (iv) Revenue Divisional Officer having jurisdiction
- (v) Superintendent of Police
- (vi) Collector.

As soon as the Police gets the message, they will visit the scene take charge of deadbody, if any, and arrange for inquest by Revenue Divisional Officer and postmortem. They will also ensure that there will be no law and order problem as a result of firing.

(v) The injured person (culprits and forest Officials) should be sent to hospital for treatment. The Senior most forest official must lodge a complaint in writing at the P.S. having jurisdiction outlining the circumstances under which he had to open fire, number of persons injured/ dead etc.

(v) The forest Officials should protect the scene from being disturbed, arrange for the photograph of the scene of crime. They will await the arrival of Revenue Divisional Officer for an enquiry. Till then the dead body should not be removed. It is advisable to photograph the scene as well as the body before it is removed.

(vi) Arms and ammunition including empty cartridges should be accounted for and the weapons used for firing should be preserved.

(vii) The police will wait for the completion of enquiry by the Revenue Divisional Officer. Till then no forest Officials will be arrested or put up for identification parade etc. However, the forest Officials should extend fullest co-operation for investigation by police, searching for absconding accused, searching for weapons used for offenders etc.

(viii) No case or Offence report will be registered by the forest Officials when fire arms are used. Since the Police Officials have powers under the Forest Act and the Wildlife Protection Act, the Forest Offence will also be looked after by them as part of their investigation.

(ix) The Divisional Forest Officer will collect the details and send a detailed report to the Chief Conservator of Forests/Conservator /Government in consultation with the Superintendent of Police.

(x) The Revenue Divisional Officer's report will be scrutinised by the Government and the following courses are likely:

- (i) Opening a fire by Forest Officials may be justified.
- (ii) Opening of fire may not be justified in which case criminal action will have to be taken against those forest officials who opened fire. This will include arrest, identification parade etc.

(xi) As in the case of Customs and R.P.F. the Collector has the discretion to dispense with an enquiry, in which case he has to record reasons and intimate the Government. In case the Government agrees with the recommendations of the Collector no action may be necessary. But if the Government does not agree, an enquiry has to be held.

#### B. GENERAL INSTRUCTIONS REGARDING SAFETY OF WEAPONS AND TRAINING

(i) Whenever forest officials go into the Reserve Forest area with fire arms there should be a minimum of 2 persons with fire arms. On no account a single weapon should be taken since his weapon may be snatched or he may not be able to use firearms due to misfire.

(ii) As far as possible, use of firearms should be minimum. Where there is time to get additional force or to retreat successfully, such courses should be followed. In other words firing should be thought of only under extreme circumstances when there is no other alternative.

(iii) In the case of DBBL guns they should be kept in arms racks with chain and a lock. The ammunition should be kept in a box under lock and key. Similarly 9mm pistols should be kept in holster and kept in a box separately with a lock.

(iv) When 9mm pistols are taken out, they should be lined to a long whistle cord around the neck or shoulder so that the weapon cannot be snatched easily. The ammunitions in the 9mm pistol should be loaded in magazine and ready use, but they should not be loaded in the weapon.

(v) While maintaining 9 mm Pistols and DBBL guns they should not be loaded as there might be accident. The ammunition should be kept separately and loaded on the specific orders of the Officer in charge where they are moving in a dangerous area or they are expecting attack, weapons can be loaded but safety catch should be on.

(vi) All arms and ammunitions should be accounted for in the Office of the Chief Conservator of Forest and in the Office of the District Forest Officer "in Arms and Ammunition Register". The form of registers used by Police may be copied.

(vii) The weapons should be issued to Officers by name and their acknowledgement should be obtained. A weapon issued to one Officer should not be used by another except in emergency.

(viii) All the weapons should be oiled and cleaned periodically.

(ix) All Officers should be put through a training programme by the Forest Department.