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F. No.4-2/99 -FP
Government of India
Ministry of Environment & Forests
(Forest Policy Division)

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Dated : 29th Sept., 1999.

OFFICE MEMORANDUM

Sub: The Kerala Grant and Leases (Modification of Rights) Amendment Bill, 1999.

Ministry of Home Affairs had forwarded a copy of the Bill on "The Kerala Grants and Leases (Modification of Rights) Amendment Bill 1999" as introduced and Bill as passed in the State Legislative for the comments of this Ministry vide O.M. No. 17/99-Judl. dated 3.6.1999. The proposed Amendment Bill has been examined and the comments/observations of this Ministry are as follows:

1. It should be made clear that the proposed amendment after enactment would not apply to the "Forest land" as defined under Section 2 of the Forest (Conservation) Act, 1980 read with Supreme Court's order dated 12.12.1996 in T. N. Godavarman's case in WP (C) 202/95 and WP (C) 171/96 and that no forest land or any portion thereof will be assigned by way of lease or otherwise for grant to any party for non-forestry purposes without prior approval of the Central Government. The provisions made in the proposed Amendment Bill will also not apply to the areas notified as National Parks and Sanctuaries by the State Government.

2. Grantees lessees to pay current seigniorage rates: The words "any land" may be substituted by the words "non-forest land with prior approval of State Forest Department" in the penultimate line of Section 4(1) of the Amendment Bill.

3. Power of Collector to revise assessment or rent: The provisions made under Sub-section (1) of Section 5 of the Bill do not stipulate any guideline with regard to the limits within which the assessment or rent is to be revised. It is essential to prescribe the minimum as well as the maximum of the lease amounts on account of revision of the assessment or rent on different categories of non-forest land which are devoid of forest or tree cover.

4. The Sub-section (2) of Section 5 of the Amendment Bill should be modified to read as follows:

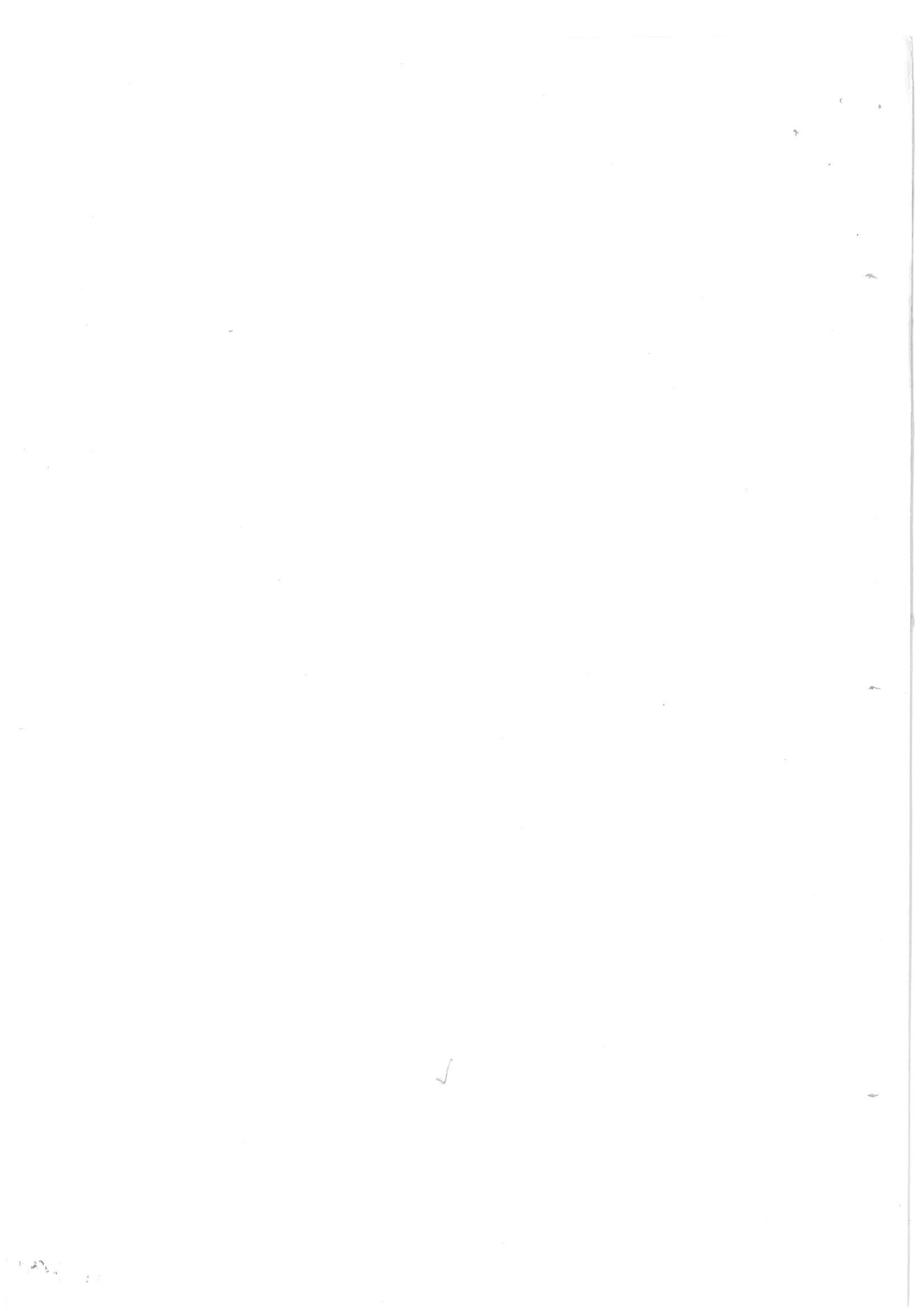
"Before enhancement of assessment or rent under sub-section (1), the Principal Chief Conservator of Forests shall issue a notification inviting objections, if any and where, in response to such notification any objection are received, the Chief Secretary shall order them and pass orders as he deems fit".

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5. The land revenue should be assessed/ revised upwardly depending upon the use such land (non-forest land) is put to and should be levied based on the opportunity cost or the prevalent market rate of the category of land which ever is higher. The Sub-section (3) of Section 5 of the proposed Amendment Bill, therefore, be deleted.

6. Appeal : The word "Collector" as appearing in Sub-section (1) of Section 6 of the Amendment Bill may be substituted by "Principal Chief Conservator of Forests". The appellate authority as mentioned in this sub-section needs to be clearly spelt out and the word "Government" as being vague, should be substituted by words "Chief Secretary"

P. M. Shukla
(P. M. Shukla) 30/9/99
Asstt. IG of Forests (FP)

To,

Shri. Omkar Singh,
Director (Judicial),
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