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GOVERNMENT OF KERALA

No. 41702/L2/66/AARDD

Agri. & Rural Devpt. Dept.
(Dvpt. L) Dated 29-9-1966

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From The Secretary to Government.

To The Director of Panchayats Trivandrum.

Sub:-Acts and Rules The Kerala Panchayats Act 1960
Statutory provisions enforcement of.

Sections 62, 64, 82, 84 and 149 of the Kerala Panchayat Act 1960 provide for the statutory vesting of all public roads, except National Highways, State Highways etc. together with all works materials etc. appertaining thereto in alongside or under the roads (Section 62) all lands or other property or income, held by the villagers in common (Section 64) all water courses, springs, reservoirs tanks wells, etc. together with adjacent lands (Section 82) all quarries, trees, etc. by the roadsides (Section 84) and all lands set apart for common use of community such as grazing grounds, burning and burial grounds, etc. (Section 149) in the respective Panchayats. These sections were brought into force with effect from 1-1-62. Therefore with effect from 1-1-62, these public properties stand statutorily vested in the concerned Panchayats. However as you are aware, most of these public properties have not, in effect, been transferred and brought under their control and possession. They were still being retained by the concerned departments of Government. Several such instances have come to the notice of Government. In this context, Government have examined the legal validity of such possession and they have been advised that the vesting of such properties in the Panchayats is automatic and that no formal transfer is contemplated in the Act. Extract of legal opinion of the subject are furnished below for information and guidance.

A. & (Section 82(1) of the Kerala Panchayats Act provides that all public water courses, springs, etc. whether existing at the commencement of the Act or afterwards made, laid or erected and whether made, laid or erected at the cost of Panchayats or otherwise and also any adjacent land (not being private property) appertaining thereto shall vest in the Panchayats and be subject to its control. (According to section 2 (33) water courses ' includes any river, stream or channel whether natural or artificial) From the above, it is clear that section 82 (1) is automatic in its operation and no formal transfer is contemplated by the section for vesting land in the Panchayat."

B. The operation of section 82 (1) was automatic. As per that section, the water courses, springs etc. and the adjacent lands not being private property, appertaining thereto, shall vest in the panchayat and ~~the~~ subject to its control. The vesting being automatic on the coming into force of that provision, any control exercised over the said water courses, etc. by any other authorities are actually in possession and control of the said water courses springs, and adjacent lands it will be competent for the Panchayats to take suitable action against such authorities for eviction in case they cause any obstruction to the exercise of the Panchayat's right over them. The possession and control over the said water courses, etc. being vested in the Panchayat no question of any formal transfer would arise."

T.R

C. In respect of the lands automatically vested in the Panchayats all rights and liabilities created on the land by the Government Departments prior to 1-1-62 will be binding on the Panchayats unless and until they are duly terminated or cancelled. All rights and liabilities created in such lands by authorities other than Panchayats after 1-1-62 are invalid as being created without authority.

The legal advice detailed above in respect of section 82 (1) holds good also in respect of the other sections vesting various categories of lands in the panchayat.

d/- Jt. Development Commissioner & Jt. Secretary to Government.

Encl. on G1-32299/66 L.Dis. dated 14-10-1966

Copy to all Conservators for information.

Sd/ For Chief Conservator of Forests.

Encl. on G2-17311/66 dated 30-10-1966

Copy forwarded to all Divl. Forest Officers, Wild Life Preservation Officer Thekkady, Working Plan Officer, Chalokudy for information.

Copy to Sections Kt, ML, Ch and TH.

Conservator's Office,
Chalokudy.

Unnikrishnan

For Conservator of Forests.

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