



GOVERNMENT OF KERALA  
**Forest and Wildlife (E) Department**  
CIRCULAR

No. 5320/E3/10/F&WLD. Dated, Thiruvananthapuram, 21st January, 2011.

*Sub:*—Forest and Wildlife Department—Trees grown on lands at the disposal of Government—Regulation on indiscriminate felling and destruction of trees—procedures adopted—Instructions issued—Regarding.

- Ref:*—1. G O. (P) 85/86/F&WLD dated 2-9-1986.  
2. G O. (Rt.) No. 68/2010/F&WLD dated 10-2-2010.  
3. G O. (Rt.) No. 172/2010/F&WLD dated 21-4-2010.  
4. Judgment of the Hon'ble High Court in WA 1505/10 dated 16-9-2010.

As per reference 2 above Government constituted a committee and prescribed a procedure for felling of trees growing on lands at the disposal of the Government such as lands owned and occupied by public institutions under Government, including Government offices, educational institutions, medical institutions, research institutions, local self Government institutions, public sector undertakings, quasi Government institutions, statutory bodies and the like. This was an interim measure to cover the period till the amendment of Kerala (Promotion of Tree Growth in Non Forest Areas) Act. The procedure is excepted to control indiscriminate felling of trees growing on lands at the disposal of Government.

It has come to the notice of the Government that some institutions including public sector undertakings have deviated from the guidelines as approved by Government. The Division Bench of the Hon'ble High Court in Writ Appeal 1505/10 dated 16-9-2010 has inter alia upheld the procedure prescribed by Government and has directed Government to circulate the Government orders referred as 2nd and 3rd along with the copy of the judgment to all concerned for information and strict compliance.

28/13 GCPT. 3/380/2011/DTP.

Accordingly the copies of Government orders along with copies of judgment (4th reference) are communicated to all Departments/Public Sector Undertakings, Local Self Government institutions, Quasi Government institutions, Statutory bodies for strict compliance of the guidelines prescribed by Government. The receipt of the circular may be acknowledged.

SAJAN PETER,  
*Principal Secretary to Government.*

To

All Heads of Departments.

All Public Sector Undertakings.

The Secretary, KPSC (with C/L).

The Registrar, University of Kerala/Cochin/Calicut.

The Registrar, Mahatma Gandhi University, Kottayam.

The Registrar, University of Sanskrit, Ernakulam.

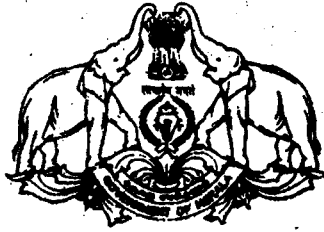
The Registrar, Kerala Agriculture University, Vellanikkara, Thrissur.

The Advocate General, Ernakulam.

The Secretary, KSEB.

The General Manager, KSRTC, Thiruvananthapuram.

The Director of Public Relations, Thiruvananthapuram.



GOVERNMENT OF KERALA

**Abstract**

FOREST AND WILDLIFE DEPARTMENT—TREES GROWN ON LANDS AT THE DISPOSAL OF  
GOVERNMENT—REGULATION ON FELLING AND DESTRUCTION—SANCTIONED—  
ORDERS ISSUED

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FOREST AND WILDLIFE (E) DEPARTMENT

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G O. (Rt.) No. 68/2010/F&WLD. Dated, Thiruvananthapuram, 10th February 2010.

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*Read:*—1. G O. (P) 85/86/FE&WLD dated 2-9-1986.

2. Lr. No. Pro. (11)–5016/2009 dated 30-1-2010 from Principal Chief  
Conservator of Forests, Thiruvananthapuram.

**ORDER**

There are large number of trees growing on lands at the disposal of the Government, such as lands owned or occupied by public institutions under Government including government offices, educational institutions; medical institutions, research institutions, local self government Institutions, public sector undertakings, quasi Government institutions, statutory bodies and the like. The trees growing on such lands are being felled for and in the name of various developmental activities such as construction/widening of roads, construction of buildings etc. Large number of petitions are being received by the Government and the Forest Department alleging indiscriminate felling of trees growing on lands at the disposal of Government.

At present, Government orders issued vide G. O. read above to the effect that trees growing on public lands shall not be felled without permission from the Assistant Conservator of Forests (Social Forestry) having jurisdiction over the area are being followed as a measure against indiscriminate cutting of trees grown on public lands.

Principal Chief Conservator of Forests in his letter read as 2nd above proposed that the larger interest of the society to conserve tree growth on

public lands would be protected more, if decisions to fell or retain trees on public lands are taken more transparently by committees constituted for Panchayat/Corporation/Municipal areas, after field inspection.

The Constitution of such committees can be as follows:

- The President of the District Panchayat or the Mayor of the Municipal Corporation or the Chairperson of the Municipality, within whose jurisdiction, the public land is situated, shall be the Chairpersons of the respective committees at Panchayat, Corporation and Municipality areas.
- The Assistant Conservator of Forests Social Forestry of the concerned District shall be the Convener of the Committees.
- The President of the Grama panchayat or the Member of the Division of the Corporation or the member of the Ward of the Municipality where the public land is situated, the town planner of the concerned Corporation or Municipality, and one or more representatives of reputed non-governmental organizations nominated by the Government for each District shall be the members of the committee.
- He has also proposed that the following procedure may be prescribed for the purpose of taking a decision on felling of trees grown on the lands at the disposal of Government.
- The authority in charge of the land at the disposal of Government where any tree is required to be felled shall submit a written application to the Assistant Conservator of Forests (Social Forestry) having jurisdiction over the concerned district giving full particulars of the land and the trees proposed to be felled therefrom.
- The location sketch and survey sketch of the area shall be submitted along with the application.
- The Assistant Conservator of Forest (Social Forestry) on receipt of the application shall, within seven days from the date of receipt of the application, fix up in consultation with the Chairperson, a date for inspection by the committee and intimate all the members about the date, time and site of inspection.
- Three members will constitute the quorum.
- The Committee after inspection of the area and the trees proposed for felling shall prepare a report and take decision on the application submitted by the authority in charge of the land at the disposal of Government. The committee shall record the reasons based on which the decision is taken.

- The decision of the committee shall as far as possible be taken unanimously and it shall be communicated to all the members irrespective of whether or not they were present during the inspection.
- The Assistant Conservator of Forests (Social Forestry) shall communicate the decision of the committee to the party concerned within a week from the date of inspection.
- The committee shall insist that the indenting authority shall plant and nurture at least equal number of saplings of local tree species in the same or nearby locality.
- The timber and firewood obtained from the felling of such trees shall be disposed of by the authority in charge of the land at the disposal of the Government after having got a valuation prepared by the Assistant Conservator of Forests (Social Forestry).
- In cases where Sandal wood or Rose wood trees are involved, the sandal wood or rose wood timber and firewood shall be extracted/converted and disposed by KFD as per rules in force. The sale proceeds shall be given to the authority in charge of the lands at the disposal of Government after deducting working charges and service charges of Kerala Forest Department.

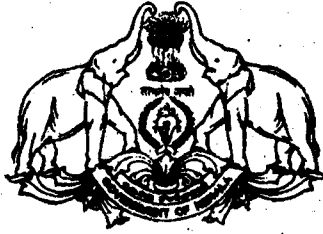
Government have examined the matter in detail and are pleased to constitute the committee as proposed by Principal Chief Conservator of Forests to protect the trees growing on lands at the disposal of Government as an interim measure to cover the period till the amendment of Kerala (Promotion of Tree Growth in Non Forest Areas) Act is passed and the rules notified thereunder.

By order of the Governor,

P. VIJAYAKUMAR,  
*Deputy Secretary to Government.*

To

Principal Chief Conservator of Forests, Thiruvananthapuram.  
The Accountant General (Audit/A&E), Kerala, Thiruvananthapuram.  
Director of Public Relations (for publicity).  
Forest and Wildlife (B) Department.  
Stock file/Office copy.



GOVERNMENT OF KERALA

**Abstract**

FOREST AND WILDLIFE DEPARTMENT—TREES GROWN ON LANDS AT THE DISPOSAL OF  
GOVERNMENT REGULATIONS ON FELLING AND DESTRUCTION—CORPORATION/  
MUNICIPALITY/PANCHAYAT LEVEL COMMITTEE—NOMINATION OF  
REPRESENTATIVES DISTRICT WISE REPUTED NGO'S—  
ORDERS ISSUED

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FOREST AND WILDLIFE (E) DEPARTMENT

G. O. (Rt.) No. 172/2010/F&WLD. *Dated, Thiruvananthapuram, 21st April, 2010.*

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*Read:—*1. G. O. (Rt.) No. 68/2010/F&WLD dated 10-12-2010.

2. Letter dated 4-3-2010 from the Principal Chief Conservator of Forest (SF), Thiruvananthapuram.

ORDER

In the G. O. read above as a measure against indiscriminate cutting of trees grown on Government land and to conserve tree growth, Government have constituted Committees at Corporation/Municipality/Panchayat level and prescribed procedures for the purpose of taking a decision on felling of trees grown on lands at the disposal of Government. It is also specified that one or more representatives of reputed Non-Governmental Organizations (NGOs) will be nominated in the Committees as members from the concerned districts.

In the letter second cited the Principal Chief Conservator of Forest (SF) has forwarded a list of NGO's to be nominated in each committee from the district concerned.

Government have examined the matter in detail and are pleased to accord sanction to the Principal Chief Conservator of Forest to nominate one or more members of the Non Governmental Organization from each district wise list appended to this Government order in the committees constituted in the Corporation/Municipality/Panchayat for the purpose, subject to the condition

that Government is at liberty to include/exclude one or more representatives of NGO's to the committee after the constitution and the user agency should plant and protect compensatory plants at the rate of 1:10.

By order of the Governor,

DR. W. R. REDDY,  
*Secretary to Government.*

To

Principal Chief Conservator of Forest (SF), Thiruvananthapuram.  
The Accountant General (A&E/Audit), Kerala, Thiruvananthapuram.  
The Director of Public Relations (for publicity).  
Forest and Wildlife (B) Department.  
Stock file/Office copy.

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

*Present*

**THE HONOURABLE MR. JUSTICE C. N. RAMACHANDRAN NAIR**

*And*

**THE HONOURABLE MR. JUSTICE K. SURENDRA MOHAN**

Thursday, the 16th September 2010/25th Bhadra 1932

**WA. No. 1505 OF 2010**

**AGAINST THE JUDGEMENT/ORDER IN WPC. 17448/2010 DATED 16-7-2010**

*Appellant(s): Respondents 1 & 2 in the WPC.*

1. State of Kerala Rep. by Secretary,  
Department of Forests,  
Secretariat, Thiruvananthapuram.
2. The Forest Range Officer,  
Kasaragod.

By Addl. Adv. General Sri Ranjith Thampan

*Respondent(s): Petitioner and Respondents 3 and 4 in WPC*

1. K. J. Varkey, S/o Joseph,  
Proprietor, Good Wood Industries,  
Padanakkad, Post Padnakkad,  
Kasaragod District.
2. The Plantation Corporation of Kerala Ltd.,  
Rep. by its Managing Director,  
Kottayam.
3. The Manager, Plantation Corporation  
of Kerala Ltd., Kasaragod Estate,  
Muliyar, Kasaragod.

By Adv. Sri Kodoth Sreedharan



This writ appeal having come up for admission on 16-9-2010. The Court on the same day delivered the following:

**C. N. RAMACHANDRAN NAIR**

And

**K. SURENDRA MOHAN, J. J.**

**W. A. No. 1505 of 2010**

Dated this the 16th September, 2010

**JUDGMENT**

**Ramachandran Nair, J.**

This writ appeal is filed by the State against the judgment of the learned Single Judge holding that cutting of trees by the Kerala Plantation Corporation from their properties is not covered by Annexure-R2 (c) notification issued by the Government on 10-2-2010 regulating cutting of trees on lands at the disposal of the Government as an interim measure till the proposed amendment to the "Kerala (Promotion of Tree Growth in Non Forest Areas) Act" is passed and the Rules notified thereunder.

2. We have heard learned Additional Advocate General appearing for appellants and learned standing counsel appearing for the Plantation Corporation of Kerala Ltd., and the counsel appearing for the contractor to whom the Plantation Corporation sold the trees from the land involved i.e. in Kasargod district.

3. Appellants case is that being a public sector company under the control of the State Government, the Plantation Corporation ought to have obtained permission from the Committee constituted under the above notification before sale of the trees to the contractor. When the Forest Official declined permission for transport of the timber cut from the Plantation Corporation's property without obtaining permission, the contractor filed the writ petition contending that notification is not applicable to the Kerala Plantation Corporation. The Kerala Plantation Corporation seems to have supported the contention of the contractor before the learned Single Judge who allowed the writ petition holding that permission is required in terms of notification only if trees to be cut are from lands at the disposal of the Government which does not include the Corporations properties.

4. Learned Single Judge was of the view that land held by the Kerala Plantation Corporation is not a land at the disposal of the Government and so

much so no permission from the Committee constituted under the notification is required. However, the learned Additional Advocate General appearing for the appellants referred to the first part of the notification and contended that trees in lands under the control of public sector companies are also covered by the notification. What is stated in the first sentence of the Government Order is as follows:

“There are large number of trees growing on lands at the disposal of the Government, such as lands owned or occupied by public institutions under Government including government offices, educational institutions, medical institutions, research institutions, local self government institutions, public sector undertakings, quasi Government institutions, statutory bodies and the like.”

5. It is clear from the above that the Government understood lands at the disposal of the Government as “all lands occupied by public institutions, government offices etc., and other institutions and local self government institutions referred to therein specifically including public sector undertakings.”. Admittedly, the Plantation Corporation is a public sector undertaking that too under the control of the Government of Kerala. What is clear from the above words of notification is that Government did not confine the notification to the land belonging to the Government or under its direct control. On the other hand all such lands which are directly or indirectly under the control of the Government are covered by the notification. Majority of the shares in public sector companies are held by the Government which constitutes the Board of Directors of the Company. The shares of Plantation Corporation are fully held by the Kerala Government and its Director Board constituted by the Government is under its direct control. Therefore, Government orders on general matters bind the company and the corporation has no authority to question the wisdom of the Government in issuing the notification. There is nothing to indicate in the operative portion of the notification that the Government wanted to restrict the scope of notification to land directly under its control. On the other hand, notification applies to all kinds of lands broadly covered by the first sentence of the notification extracted above. So much so, we are unable to uphold the findings of the learned Single Judge on the interpretation placed on the scope of the notification.

6. Learned Single Judge also has considered the type of trees cut from the land belonging to the Plantation Corporation which is stated to be for planting the area with rubber. We do not think there is any scope for the Court considering this, because for cutting any tree permission of the Committee constituted under the notification is required. In fact, the notification does not

make any difference among the type of trees proposed to be cut. So long as the trees proposed to be cut are from the lands belonging to or under the control of any agency of the Government or its Departments referred to in the first sentence of the notification, permission from the committee is required.

7. Therefore, in our view, the findings by the learned Single Judge with regard to the trees to be preserved probably relevant under the Kerala Preservation of Trees Act and the conditions of pattayam issued have no relevance. In other words the freedom in the pattayam entitling the land holder to cut and remove the trees will stand superseded by the above Government Order if the lands covered by such pattayams are under the control of any of the authorities, departments or institutions under the control of the Government referred to in the first sentence of the notification.

8. We therefore vacate the findings of the learned Single Judge on the scope of the Government Order referred above. However, since the trees are already cut and it is done pursuant to Corporation's decision to plant the area with rubber, we allow the writ appeal in part by allowing the contractor to remove the trees in terms of the contract. We make it clear that the Plantation Corporation will take note of the judgment and future violations should be avoided. It is for the Government to circulate this judgment to all the Departments, local authorities and Government Corporations to avoid recurrence of violation and accordingly we direct the Principal Secretary (Forest) to circulate the Government Orders along with copy of this judgment to all covered by the first sentence of the notification extracted in the judgment.

(Sd.)

C. N. RAMACHANDRAN NAIR,  
JUDGE

(Sd.)

K. SURENDRA MOHAN,  
JUDGE