

GOVERNMENT OF TAMIL NADU
ABSTRACT

FOREST OFFICERS – Vesting with powers of Police to Forests deal with forest offences by using fire arms for self-protection and protection of forest property – orders issued.

FOREST AND FISHERIES DEPARTMENT

G.O.(MS)NO.698/88.

Dated, 21st June, 1988.

From the Chief Conservator of Forests, Lr.No.15/17937/85, dated 5-1-1988.

ORDER

The Government have during the recent past, actively been considering various measures to contain the growing number of forest offences. Valuable trees like Sandal wood, Teak etc are cut illicitly and transported. Considering the value of the forest wealth, inter state smugglers operate on a large scale and also indulge in poaching of wildlife, especially elephant for its tusks. They also come in large numbers and attach the forest officials with deadly weapons including fire arms. In order to protect the forest wealth as well as the life of forest officials from the forest offenders, the forest which at times may result in injury or death to the forest offenders.

2. The Government after careful examinations. Direct that:-

- (i) The fire arms may be used by the forest officers of the rank of Forest Guard and above to protect forest property as well as their life from the forest offenders. They could use minimum possible force in due discharge of their duties, exercise being the right of private defence as conferred under the Indian Penal Code (Central Act XLV of 1860).
- (ii) The powers 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 etc.
- (iv) In case of allegations of rape the accused may be placed under suspension and then Magisterial enquiry be conducted. Based on the enquiry a case may be filed or departmental action may be taken against the officials concerned, if need be.

3. Instructions about the use of fire arms by forest officials with reference to their responsibilities, legal position, relationship with police, Magisterial enquiry etc. mentioned in the Annexure to this order are for strict compliance and modification in the Forest Manual..

(BY ORDER OF THE GOVERNOR)

M.A.K. TAYAB,
SPL. COMMR. AND SECRETARY TO GOVERNMENT.

To

The Principal Chief Conservator of Forests, Madras-6.
The Director General of Police, Madras
The Director General of Police (CID) Madras-4
The Special Commr. And Commr. Of Revenue Administration, Chennai,
Madras-5.
All Collectors.
All Inspector General and Deputy Inspector General of Police.
All Superintendents of Police, through Director General of Police, Madras-4
The Registrar, High Court, Madras-104
The Inspector of Police Forest Cell, CID First Gross St., Kasthurbai Nagar,
Adayar, Madras-20.
The Secretary to Governor, Madras-9.
The Director, Information and Public relations, Madras-2.
For issue of press release.

Copy to:- The Home Department, Madras-9.
The Revenue Department, Madras-9.
The Law Department, Madras-9 (The Public () Department,
Madras.
All Forest Sections.

(FORWARDED BY ORDER)

Section Officer.

ANNEXURE

INSPECTOR GENERAL, FOREST CELL, CID, MADRAS

A. Type of Firearms:-

In the Forest Department it has been decided to standardize the types of firearms as follows:-

- | | | |
|----|--|-----------------|
| a) | Range Officer and above | - 9 MM Pistols. |
| b) | Forester and Forest Guards | - DBBL Guns |
| c) | Rifles; Sandal and Elephant poaching areas | |

B. 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 powers to use firearms. Like other citizens, the Forest officials also can exercise their right of private defense under sections 98 Indian Penal Code to 106 Indian Penal Code, Moreover they will enjoy a certain amount of protection from criminal persecution by police, for the acts done by them in good faith.

C. CIRCUMSTANCES UNDER WHICH FOREST OFFICIALS CAN OPEN FIRE:

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

2. Unlike Police Officers, the Forest Officials have not been given powers to disperse an unlawful assembly by use of fire arms and hence the Forest Officials should not use of fire arms 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 in side the R.F. area, they should not use fire arms and they should take the help of legal police having jurisdiction. There are provisions to provide armed reserve TSP 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 defense, 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 band loads or in vehicles and they not stop when ordered by forest officials.
 - iii. When elephant poachers armed with weapons and preparing or actually committing an offence or going with wildlife trophies and they refuse to stop and hand over the properties when ordered to do so by forest Officials.
 - iv. When outsiders enter the R.F. area with arms for shooting without License, 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 officials is taken hostage by offenders and there is no time to got reinforcements and hence they have to rescue their colleague.
5. These examples are only illustrative and the officer using firearms should use is discretion and he would be able to justify that he had to use firearms, as the last resort.
 6. The power to use firearms is only means to stop the criminal and hence the purpose should be to insure, rather than 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 onus will be on the forest officials to justify the use of firearms.

D. ACTION TO BE TAKE 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 persons 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 mass go should be sent by telegram/telephone/wireless/messenger without loss of time, to the following authorities (See Annexure-A).

- (i) Near P.S. (ii) D.F.O. (iii) CCF
- (iv) R.D.O. having jurisdiction (v) S.P.
- (vi) Collector.

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

- (iv) The injured person (culprits and forest officials) should be sent to hospital for treatment. The senior most forest officials must lodge a complaint in writing at the P.S. having jurisdiction outlining the circumstances under which he had to open fire, number of person injured/dead etc.
- (v) The Forest officials should protect the scene from being disturbed, arrange for photograph the scene of crime. They will await the arrival of R.D.O. 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 R.D.O. till then no forest official 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 D.F.O. will collect the details and send a detailed report to the Chief Conservator of Forests/Conservator/Government in consultation with the S.P.
- (x) The R.D.O's report will be scrutinized by the Governments and the following course are likely:
 - (i) Opening of 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.

E. CENTRAL INSTRUCTIONS REGARDING SAFETY OF WEAPONS AND TRAINING:

- (i) When ever forest officials go into the R.F. area with fire arms there should be a minimum of 2 persons with firearms. On no account a single weapon should be taken since his weapons 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 backs with chain and a lock. The ammuniion should be kept in a box under lock and key. Similarly 3 mm pistols should be kept in holster and kept in a box separately with a lock.
- (iv) When 9mm pistols are taken out, they should linked to a long whistle cord around the neck or shoulder so that the weapon cannot be snatched easily. The ammunitions in 9mm. pistols should be loaded in magazine and ready use but they should not be loaded in to weapon.
- (v) While marching 9mm, pistols and DBBL guns should not be loaded as where might be accidents. The ammuniion should be kept separately and loaded on the specific orders area or they expect an attack, weapons may be loaded but safety catch should be on.
- (vi) All arms and ammunitions should be accounted for, in the office of Chief Conservator of Forests and in the office the Dist. Forest Officer in “Arms and Ammunitions Register”. The form of registers used by police may be copied.
- (vii) The weapons should be issued to officers and men by name and their acknowledgement should be obtained. Arms Cards (as in Police). A weapons issued to one officer should not be used by another, except in an emergency.
- (viii) All the weapons should be oiled and cleaned and sent for reporting periodically. For this purpose for each circle there should be one trained Armourer (of the rank Forester) and there should be one Chief Armouror in the office of the Chief Conservator of Forests (in the rank of Range Officer).
- (ix) All Officers and men should be put through a training programme as outlined in a note sent by inspector General, Forest Cell, in letter No.2993/C1/86/dt.19-3-1987.

Sd/-
Superintendent
Office of the Conservator of Forests,
MADURAI CIRCLE, MADURAI.

/TRUE COPY/