

CIRCULAR NO.26/88

Sub:- Confiscation of vehicles under Section 61 A – Regarding.

There are many instances in which the Authorized Officers drop proceedings under 61 A for confiscation of vehicles and order release of vehicles or order action to be taken under Kerala Forest Produce Transit Rules without properly appreciating the evidence or by giving wrong interpretation to the provisions of the Act. The following are a few examples.

1. The owner of the vehicle is innocent and hence the action under 61 A is dropped.

The Act does not fully contemplate such a position. It is the duty of the owner of the vehicle to take sufficient precaution to prevent misuse of the vehicle. This has to be achieved by:-

- (a) Keeping the vehicle in such a way as to prevent the same being stolen away for misuse.
- (b) Entrusting the vehicle to a person/driver who can understand the species of timber and verify it with the details of permits in order to ensure genuine collection of timber.
- (c) Engaging a driver who has some basic knowledge about Forest Produce Transit Rules like noting stamp mark, measurements, species, exempted species, source of timber etc.

2. Owner had taken sufficient precaution and hence vehicle is released.\

Such as approach is not in conformity with the objective of the stature. Not only the owner, but the driver also should prove that they have taken sufficient precaution to prevent the illicit transport. These two factions should not be treated in a mutually exclusive manner.

3. The investigating officer failed to prove convenience on the part of the driver and hence lorry is released.

This also is a wrong interpretation,. It is for the driver and owner to prove that they had taken all required precautions and that they had not connived with the illicit transport. It is sufficient if the investigating officer provides evidence to prove that the timber firewood in question is Government property and that it was illicitly transported.

4. Lorry is released based on the statement of the driver that the forest staff permitted removal of illicitly collected timber:

This against would be a wrong step if not supported clear evidence.

5. Lorry is released based only on statement of independent witness who would say that there was no timber in the lorry when it was seized.

This again is not a fully correct approach. Such evidence should be officer.

The tendency to released vehicles proceeded under 61 A of Kerala Forest Act on same flimsy ground would dilute the very purpose of section 61 A thereby heavily weakening the forest protection measures. Hence all Authorized Officers/Revision Authority acting under 61 A/61C should understand the provisions clearly before taking decisions.

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PRINCIPAL CHIEF CONSERVATOR OF FORESTS.

To

All Conservator of Forests and Field Director
All Divisional Forest Officers
All Sub Officers.
Copy to P.A. to Perl. Chief Conservator of Forests.
C.A. to all Chief Conservator of Forests/Addl. C.C.F.
Copy to all Branch Officers.