

1952
APPENDIX V-D

APPENDIX V-D

GOVERNMENT OF THE UNITED PROVINCES

No. 441/XIV-366

FOREST DEPARTMENT

NOTIFICATION

MISCELLANEOUS

July 13, 1931

In continuation of notification no. 575/XIV-366-1924, dated August 25, 1930, as amended by notifications no. 100/11/XIV-366-B, dated July 25, 1933, and no. 122 F/XIV-228, dated June 25, 1936, it is hereby notified for general information that the Governor in Council has made the following rules under section 6 of the Scheduled Districts Act, 1874 (XIV of 1874), to regulate the management of *panchayat* forests in Kumaun:

KUMAUN PANCHAYAT FOREST RULES

1. The rules shall apply to the whole of the Kumaun Division and shall come into force from the date of their publication in the *United Provinces Government Gazette*. They shall be known as the *Kumaun Panchayat Forest Rules* and shall supersede all previous *panchayat* or Kumaun forest rules in the division.

2. In the area in which these rules apply, the term "*panchayat forests*" includes any area (outside municipal or cantonment limits) for which a scheme of management has been drawn up and brought into force under these rules.

3. Two or more resident *hissedars*, *khalkars*, or persons who belong to the agricultural or artisan classes, who or whose family have resided for twelve years immediately preceding the application in the village within whose *sol assi* boundary the land applied for lies, may apply to the Deputy Commissioner for the settlement of a scheme of management of any area lying within the *sol assi* boundary of their village or villages within which their rights of user have been recognized by judicial decision or in a forest settlement, provided that no land shall be declared to be *panchayat forest* if one-third or more of the resident *hissedars* and *khalkars* of the village or villages, within which the area lies, enter objections to the scheme.

The application shall specify, as nearly as possible, the situation and the limits of the area applied for.

Exception—Where there are *hachans* or *dhans* in a village the Deputy Commissioner shall have discretion to form *panchayats* of groups of persons and to divide the available waste land of the village among them for the purpose of forming *panchayat forests*.

Note—In the case of uninhabited villages, the term "resident" includes persons in cultivating possession, or, in the absence of cultivation, those *hissedars* or *khalkars* who live near and who have been exercising forest rights in the village.

4. On receipt of an application under rule 3, the Deputy Commissioner shall cause a notice to be served on the headman of the village or villages applying, of the adjacent villages, and of all villages recorded in a forest

settlement as having rights or concessions in the area concerned. The notice shall specify the situation and limits of the area applied for and the purpose for which it is required, and shall fix a date for the hearing of claims and objections, if any, to the application.

5. On the date so fixed or on any subsequent date to which the proceedings may be postponed, the Deputy Commissioner shall visit the locality and shall hear the claims and objections, if any, on the spot and decide the same. If there is any dispute as to the *sal assi* boundary, he may decide the same in a summary manner, and proceed with the demarcation of the proposed *panchayat* forest on the basis of his own decision. Such decision will be liable to modification by a competent revenue court, but it shall not be necessary for the Deputy Commissioner to wait for the final decision or a suit before forming a provisional *panchayat* forest. He may reject or accept the application in whole or in part, and may prescribe conditions on which the same will be accepted, recording his reasons for the action taken.

5A. In *panchayat* forests formed from class I and II reserved forests only, those persons whose rights are recorded in the rights lists within whose *sal assi* boundaries such forests lie shall be allowed to exercise rights of user in such forests.

6. The Deputy Commissioner shall then call upon the *sal assi* residents of the area or others who will benefit thereby or both, to assemble at a convenient place and time, and shall call on the persons so assembled to elect a *panchayat* before him. This shall consist of not less than three nor more than nine *panches*. When the *panches* have been duly elected, they shall select a *sarpanch* from among themselves.

7. (i) Any order passed by the Deputy Commissioner himself under rules 4, 5, 5A or 6 above shall be subject to revision by the Commissioner.

(ii) Any order passed under rules 4, 5, 5A or 6 above by a special officer appointed under rule 20 shall be subject to appeal to the Deputy Commissioner and any order passed on appeal by the Deputy Commissioner shall be subject to revision by the Commissioner.

(iii) The orders of the Commissioner on all matters referred to in rules 4, 5, 5A and 6 above shall be final and shall not be the subject of proceedings in any civil and revenue court.

8. When a *panchayat* has been duly constituted under rule 6, the Deputy Commissioner shall take from it an agreement in writing to manage and work the area to be granted or assigned to it. The Deputy Commissioner shall prescribe the terms of the agreement with regard to conditions prevailing in the locality in which the *panchayat* forest will be situated. The Deputy Commissioner shall submit the proceedings to the Commissioner for sanction.

9. In prescribing the terms of the agreement referred to in rule 8, the Deputy Commissioner shall ordinarily include provisions to the following effect:

(a) No *panchayat* or member of a *panchayat* shall sell or partition the grant.

(b) The produce of the *panchayat* forest shall be utilized by the *panchayat* to the best advantage of the village community and of the grant holder recognized by the Deputy Commissioner.

(c) The *panchayat* shall prevent reckless destruction of trees.

(d) The *panchayat* shall prevent cultivation within the area assigned to it.

APPENDIX V-D

(e) The *panchayat* shall erect and maintain boundary pillars.

(f) The *panchayat* shall carry out the orders of the Deputy Commissioner received by it from time to time for the preservation and improvement of the forest. Such orders may include the amendment of a scheme originally prescribed.

(g) Any breach of the provisions in (a) to (f) above will render the grant or assignment liable to cancellation.

10. The term of office of the members of a *panchayat* shall be three years and the *panchayat* shall have power to fill vacancies occurring during that period, except in the case of vacancy caused by the removal of a member of the *panchayat* under rule 11. Vacancies will be filled for the unexpired portion of the said period.

11. If a majority of the *panchayat* consider it necessary to remove an individual member, the *sarpanch* shall report the fact to the Deputy Commissioner. The Deputy Commissioner shall proceed to the village and shall ascertain the wishes of the persons entitled to vote for a *panchayat* and shall act accordingly. If the member is removed, the Deputy Commissioner shall immediately call on the voters assembled to elect a new member.

12. The *panchayat* shall have the status of a forest officer and shall exercise the following powers for the area entrusted to it:

(a) To impose a fine up to the limit of Rs5 for each offence committed within its area and in cases where this is considered inadequate to report and prosecute any offender.

(b) To institute and defend suits and proceedings in respect of claims arising under these rules.

(c) To sell forest produce, including slates and stones without detriment to the forest, and to issue permits and charge fees for grazing or cutting grass or collecting fuel.

Provided that, unless the special permission of Government has been obtained, no resin from *chir* trees may be extracted and sold except with the approval of the Conservator of Forests, Kumaun, and subject to such orders as the Conservator may prescribe, after consultation with the Deputy Commissioner-in-charge, Kumaun. Such orders may *inter alia* prescribe—

(1) that any such extraction and sale of resin shall be done by the Forest Department itself, in which case the profits, if any, resulting from the sale of the resin shall be shared between the *panchayat* concerned and the Forest Department in such proportions as the Conservator may direct, or

(2) that the *panchayat* concerned may itself arrange for such extraction and sale of resin subject to the provisions:

(i) that the trees must be tapped and the resin be extracted in accordance with the rules in force in the Forest Department for such tapping and extraction and that the work may at any time be inspected by the Forest Department to ensure that such rules are being observed; and

(ii) that all outturn of resin be sold to the Forest Department or to such agency as the Conservator, subject to the control of the local Government, may direct.

Moreover, if he considers that any forest is not suitable for resin tapping, or that such orders are not being carried out, or that for any other reason resin tapping operations are not desirable, the Conservator shall be at liberty subject to the approval of the Deputy Commissioner-in-charge, Kumaun Division, to prohibit such extraction of resin altogether.

Nothing in the above proviso shall prohibit the extraction of resin for local domestic or medicinal purposes.

(d) To regulate grazing and the admission of cattle into the *panchayat* forest.

(e) To impound cattle entering the *panchayat* forest without the permission of the *panchayat* and to detain them up to 48 hours.

(f) To exclude from any or all privileges in the *panchayat* forest any person whom the *panchayat* may, with good reason, consider responsible for any fire or damage to the area or who disobeys orders issued by the *panchayat* in exercise of the powers conferred on it.

(g) To seize all tools in committing forest offences within the area.

Any order passed under (f) or (g) shall be appealable to the Deputy Commissioner.

13. The *panchayat* may frame by-laws for the distribution of forest produce among the persons entitled thereto, for regulating grazing, cutting of grass and collection of fuel, and for any other purpose consistent with these rules. The *panchayat* may also appoint patrols or watchers for the enforcement of its orders.

14. The local Government may, in addition to the abovementioned powers, invest any *panchayat* formed under these rules with powers to compound forest offences committed in the area assigned to it and with all or any of the powers under section 72 of the Indian Forest Act. Until such powers are conferred on the *panchayat* they shall be exercised by the Deputy Commissioner.

15. The decision of the *panchayat* shall be by a majority of votes, and shall be recorded in a minute book. The quorum for the transaction of business shall consist of not less than two-thirds of the total number of members. In case of equality of votes the *sarpanch* shall have a casting vote.

16. The Deputy Commissioner shall prescribe the registers and books of accounts to be maintained by the *panchayat*. The registers, accounts and money or other movable property shall remain in the custody of the *sarpanch*.

17. The income of the *panchayat* shall be credited to the *panchayat* fund and shall be applied, firstly to the improvement of the forest and the remainder, if any, shall be utilized in works of general utility to the *panchayat* village.

18. The Deputy Commissioner shall have power to suspend or dissolve a *panchayat* for habitual negligence in the discharge of its duties, and to call upon the villagers to form a new *panchayat*. In such cases, if the villagers be not willing to elect a *panchayat*, he may entrust the area to another *panchayat* willing to take it, or he may arrange for the temporary arrangement of the forest either through the revenue or forest staff until such new *panchayat* is formed, and shall recover cost of the forest guard or watcher appointed by him from the villagers concerned and shall exercise all the powers vested in the *panchayat*, under rule 12. If it is found impossible to constitute another *panchayat*, the land shall revert to its original status.

APPENDIX V-D

19. All money payable to the *panchayat* on account of the expenses incurred on *panchayat* forest, for the price of any forest produce sold under these rules, or any other dues legally chargeable under these rules from villagers or right-holders or offenders shall be deemed to be money payable to Government, and shall be recoverable as arrears of land revenue under section 82 of the Indian Forest Act from the community or persons benefited by the forest or offenders.

20. The local Government, after consulting the Kumaun Forest Committee, may appoint one or more special officer to organize and supervise the working of the *panchayat* forest constituted under these rules. Each officer shall work under the control of the Commissioner, but shall function in the district as the personal assistant of the Deputy Commissioner for forest matters. A special officer appointed under this rule shall exercise all the powers vested in the Deputy Commissioner under these rules including the powers to compound forest offences.

21. The Conservator or the Divisional Forest Officer may at the request of the Deputy Commissioner, inspect the *panchayat* forests of his division, and may call for the records of the *panchayat* for inspection; and report on the working of the *panchayat* and condition of the forest to the Deputy Commissioner.

22. The members of the Kumaun Forest Committee shall be entitled to inspect any *panchayat* and its forest, and should send a copy of their note to the Deputy Commissioner for necessary action.