

# Role of Autonomous District Council in Conservation and Management of Forest in Meghalaya

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## 1. INTRODUCTION

The sixth schedule of the Constitution of India confers power to the tribals of a few states (Meghalaya included), to govern themselves through the Autonomous District Council in order to protect the tribal rights and ownership as well as culture. The broad objectives of the Sixth Schedule autonomy relates to following principles: (i) People should develop along the lines of their own genius and their own traditional art and culture should be encouraged, (ii) Tribal rights on land and forest should be respected, (iii) Their social and cultural institution should be involved in administration and development; (iv) The result may not be evaluated on the basis of statistics of the money spent but by the extent of development and preservation achieved. The Constitution of India has thus entrusted huge responsibility on the district councils in areas of management of land and forest.

This paper analyses the power bestowed in the autonomous district councils of Meghalaya with regard to conservation and management of forest and identifies the constraints and lacunae in the implementation of the rules and regulations made by it in this regard.

## 2. FOREST LAWS AND POWER OF ADCs

Para 3 of the Sixth Schedule categorically states that the management of any forest not being a reserve forest falls in the jurisdiction of the

(monsoons) than in the later part, because by this time undergrowth colonisation prevents large-scale loosening of soil and resulting erosion of topsoil.

- (c) At higher sites (Umran) the quantum of erosion is even higher. This is also because of reason that here the soil is sandy in texture. On the other hand, silty and clay soil have higher consistency thus less erosion as in Lewsir.
- (d) There is a direct relationship between the degree of slope and the quantum of erosion per unit area.

district councils. For this purpose the Khasi Jaintia Hills autonomous district council made some rules known as *The United Khasi and Jaintia Hills Autonomous District (Management and Control of Forests) Act 1 of 1958*. Since then this Act has been amended several times. The Rules of the Act require that all the forest including private forest as well as public forest (*Law-Ri-Sumar*) need to be registered with full details about their ownership(s) boundaries etc. with the District Council. The rules for management of forest prescribe that no owner of any forest of *Law-Ri-Sumar* shall dispose of by sale, mortgage, lease, gift, barter or otherwise, any reserved or unreserved trees or any other forest produce except with the previous approval of the competent authority of the district council. The application for any sale etc. shall have to be submitted through the *Syiem, Sirdar, Doloi* or any other local administrative head who shall forward the same to the Chief Forest Officer (CFO) of the district council with his comments thereon together with a certificate about the right of the applicant over such forest. On receipt of the application the CFO may, after such enquiry as he may consider necessary, accord approval to the disposal of trees or other produce subject to:

- a) A limit in number and girth, class and other restrictions on disposal based on silvicultural principles, in the case of trees;
- b) A quantitative limit in the case of the other forest produce; Provided that where the transaction involves sale of more than 100 trees at a time or where the duration of the agreement or lease exceeds one year, the order of the CFO shall be subject to the approval of the Executive Committee of the District Council.
- c) The CFO, may, for reasons to be recorded in writing reject any application or accord approval subject to such conditions as he may deem fit to impose.

An appeal against the order of the CFO shall lie to the Executive Committee of the District Council.

No tree shall be felled or removed unless a Forests Officer of the District Council has marked such trees in accordance with any direction which the CFO may issue in this regard after realizing cost for making at such rates as the Executive Committee may fix from time to time.

No timber after conversion shall be removed from tree sites unless it has been piece-marked by a duly registered property hammer of the owner of the forest and accompanied by a certificate of origin granted

by him in the form as prescribed under the rules. Such timber shall also be marked by the registered property hammer of the purchaser or lessee of the forest.

No timber extracted from a private forest or *Law-Ri-Sumar* shall be taken outside the jurisdiction of the District Council or to the town of Shillong, for purposes of sale, trade or business, unless such timber has been taken to a revenue station established by the District Councils and royalty or any other dues payable on such timber under this Act or any other law for the time being in force, has been paid in full, and a transit pass in the prescribed form granted by the officer in charge of the Revenue Station authorising movement of such timber.

The rules in respect of management of sacred forest viz., *Law Lyngdoh*, *Law Kyntang* and *Law-Niam*, state that no timber or forest produce from these forest shall be removed for sale, trade or business, but if any timber or forest produce is required for religious purposes, a free permit for the purpose shall be obtained from the CFO or any Forest Officer authorised by the Executive Committee of the District Council on its behalf. The Lyngdoh or other person(s) to whom the religious ceremonies for the particular locality or village(s) are entrusted can do this on application with, and on the recommendation of the Lyngdoh through the local administrative heads. The CFO or the authorised Forest Officer of the District Councils shall grant a free permit in the form as prescribed, specifying therein the quantity of the timber or other forest produce and the particular part of the forest from which such timber or forest produce shall be removed provided that no trees shall be felled unless they have been marked by an officer of the District Council.

Similarly, no trees in the protected village/community forest viz., *Law-Adong* and *Law-Shnong* shall be felled or removed except with the previous permission of the CFO provided that such timber is required for any bonafide public purpose undertaken by the villagers. The CFO in granting such permission shall specify the quantity of timber to be removed and have the required number of such trees marked for the purpose.

If any person infringes any of these rules he shall be punished with a fine not exceeding Rs. 300 and in default payment of fine to imprisonment which may extend to three months. Provided that any Forest Officer who is in receipt of a monthly salary of not less than Rs. 100 may compound the offence and the sum of money to be realised as compound fee shall in no case exceed Rs.50.

Without prejudice to any action taken or liable to be taken under the preceding rule, the CFO may, in addition, suspend any operation involving cutting, felling conversion or removal of any timber from any forest until the disposal of the criminal proceedings institute or till such time as the person engaged in such operation has complied with any direction of the CFO or the Executive Committee, as the case may be, in pursuance of the rules.

In the same spirit, the rules applying to management and control of protected forest and green blocks. Thus whenever in the opinion of the Executive Committee of the District Council, it becomes necessary to dispose of any reserved or unreserved trees or any other forest produce in any protected forest or green block comprising raid land only, the Executive Committee shall authorise the CFO to arrange for disposal thereof by auction, tender or negotiation and on such terms and conditions as may be prescribed.

The CFO, on receipt of the order of the Executive Committee shall issue a notice setting forth therein the description number or quantity of any trees or forest produce, the amount of earnest money and security to be deposited and such other terms and conditions of the sale as he may consider necessary and fixing a date on which auction shall be held or tender submitted. Provided that in the event of any settlement by negotiation, the CFO shall submit his recommendation with regard to the party, rate and other terms and conditions of settlement to the Executive Committee for orders, and the Executive Committee may pass such orders as it may think fit.

With regard to management of raid forest, the CFO either on his own motion or on the recommendation of the *Syiem, Wahadadar, Lyngdoh, Doloi* or any other local administrative head within whose jurisdiction any raid forest is situated, may from time to time determine the limit of the royalty of any trees or quantity of any forest produce, standing on such raid forest, for disposal in the interest of the revenue of the District Council in general and of the *Syiemship, Wahadadarship, Lyngdohship or Sirdarship and Daloiship* in particular. Provided that the CFO, with the previous approval of the Executive Committee, shall be competent to reject any recommendation for disposal, from any *Syiem, Wahadadar, Sirdar, Doloi* or any other local administrative head concerned when in his (CFO) opinion such disposal is premature or detrimental to the general interest of the forestry of the district. Sale of trees or other forest produce from a raid forest shall be by auction, tender

to negotiation or in such other manner as the Executive Committee, may from time to time, determine in each case.

### **2.1 Rules for Removal of Forest Produces from Raid Forest, Green Block, Protected Forest and Restrictions in Felling etc.**

Save as provided in these rules or under the Act, no trees reserved or unreserved shall be felled, cut, girdled, tapped or injured by fire or otherwise; no timber shall be sawn, converted or removed and no other forest produce collected and removed except under and subject to the conditions of a trade permit as prescribed as the case may be, or under the terms and conditions of a sale by auction, tender or lease, as may be sanctioned by the CFO or any other competent authority under the District Council, from any green block comprising raid land and protected forest or raid forest.

Provided that in the case of green blocks comprising of or within private forests, namely green block NOs. II, III, IV and V around the city of Shillong, the rights and title of the owners of such lands shall not be disturbed except that owners of such forests requiring to cut trees therefrom for their own domestic use shall seek for permission to do so through their respective "*Rangbah Kurs*" (clan heads) to the CFO who on receipt of such application duly recommended and approved by the recognized *Rangbah Kur* and on being satisfied of the genuineness of the requirements, will issue a home consumption permit free of charge and will then depute a Forest Officer to mark the trees for felling and removal in accordance with the home consumption permit.

A home consumption permit for timber from reserved trees from any raid forest may be granted to any person living in the neighbourhood of Raid forest for domestic use, that is, building purposes only, by a Forest Officer-in-charge of a Range, for any quantity subject to any limit as may be fixed by the Executive Committee, at half the rates of royalty in force for the time being, to be realised in such manner as may be prescribed in the permit. Home consumption permits are not transferable and shall be issued for a period not exceeding six months but the CFO may extend the period by another six months on payment of such fee as he may think fit to impose.

If any person infringes any of these Rules he shall be liable to be punished with a fine which may extend up to Rs. 200 and in default of payment of fine to imprisonment which may extend to two months. Provided that any Forest Officer in receipt of a monthly salary of not less than Rs. 100 may compound the offence and the sum of money

imposed as compounded fee shall in no case exceed Rs.50 in addition to any royalty or other dues payable on any timber forming the subject of the offence.

In the Third Amendment of the Principal Act passed in 1961, the then United Khasi-Jaintia Hills Autonomous District Council passed an Act on the same subject matter, that is, management and control of forest, which stated among other things such conditions like classification of forest, management and control, etc. On the question of removal of forest produces, the Act states that no timber or forest produces shall be removed for the purpose of sale, trade or business from protected forest, green blocks, raid forest, unclassed forests and District Council reserved forests without the order in writing of the Forest Officer of the District Council. On Reserved Trees, the Executive Committee may by notification in the Meghalaya Gazette declare certain trees to be reserved trees in addition to the following:

1. Diengblei (*Shorea robusta*)
2. Diengnganblei (*Schima wallichii*)
3. Nairiang (*Citrus sinensis*)
4. Diengbai (*Duabanga sonneratioides*)
5. Diengngai (*Mesua ferrea*)
6. Kieng-agar (*Aquilaria agallocha*)
7. Dienglaram (*Artocarpus chaplasi*)
8. Niarlieh.

The rates and realization of royalty for each class of trees, timber of forest produce which shall be published in the Meghalaya Gazette, provided:

- i) That all royalty realised shall be credited to the District Council;
- ii) That the royalty on timbers of the reserved trees from raid forest, unclassed forests, protected forest shall be half the full rates in respect of person living in the neighbouring area of the forest concerned where the timber (s) is/are needed for their own domestic use, that is for building purpose only. The Executive Committee may, however, relax this provision in case of timber needed for public utility;
- iii) That no royalty shall be charged for the removal of timbers from raid forest, unclassed forest, except reserved trees from the members of the raid for their own domestic use or public purpose.
- iv) That the District Council shall annually give to the Syiemship a share of the royalty at a percentage to be prescribed by it.

No tree shall be felled or removed from sacred forest viz., *Law Lyngdoh*, *Law Kyntage*, *Law Niam* except for purposes connected with religious functions or ceremonies recognized and sanctioned by the *Lyngdoh* or other persons.

No tree shall be felled or removed from *Law Adong* (village protected forest) except for genuine purposes of the village as may be sanctioned by the *Sirdar* or *Headman*.

All timber or forest produce removed from private forests and *Law-Ri-Sumar* shall be liable to payment "at a percentage as may, by notification, be fixed by the Executive Committee" when transported beyond District or when brought to Shillong in vehicles for purpose of trade.

The control of all rivers and their banks as regards the floating of timber as well as the control of all forest produce in transit by land or water is vested in the Executive Committee which may make rules, for example, to regulate the transit of any forest produce.

## 2.2 Powers to Regulate Felling of Trees, etc.

The Executive Committee shall have power to:

- a) Regulate or prohibit the kindling of fire, and prescribe the precautions to be taken to prevent the spread of fire;
- b) Regulate or prohibit the felling, cutting, girdling, lopping, tapping or injuring by fire or otherwise of any trees, the sawing conversion and removal, and the collection and removal of other forest produce;
- c) Regulate the sale of free grant of forest produce; and
- d) Prescribe or otherwise any Forest Officer, to prescribe subject to the control of the Executive Committee, the fees, royalties or other payments for forest produce, and the manner in which such fees, royalties or other payments are to be levied, in transit or partly in transit or otherwise.

The Act also prescribes a number of penalties for infringement of restrictions, as well as the power to seize the property when there is a reason to believe that a forest offence has been committed in respect of any forest produce. Rules are also framed for the trial of the accused and disposal of property, confiscation on conviction, disposal of confiscated seized property before and after appeal and power to release seized property on withdrawal of charges. Power to arrest without orders or warrant is also conferred to the Forest Officer.

### **2.3 Powers to Make Rules for Improvement and Management of Forest**

The Executive Committee, may, from time to time, with the approval of the Governor frame rules not inconsistent with the provisions of this Act for the improvement and management of the forest in the district(s), for the collection of royalty on timbers and forest produce, and for any other matter connected with the administration and management of forest as is envisaged in this Act, and for carrying out the purpose of this Act.

### **2.4 Controlling or Influencing Harvesting and Transportation from Private or Community Lands**

The movements of the forest produce in the state are controlled by the state government. The Meghalaya Forest (Removal) of Timber Regulation Act, 1981, (Act 12 of 1981) says that, "3(1) No person shall remove or cause to be removed for the purpose of trade or otherwise, any timber outside the state, and no trading depot shall be set up or established at any place without a licence from the competent authority". Again, the Assam Forest Manual as adopted by Meghalaya, regarding the transit rules, under section 40 & 41, provides that:

"2 (a) - No forest produce shall be removed except as provided in sub-rule

(b) Of this rule unless covered by a pass which shall be in the form of -

- i) A permit issued by a duly authorised Forest Officer under the rules relation to the unclassed state forest or reserved forest, allowing the holder to remove forest produce from a specified locality, or,
- ii) A certificate or origin in the form prescribed in Appendix-A in the case of forest produce from private lands for which nothing is due to government. Such certificate must be issued by the owner of such land or his duly authorised agent and must bear such signature or stamp of the owner or his agent as has been previously registered in the local Divisional Forest Office and such certificate shall be produced by the holder at the revenue station specified therein to be dealt with as noted hereafter, or,
- iii) A transit pass in the form prescribed issued by a forest officer, authorised by the Divisional Forest Office, in token of full

payment of all amounts due to government on account of the forest produce covered by it. In special cases, the Conservator of Forest may permit the issue of transit pass by any person duly authorised by him”

Thus, the movement of timber from the state is governed by the above Act. All the timbers may be from the private or community lands, are subject to payment of royalty either to the District Councils or to the state government, as the case may be. As per the rule in force, no timber can be transported without a permit.

### 3. DISCUSSION AND CONCLUSION

The above Rules enacted for the management of forest together with the Forest Conservation Act 1980 provide sufficient powers to the administration for sound management and Conservation of Forest of the state. However, the ground realities are not so encouraging some of the areas that need attention are outlined below:

- i) The Autonomous District Councils have only a skeleton staff of man-power trained in the field of forest management. In general, they do not have enough personnel and financial resources to carry out all the activities required out of the Principal Act 1 of 1958. As a result many private and community forest have not been registered as required by the Act. Those registered long back have not been up dated. Some of the data and records have also become obsolete often unretrievable.
- ii) There is lack of coordination between the state government and respective District Councils with regard to forest management and produce harvesting. For example, the government signs an agreement of lease with the owner of the land (generally a Chief) of a particular land for afforestation (e.g. social forestry) of his land for 10 years after which the plantation is handed over to the owner of the land. The District Council is not involved in this agreement. The power for granting permission to harvest the trees rests with the District Council who may grant permission for harvest of the trees on receipt of application from the chief. Thus a plantation raised and protection with tax payer's money may be clear felled on the sweet will of the land owner. Involvement of the District Councils is required for the protection of the plantation.

- iii) Harvesting of undersized timber is a common phenomenon. Although the management rules limit the girth class and allow harvest based on silvicultural principles, the same are seldom adhered to. Enforcement of this rule needs strong political will.
- iv) In Meghalaya plenty of wastelands are available that need to be reclaimed. Sufficient funds are available with the National Wastelands Development Board (NWDB), and National Afforestation and Ecodevelopment Board (NAEB), New Delhi under various projects like Integrated Wastelands Development Project (IWDP). Grant-in-Aid etc. However, very few NWDB/NAEB funded projects are being implemented in the state. This is mainly because of the peculiar land ownership pattern of the state which is not in tune with the national pattern and therefore the requisite formalities, often cannot be taken care.
- v) The soil on the hill slopes are more prone to erosion and therefore these lands need careful scientific management. Ironically, it is these lands which are subjected to maximum neglect. One of the reason is "community ownership" of the land which does not motivate the user of the land to take-up soil conservation measures or make investments in the land for its long term protection. The time has come when District Councils need to devise means of giving incentives to the wise land users and disincentives to those who neglect the land.
- vi) Most forest of the state are owned by the community through the traditional chief viz., *Sirdars, Syiems, Lyngdohs, Dolois, Basans* etc. The District Council exerts a lot of influence on them. However, the management skill, and funds are available with the state forest department. There needs to be greater cooperation between the two for equitable sharing of responsibilities and resources. This will help a great deal in sound management of the forest of the state.

It may be pointed out that while the Sixth Schedule of Indian Constitution provides opportunity to the people of self governance through Autonomous District Councils, it needs to be carefully examined if the same is also helping in sound management of land and forest resources. Necessary modalities should be worked out for cooperation between the District Council and the state government for sharing of responsibilities with the overall objectives of ecologically sustainable

development of the people of the state utilizing traditional wisdom and by involving socio-political institutions. Need of the hour is to involve people in the developmental programme and understand that traditional institutions can help a great deal in bringing government closer to the people. It is hoped that the Forest Policy of North-East India will take care of the issues where the local land tenure systems and customs in way of implementation of sound forest management practices.