



GOVERNMENT OF KERALA

Abstract

Judgment dated 18/11/2019 of the Honourable High Court in WP © No.19080/2019 filed by Smt. Annie John & Others – Complied with- Orders issued.

FOREST & WILD LIFE (B) DEPARTMENT

G.O(Rt)No.153/2021/F&WLD
20/05/2021

Dated,Thiruvananthapuram,

-
- Read
1. G.O(Ms)No.178/2018/RD dated 10/05/2018.
 2. G.O(Ms)No.48/2019/RD dated 11/02/2019.
 3. Representation dated 20/04/2019 from Smt.Annie John, W/o John Victor, Pazhathottam PO, Koviloor & Others.
 4. Judgment dated 18/11/2019 of the Honourable High Court in WP © No.19080/2019.
 5. Letter No.Pro(6)-103596/2019 dated 02/07/2020 from the Principal Chief Conservator of Forests (Forest Management) Thiruvananthapuram.

ORDER

As per the Government Order read as Ist paper above, the Revenue Department proposed the Forest and Wild Life Department to amend " The Kerala Promotion of Tree Growth in Non-Forest Areas Act, 2005 " in accordance with item numbers 1, 8 & 9 of the above Order which are given below,

1. വട്ടവട , കൊട്ടക്കാമ്പൂർ , മറയൂർ , കാന്തള്ളൂർ , കീഴാത്തൂർ പ്രദേശങ്ങളിൽ അക്കേഷ്യ , യുക്കാലിപ്റ്റസ് - ഗ്രാന്റിസ് എന്നിവയുടെ കൃഷി നിരോധിക്കുന്നതിനായി 2005 - ലെ Kerala Promotion of Tree Growth in Non – Forest Areas Act ൽ വനം വകുപ്പ് ഉചിതമായ ഭേദഗതി വരുത്തേണ്ടതാണ്.

8.എതെങ്കിലും കാരണവശാൽ പട്ടയഭൂമിയിലെ അക്രൈഷ്യ യൂക്കാലിപ്റ്റസ് - ഗ്രാന്റിസ് മരങ്ങൾ ഉടമസ്ഥൻ മേൽപറഞ്ഞിരിക്കുന്ന കാലപരിധിക്കുള്ളിൽ പിഴുതമാറ്റാതിരിക്കുകയാണെങ്കിൽ അത് പിഴുത മാറ്റുന്നതിന് ജില്ലാ കളക്ടറെ അധികാരപ്പെടുത്തിക്കൊണ്ട് വനം വകുപ്പ് 2005-ലെ Kerala Promotion of Tree Growth in Non - Forest Areas Act ൽ ഭേദഗതി വരുത്തേണ്ടതാണ് .

9.അഞ്ചനാട് പ്രദേശത്തെ വനഭൂമിയിൽ അക്രൈഷ്യ യൂക്കാലിപ്റ്റസ് - ഗ്രാന്റിസ് മരങ്ങൾ വെച്ചുപിടിപ്പിക്കാൻ പാടുള്ളതല്ല എന്ന നിയമഭേദഗതി 2005 - ലെ മേൽപ്പറഞ്ഞ നിയമത്തിൽ വനം വകുപ്പ് കൊണ്ടുവരേണ്ടതാണ്.

2) The objective of the amendment is to remove exotic species of Acacia and Eucalyptus grandis and to ban further planting and cultivation of these exotic species in Vattavada, Kottakamboor, Kanthalloor, Marayoor and Keezhanthoor areas of Achunadu in Idukki District, including private properties. Further an amendment to the above Order was issued by Revenue Department vide Order read as 2nd paper above wherein, it was ordered to make changes as follows;

" പ്രസ്തുത ഉത്തരവിലെ 7, 8 ഖണ്ഡികകളിൽ ' മരങ്ങൾ പിഴുതു മാറ്റേണ്ടതാണ് ' എന്നതിന് പകരം ' മുറിച്ചുമാറ്റേണ്ടതാണെന്നും ' മുറിച്ചുമാറ്റിയശേഷം അവശേഷിക്കുന്ന ഭാഗങ്ങൾ കത്തിച്ചു കളയേണ്ടതാണ് "

3) Accordingly, Government decided to make amendments to 'The Kerala Promotion of Tree Growth in Non-Forest Areas Act, 2005'. Revised Draft proposal for Amendment was submitted by the Principal Chief Conservator of Forests (FM).

4) Meanwhile Mrs.Annie John and nine others filed WP(C)No.19080/2019 before the Honourable High Court of Kerala challenging the decision of Government to make the amendments to "The Kerala Promotion of Tree Growth in Non Forest Areas Act, 2005", by restraining the cultivation of Eucalyptus grandis in Marayoor, Keezhanthoor, Kanthalloor, Kottakamboor and Vattavada villages .

5) The Hon'ble High Court of Kerala in its judgment read as 4th paper above, directed the Government to consider the grievance voiced by the petitioners in the Exhibit P6 representation read as 3rd paper above before any amendment is introduced to the Act as proposed in Ext.P5 order.

6)The main contentions raised by the petitioners in Exhibit P6 representation are given below,

- 1.The plantation of Eucalyptus grandis in Anchunadu village has legal protection.
- 2.Ban on cultivation of eucalyptus grandis in Anchunadu Village creates legal demarcation and discrimination.
- 3.Scientific studies have reported favourably for the cultivation of eucalyptus grandis in Anchunadu Village.
- 4.Government have not conducted scientific studies regarding the ban on cultivation of eucalyptus grandis in Anchunadu Village.
- 5.Various decisions held by the Hon'ble High Court of Kerala and Hon'ble Supreme Court favour the cultivation of Eucalyptus Grandis.
- 6.Eucalyptus cultivation in Anchunadu village leads to the economic growth of the people of that area.
- 7.Eucalyptus grandis cultivation in Anchunadu village prevents soil erosion and land slide in that area.
- 8.Eucalyptus grandis cultivation in Anchunadu village provides raw material for wood based industries.
- 9.National Forest Policy encourages Eucalyptus grandis cultivation in Anchunadu village.

7) As per the letter read as 5th paper above, the Principal Chief Conservator of Forests (FM) contended the above arguments. They are given below,

- 1) As per G.O.(Ms)No.69/2015/RD dated 16.02.2015 and G.O.(Ms) No.178/2018/RD dated 10.05.2018, Government imposed ban on cultivation

of eucalyptus in Anchunadu areas for maintaining the diversity of the tract, which was adversely impacted by Wattle and Eucalyptus cultivation, destroying Shola Forests and Grassland. Section 19 of "Kerala Promotion of Tree Growth in Non-Forest Areas Act, 2005" pertains to cutting and removal of trees, for which no permission is necessary. This section gives freedom to farmers for cutting and removal of any tree included in the list of 28 species. The section does not insist any condition for cultivation of any of the tree species.

2) The ban on Eucalyptus grandis cultivation in Anchunadu area is strictly in tune with Para 3.2 of the National Forest Policy, 1988 which states " Diversion of good and productive agricultural lands to forestry should be discouraged in view of the need for increased food production." The ban on cultivation of Eucalyptus in Anchunadu areas by Government is based on the recommendations of an Expert Committee constituted vide G.O (MS) No. 177/14/RD dated 03.05.2014 and G.O. (MS) No.264/14/RD dated 21.06.2014. The Kerala Forest Policy, 2009 approved in G.O.(P) No.20/2009/F&WLD dated 02.05.2009, in Para 3.3.2 states " വിവിധോദ്ദേശങ്ങൾക്കായി നട്ടുപിടിപ്പിക്കപ്പെട്ട വിദേശീയ മരങ്ങൾക്കു പകരം തദ്ദേശീയ വൃക്ഷങ്ങൾ നട്ടുപിടിപ്പിക്കുന്നത് പ്രോത്സാഹിപ്പിക്കുക". The Hon'ble Governor in his address to the State Legislative Assembly on 22.01.2018 in para 84 had stated as follows;

"Extensive stretches of natural forests have been cleared in the past and converted as plantations and farm lands to accommodate the growing population. In view of the great ecosystem services provided by the natural forests, the extent of exotic plantations raised to meet the raw material requirements of Industries would be strictly limited to the actual minimum required for meeting the commitments already made and the remaining areas will be restored with forestry species naturally occurring in Kerala forests".

3)The KFRI Research Report No.332 does not support eucalyptus

cultivation in Anchunadu area, instead, it supports planting of food crops such as temperate fruit trees and vegetables.

4) Government constituted a Special Committee under Additional Chief Secretary vide G.O (Ms) No. 177/14/RD dated 03.05.2014 and G.O. (Ms) No. 264/14/RD dated 21.06.14 to examine the whole issue prevailing in Government lands at Kurinjimala Sanctuary comprised in Vattavada and Kottakamboor Panchayaths. Based on its findings, the Committee recommended Government to take over the entire Eucalyptus Grandis plantations in the villages of Vattavada, Kottakamboor, Kanthalloor, Marayoor and Keezhanthoor at once and to issue order to stop Eucalyptus Grandis cultivation on private lands pending an amendment in legislation to ban cultivation of Eucalyptus Grandis and Acacia under the Kerala Promotion of Tree Growth in Non-Forest areas Act, 2005.

5) The petitioners mentioned the Hon'ble Supreme Court and Hon'ble High Court Orders as early as in 1972 and 1980. The subject matter is quite different and the lands are not comparable to the Anchunadu area which are productive agricultural lands for increased food production as mentioned in Para 3.2 of the National Forest Policy.

6) The report of the Special Committee constituted vide G.O.(MS) No.177/14/RD dated 03.05.2014 and G.O. (MS) No. 264/14/RD dated 21.06.2014, states "The extensive plantations of Eucalyptus in these areas are playing havoc with the ecosystem of the area. In terms of helping local economy, these plantations are not of much utility as Eucalyptus plantations employ minimal labour force and these are basically owned by absentee-holders, people from far-off places. For the locals, benefit is limited only to some intermittent labour opportunities".

The Social Forestry Wing had stopped production and supply of eucalyptus

seedlings since 2018.

7) The cultivators of eucalyptus burn the plantation areas during the summer months after clear felling the eucalyptus plantations with a view to encourage the coppice sprouting and for weed reduction. This practice of burning the area after clear-felling results in severe soil erosions in sloppy areas and loss of all the biodiversity and results in profuse natural regeneration of Eucalyptus grandis seedlings which attains invasive nature in the area.

8) M/s HNL which had been the major consumer of the pulpwood raw materials in Kerala is not functioning since 2018 and the same is under liquidation process. Over all the demand for Acacia grandis has shown a decrease over the last few years in pulp industries.

9) The National Forest Policy, 1988 is the current Forest Policy in existence. It categorically discourages diversion of good and productive agricultural lands like the Anchunadu area to forestry. Para 3.2 states "Diversion of good and productive agricultural lands to forestry should be discouraged in view of the need for increased food production".

8) Government examined the matter in detail. In the light of the above the report of the Principal Chief Conservator of Forests (FM), the grievances raised by the petitioners in Exhibit P6 representation are found to be devoid of merits. Accordingly Exhibit P6 representation read as 3rd paper above is rejected and the directions contained in the judgment read as 4th paper above are thus complied with .

(By order of the Governor)
JAYARAMKUMAR R
DEPUTY SECRETARY

To

File No.FWLD-B1/92/2019-FWLD

Smt. Annie John, W/o John Victor, Pazhathottam P.O., Koviloor, PIN- 685 615.

Smt. Padmini Vijayakumar, W/o. Vijayakumar, Pazhathottam P.O., Koviloor
PIN- 685 615.

Sri. C. I. Abdul Samad, S/o. CM Ibrahim Moulavi, KNP Building, Orrkkad,
Vattavada, Kovilur, PIN- 685 615.

Sri. Lakshmanan, S/o.Meenakshi Sundaram, Kottakkambur P.O.,
Kottakkambur PIN- 685 615

Sri. Muthuswami, S/o M. Marimuthu, Guhanathapuram P.O.,
Kanthallur PIN- 685 620

Sri. M. Balamurukan, S/o. Muniyandi, Guhanathapuram P.O.,
Kanthallur PIN- 685 620

Sri. B. Manikantan, S/o Beth Swami, Sudhakar Illam, Nachivayal,
Marayaoor P.O., PIN- 685 620

Sri. T.A. Babu, S/o Antony, Thalakovottuchalil, Keezhanthoor Gramam,
Kanthalloor P.O., PIN- 685 620

Sri. K. K. Balan, S/o Krishnan Kutty, Koradiyil House, Kanthalloor,
PIN- 685 620

Shri. M. P. Rajan, S/o. Pappa, Manippillikunnel, Adimali P. O., PIN- 685 561

The Advocate General, Kerala, Ernakulam(with C/L)

The Principal Chief Conservator of Forests & Head of Forest Forces,

Forest Head Quarters, Thiruvananthapuram.

The Principal Chief Conservator of Forests (Forest Management)

Forest Head Quarters, Thiruvananthapuram.

Law Department(Vide U.O.No.17678/OpinionD2/2021/Law dated
18/02/2021)

Revenue (A) Department.

Information & Public Relation (Web & New Media) Department

Stock File / Office copy

Forwarded /By order

Signature valid

Digitally signed by PADMUNI K S
Date: 2021.05.28 12:38:42 IST
Reason: Approved

Section Officer

Copy to : Private Secretary to Minister (Forest & Wildlife Department)

PA to the Principal Secretary (Forest & Wildlife Department)

Forest & Wildlife (PS) Department