5. The Telangana Saw Mills (Regulation) Rules, 1969

The Andhra Pradesh Saw Mills Rules, 1969, issued in Vide G.O.Ms.No. 457, F&A, (Legn.), dated: 12-3-1969, pub. in A.P. Gazette No. 17, RS to Pt. II, dated: 29-5-1969 has been adopted in the State of Telangana vide Notification issued in G.O. Ms.No.22, EFS&T (For.I) Department, dated 13.05.2015.

In exercise of the powers conferred by Section 29 read with Section 68 of the Andhra Pradesh Forest Act, 1967 (Act I to 1967), the Governor of Andhra Pradesh hereby makes the following rules to regulate the location of saw mills and conversion of timber at the saw mills in the State.

RULES

1.These rules may be called the Telangana Saw Mills (Regulation) Rules, 1969.

2. In these rules, unless the context otherwise requires ----

(a) "*Licensing authority*" means the Divisional Forest Officer having jurisdiction over the place of establishment of a saw mill;

(b) *"saw mill"* means a mechanical contrivance for sawing, cutting or conversion of timber [1][with the aid of electrical or mechanical power] and includes the premises as approved in the license, [2] [but does not include a contrivance operated solely by manual power].

[3] [**3.** (1) No person shall install, erect or operate a Saw Mill for cutting, converting or sawing of timber without obtaining a license for such installation from the Licensing Authority.

(2) No license for setting up fresh saw mills within a distance of 5 Kms. from the boundary of any Forest under the control of the Forest Department whether notified or not shall be granted, except when it is requires for Departmental use.

(3) The distance of 5 Kms. shall be computed from topo sheets as aerial distance as crow flies;]

-- 1.Added by G.O. Ms.No.483, F & RD (For.I), dt.24-9-1981, pub. in A.P. Gazette RS to Pt. II, dt. 5-11-1981.

3.Subs. by G.O. Ms.No.99, E,F,S&T (For.III) dt. 17-7-1998. Pub. in A.P. Gaz. RS Part I (Ext.) No. 25 dt.3-8-1998.

CASE LAW

(i)The Rules made under G.O. Ms.No.92 and 448 are beyond the rule- making power of the Government. Government of A.P. vs. Sri Sharada Timber Depot and others, 1996 (3) ALD 237 (DB).

Authors note: Consequent to the above judgement, A.P. Forest Act, 1967 has been amended by Amendment Act 35 of 1997.

(ii) (a) Rule prohibiting issue of fresh licenses with in 5 Kms. from boundary of forest, and computing the distance from Topo sheets as aerial distance is not ultravires the Forest Act.

(b) Saw mill license is not heritable. The heirs of deceased have to file application for issue of a fresh license. (1997) 3 ALD 685 and (1996) 3 ALD 237 (DB) over ruled *Shaik Hussain vs. Divisional Forest Officer, Proddatur,* AIR 2002 AP 1(FB).

(iii) In the show-cause notice issued, certain rules were mentioned but, violation of the said rules is not mentioned. Mere quoting of the rule without mentioning the violation in the *show-cause* notice renders it invalid. Show-cause notice should contain details of alleged irregularities and penal consequences as per rules. *Decent Saw Mill vs. Divisional Forest Officer and others,* 1998 (3) ALD 177.

(iv) The Bar of setting up of Saw mill with in 5 Kms. of Reserve Forest boundary applies only to fresh saw mills. An existing Saw mill could be shifted to another location within the same division, after obtaining prior approval of licensing authority. *Divisional Forest Officer, Kagaznagar vs. Sri Venkateswara Saw Mill,* AIR 2003 NOC 59 (AP) = (2002) 5 Andh LT 286.

[1][**4.** (1)(a) Any person desiring to install, erect or operate a saw mill, shall make an application in Form–I enclosing copies of following documents.

(i) Title deeds or lease deed of the premises or an undertaking by the applicant that the premises of saw mill are on lease from the land owner.

(ii) Copy of Factory License, if any.

(iii)Copy of sales Tax registration, etc., if any.

(iv)Copy of Location sketch of the premises.

(v) Statement indicating the sources of supply of round wood, species and quantity :

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1. Subs. By G.O Ms. No. 99, E,F,S&T (For.III) dt.17-7-1998. Pub. in A.P. Gaz. RS Part I (Ext.) No. 25 dt.3-8-1998.

Provided that where within a period of two months from the date of receipt of application by the licensing authority the applicant has not been granted a license or any communication from Divisional Forest Officer is received the applicant may proceed to establish and run a Saw Mill, but not so as to contravene any of the provisions of the Telangana Forest Act, 1967 or any rule made there under. And after installation of Saw Mill the applicant shall inform licensing authority of such installation and obtain a license.

(b) Every proprietor of an existing Saw Mill shall obtain a license from the Licensing Authority within sixty days from the date of publication of these rules and any existing saw mill should not be operated beyond sixty days without a valid license under these rules.

(c) Every application shall be accompanied by a fee mentioned below for grant of licence or for its renewal.

(i) Licence period of one year Rs. 1000-00 (ii) Licence Period of two years Rs. 2000-00 (iii) Licence period of three years Rs.3000-00

(d) If the applicant desires to obtain common license for saw mill and depot, he should indicate in the application

(2) On receipt of an application, the licensing authority shall make such enquiry as he deems fit, and after satisfying himself whether or not there would be any objection to granting the licence applied for, having regard to safeguarding the timber in any reserved, protected or proposed forest, or in any land referred to in Rules 3, may grant a licence in [1][the

form II of] these rules subject to the conditions set out therein or refuse to grant a license.

2[(3) The licensee, whose saw mill is located within five kilometres from forest boundary shall, before the issue of licence make a security deposit of Rs.5,000/- in National Savings Certificate in favour of the licensing authority and the security deposit shall be Rs. 2,000/- in the remaining locations, towards the due observance of Telangana Forest Act, 1967 and the rules made thereunder.]

---------- 1.Subs. For the words "the form appended to" by G.O. Ms. No. 99. E,F,S&T (For.III) dt. 17-7-1998. Pub. in A.P. Gaz. RS Part I (Ext.) No. 25 dt. 3-8-1998. 2.Subs. By Ibid.

1[**5.** (1) Every licence granted under Rule 4 shall, subject to provisions of Rule 9, be effective from the date of issue or from the date of expiry of the period specified in the proviso to Clause (a) of sub-rule (1) of Rule 4, as the case may be, to the 31st December of the year up to which licence is granted, both days inclusive.]

2[**Note**: ---- For licences granted to the existing Saw Mills before 3rd October, 1998 (i.e., from 3-8-1998 to 3-10-1998) the period of validity shall be as follows, namely:

(i) One year licence from the date of issue to 31-12-1999.

(ii) Two years licence from the date of issue to 31-12-2000.

(iii)Three years licence from the date of issue to 31-12-2001.]

(2) The licence granted under these rules for saw mills located within five kilometres of forest boundary shall not be transferable.

(3) The saw mill machinery and premises shall not be leased to any person, without intimation of the licensing authority. For any acts of omission of lessee, licence holder shall be held responsible.

(4) In case the saw mill premises is to be changed, or when the machinery is to be shifted from one place to another within same forest division, such changes should not be done without prior approval of licensing authority.

6. (1) The licensee should submit renewal application within one month prior to expiry of existing licence.

(2) If no renewal application is submitted to the licensing authority up to 1st December, a late fee of Rs. 250/- shall be levied up to February succeeding year, irrespective of duration of delay, if renewal application is not submitted before the end of February it will be deemed that the licence has lapsed and the saw mill owner should apply for fresh licence. The security deposit available with the licensing authority shall stand forfeited.

(3) When renewal application is made, the licence holder should furnish the timber accounts in the format prescribed in these rules for the entire licence period and if the accounts are not furnished, the renewal application shall not be considered by licensing authority.

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1.Subs. For the words "the form appended to" by G.O. Ms. No. 99. E,F,S&T (For.III) dt. 17-7-1998. Pub. in A.P. Gaz. RS Part I (Ext.) No. 25 dt. 3-8-1998.

2.Added by G.O.Ms.No.155 EFS&T (For.III) dated 30-9-1998 and Published in A.P. Gazette, RS to Part I, Extra Ordinary, No. 38 dated 13-10-1998.

(4) When renewal application is submitted to licensing authority, and till renewed licence is received, the acknowledgement given by the licensing authority shall be treated as licence by inspecting officers].

1[**7.** (1) Registers as given in Form-III (A) and (B) of these rules shall be maintained by every licence holder for accounting fully and properly the timber received excluding the exempted species under transit rules in the saw mill for conversion, and its disposal. The registers should be made available at any time to all inspecting officers along with permits/invoices in original, within the saw mill premises.

(2) A yearly abstract of receipts of disposal with the balance of unconverted stock on hand shall be submitted before the 10th of the January next to the Divisional Forest Officer concerned failing which the licensee shall be liable to pay a sum of Rs. 500/- for every month of default. Variation of 5% in round timber in figures in between the register and ground stock in measurements is permissible and variation in excess of the above should be explained.

(3) The licensee shall not operate the saw mill or any machinery within the saw mill premises during the period of 22.00 hrs to 0600 hrs. of next day, except in Municipal Corporation/ Municipality areas. However, in special circumstances, the Divisional Forest Officer concerned on application made to him may consider relaxation of the above timing for a period to be specified by him. And any such relaxation order obtained by the licence holder shall be displayed in a conspicuous place for verification by inspecting officers.

(4) All the timber, sawn sizes and wood waste shall be properly stacked in the saw mill premises.

(5) Timber for sawing and conversion shall not be accepted unless:

(a) it bears property marks; and

(b) it is covered by a transit permit, and for this purpose all timber lying within and adjacent to saw mill premises up to a distance of five meters shall be taken into consideration:

Provided that the licence holder shall immediately report to the nearest Forest Officer, the timber without property marks, and the timber not claimed by others.

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1. Substituted by G.O.Ms.No.99 EFS&T (For.III) dt. 17-7-1998 and Published in A.P. Gazette RS to Part I (Ext.) No. 25 dt.3-8-1998.

(6) When timber is brought for conversion to saw mill premises, the licence holder should retain the original permit and issue

'Form-II permit' or 'Form-IV', under Telangana Forest Produce Transit Rules, 1970 as the case may be to the timber owner along with a photo copy of original permit].

CASE LAW

(i) Saw Mill owners are required to maintain a register and enter the details of Forest wood purchased by them. The details are required to ensure that the persons incharge of the saw mill or its employees etc., are in lawful possession of the wood, and the wood has been obtained from lawful source. The provisions are not violative of Article 14 or Article 19(1)(g*). Madanlal Sethi & Others vs. State of Madhya Pradesh,* 1997 (5) SCC 141 = 1997 (4) ALD (SCSN) 47

(ii) Rule 7 requiring maintenance of Account books by licensee is reasonable. *ShaikHussain vs. Divisional Forest Officer, Proddatur*, AIR 2002 AP 1 (FB)

(iii) The improper maintenance of accounts cannot be an offence under the Forest Act, and therefore, imposition of Compounding fee does not arise. However, the Compounding fee levied can only be treated as penalty under Telangana Forest Produce (Storage and Depot) Rules, 1989 and the maximum Compounding fee can be Rs. 10,000/- only under the said rules. *S. Nabi Rasool vs. Conservator of Forests, Kurnool*, 2003 (2) ALD 720.

(iv) No order or direction has been given by the Supreme Court of India to the effect that existing licences should not be renewed, the renewal of the license to be dealt by the competent authorities by the State Government in accordance with law *Jawahar Lal Sharma and Anr. Vs. Divisional forest Officer, UP. And Anr.,* AIR 2002 SC 769 = JT 2002 (1) SC 413 = (2002) 3 SCC 42.

(v) Rule 7 – Saw Mill licence – Licence was cancelled on the ground of discrepancies in quantities of timber dealt with by petitioner under various permits- The petitioner did not explain except bald denial – Respondents referred to relevant facts and arrived at conclusion that petitioner had violated not only provisions of AP Forest ACT but also AP Saw Mill Rules – Writ Court cannot act as Appellate authority over conclusions arrived at by quasi-judicial authorities *Khaja Raheemuddin vs. Conservator of Forests, Warangal Circle, Warangal and another*, 2007 (4) ALD 580.

(vi) Logs of timber seized from Saw mill on allegation that valid papers for possession thereof are not shown. Criminal case filed ended in acquittal. Confiscation proceedings cannot be quashed on that ground. *State of Jharkhand & others vs. Binod Kumar Saria,* 2007 (2) AIR Jhar R 692.

(vii) Rules 4(2),7,9(1) of Telangana Saw Mills (Regulation) Rules, 1969, Rule -5 of Telangana Forest Produce Transit Rules, 1970, Sections 62-65, Telangana Forest Act, 1967 – Principal Chief Conservator of Forests, Conservator of Forests and Divisional Forest Officer do not hold statutory posts and hence they cannot act outside the purview of Act or rules made there under – Any circulars issued by these officers should be containing executive instructions or guidelines which are not contrary to provisions of Acts or relevant Rules. The Officers cannot prescribe the conversion percentage of timber or insist on prior permission of Range Officer for sawing/ converting timber in saw mill. Such circulars are set aside as they are illegal and ultra vires. *Saw Mill Owners Welfare Association, Adilabad district and another vs. Conservator of Forests, Adilabad Circle, Adilabad and others,* (W.P.No.18940 of 2003) 2009 (4) ALD (NOC 52)

[1][**8.**] All officers of the Forest Department of and above the rank of a Forester shall have power [2][x x x] to enter into [2][x x x] any saw mill for the purpose of inspection and securing compliance with these rules.

[3][x x x]

9.[4][(1)] Notwithstanding anything in the foregoing rules, the licensing authority may, where he has reason to believe that a licensee is operating saw mill in contravention of the [5][Provisions of the Telangana Forest Act, 1967 or any rules made thereunder] at any time, revoke the licence granted under these rules, after giving the licensee an opportunity of being heard.

1.Renumbered as Rule 8 by G.O.Ms.No.99 E,F,S&T (For.III) dt. 17-7-1998. Pub. in A.P. Gaz. RS Part I (Ext.) No. 25 dt. 3-8-1998.

2.The words “under these rules” and the “the premises of” were omitted by G.O. Ms.No.483, F& RD (For.I), dt. 24-9-1981.

3.Rule 8 deleted by G.O.Ms.No.99 E,F,S&T (For.III) dt. 17-7-1998. Pub. in A.P. Gaz. RS Part I (Ext.) No. 25 dt.3-8-1998.

4.Rule 9 was renumbered as sub-rule (1) by G.O.Ms.No.234 F & RD (For.III), Dept., dt. 23-5-1985, pub. in A.P. Gazetted (EO) RS to Pt. II, dt. 6-6-1985.

5.The words “provisions of these rules and conditions of the licence of the licensee is indulging in activities prejudicial to the interest of Forest Conservation” substituted by G.O.Ms.No.483, F &RD (For.I) dt. 24-9-1981.

1[(2)(a) For any violation of the provisions of the Telangana Forest Act, 1967 or the rules made thereunder by the licensee the 2[licensing authority or Divisional Forest Officer, Flying Squad Party] shall be competent to seize and confiscate forest produce together with whole or portion of the plant, machinery, implements and equipments which have been used in the commission of the offence;

(b) In case of violations, where it is not proposed to either revoke the licence or seize and confiscate the plant, machinery etc., the licensing authority shall be competent to impose a penalty of a sum up to the limit available security deposit. If the amount of penalty so levied exceeds Rs. 1,000, an appeal against such imposition shall lie with the Conservator of Forests having territorial jurisdiction over the area, and his decision, thereon

shall be final. The appeal should however be preferred within fifteen days from the date of despatch of the order imposing penalty, by registered post.

(c) All penalties levied shall be paid by the licencee within fifteen days from the date of despatch by registered post of the order or the notice of demand for payment. In case of failure to pay the penalties in time, the same will be adjusted from the security deposit, which shall be replenished immediately so as to keep it always full and complete. The license shall be deemed to be inoperative, until such time, the licensee replenishes the adjustments in the security deposit.

(3) In the event of revocation of license under sub-rule (1) or seizure and confiscation of forest produce together with whole or portion of the plant machinery, implements and equipments under sub-rule (2) the licensing authority shall be competent and shall be at liberty to forfeit security deposit in part or whole.]

CASE LAW

At the time of inspection of sawmill, Forest Officials seized saw mills premises along with machinery on suspicion that unaccounted forest produce was in the premises. It was held that the licensee should be given an opportunity of being heard and the officers must record a finding of violation of law before seizure is made and before imposing the penalty of confiscation under Rule 9 of AP Saw Mill Rules. *Khaja Raheemuddin vs. Divisional Forest Officer, Karimnagar and others* 2006(1) ALD 844 = 2006(1) APLJ 77 (SN)

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1. Sub-rules (2) & (3) inserted by G.O.Ms. No. 234 F & RD (For.III), Dept., dt. 23-5-1985. Pub. in A.P. Gazetted (EO) RS to Pt. II, dt 6-6-1985.

2. Ins. by G.O.Ms.No.99 EFS&T (For.III) dt. 17-7-1998.

10. Where the licensing authority refuses to renew or revoke a license granted under these rule, 1[or seizes and confiscates the plant, machinery, implements and equipments under Rule 9] he shall do so by an order communicated to the applicant or the holder, as the case may be giving reasons in writing for such refusal or revocation, 2[or seizure and confiscation].

3**[11.** Any person aggrieved by an order made under Rule 10, may within thirty days from the date of service of the order, prefer an appeal to the Conservator of Forests having jurisdiction, who shall hold, or cause to be held such enquiry as he deems fit and after giving an opportunity of making a representation to appellant, pass a speaking order, which shall be final].

4**[12**. Notwithstanding anything contained in any enactment relating to electricity for the time being in force, no electric energy shall c connection shall be installed for the

purpose of a saw mill, unless such saw mill is duly licensed or deemed to be licensed in accordance with the provisions of these rules, and such connection shall be continued so long as the saw mill operates under a valid licence granted or deemed to be granted under these rules. A communication from the Divisional Forest Officer in this regard shall be enough authority for Telangana State Electricity Board to comply with the provisions].

13.[5][x x x]

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1. Inserted by G.O.Ms.No.234, F & RD (For. III), dt. 23-5-1985.

2.Added by ibid.

3.Subs. By G.O.Ms.No.99, E, F, S&T (For.III) dt. 17-7-1998. Pub. in A.P. Gaz. RS Part I (Ext.) No. 25 dt. 3-8-1998.

4.Subs. for Rule 12 by G.O.Ms.No.234, F & RD (For.III), dt. 23 -5-1985, pub. in A.P. Gazetted (EO) RS to Pt. II, dt. 6-6-1985.

5.Rule 13 omitted by G.O.MS.No.99 EFS&T (For.III) dt. 17-7-1998 Published in A.P. Gazette, RS to Part I (Ext.) No. 25 dt. 3-8-1998.

[1][FORM – I

[See Rule 4]

Form for application saw mills/saw mill and depot licence

1.Name of the applicant :

2.Father's/Husband's Name:

3.Address of Applicant:

4.Place where the Saw Mill/Depot is to be located (Location sketch to be enclosed.):

5.Species and quantity of timber likely to be used/traded :

6.Details of application fee paid :

7.List of enclosures :

Date:

Place: Signature

1.Form I, II, III A, III B, subs. by G.O. Ms.No.99, EFS &T (For.III) dt. 17-7-1998. Pub. in A.P. Gaz. RS Part I (ext.) No. 25 dt. 3-8-1998.

FORM – II

[See Rule 4 (2)]

Licence for establishment and running of Saw Mill/ Saw Mill and Depot

.....Forest Division

Licence No.

.....District

1.This licence is granted to ..... residing at ..... to establish and run Saw Mills/ Saw Mill and depot at ..... subject to the provisions of the Telangana Forest Act, 1967 and rules made thereunder.

2.The Licence is valid up to.....

3.The Licence is permitted to install and run the following machinery and equipment. (Describe the machinery).

4.In the depot the licensee is permitted to store/trade the type and max. quantity of Forest Produce as mentioned below.....

5.The Licence shall be produced for inspection on demand by any authority specified in Telangana Saw Mills (Regulation) Rules, 1969. 6.The Licensee should submit his yearly abstract of total quantity of timber received, disposed of, and balance of material in stock as prescribed in Telangana Saw Mills (Regulation) Rules, 1969, before 10th of January to the under signed, failing which a minimum penalty of Rs. 500/- for each month of default shall be levied.

Date: Divisional Forest Officer

.....Division

FORM-III (A)

[See Rule 7(1)]

Form of register showing the receipts of forest produce in saw mills/ saw mill and depot

Date of Receipt.	Details of forest produce received in the Saw mill/depot				Species Teak/ Non-Teak
	Source	TP No.	Date	Issued by	
(1)	(2a)	(2b)	(2c)	(2d)	(3)

Contd.

Quantity of Forest Produce (Class/Nos. in case of Poles, Bamboos, Tonnes in case of Fuel Wood		Quantity of Sawn sizes obtained if sawn	Remarks
Nos.	Cmt.	Cmt.	
(4a)	(4b)	(5)	(6)

FORM – III (B)

[See Rule 7 (1)]

Form of register showing the disposal of forest produce in saw mills/ saw mill and depot.

Date of disposal	Species	Details of Forest Produce disposed of.		
		Nos.	Cmt.	Permit No.
(1)	(2)	(3a)	(3b)	(3c)
				Contd.

To whom disposed destination address	Remarks (Cash Bill No. etc.)
(4)	(5)]