



Andhra Pradesh Forest Department Code - Vol - II - Appendix - 4

APPENDIX – 4

(Section 20)

Circumstances under which fire can be opened and consequential action.

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Forest – Forest Officers – Vesting with powers of Police to deal with forest offences by using fire arms for self – protection and protection of forest property – Orders – issued.

ENERGY, FORESTS, ENVIRONMENT SCIENCE & TECHNOLOGY (FOR-III) DEPT.

G.O. Ms. No. 182 Dated 24 th July, 1991.

Read the following:-

1. Principal Chief Conservator of Forests, Ref. No. 77617/88-G4, dated 20-09-1988.

ORDER :

With a view to strengthen the forest protection, the Government is contemplating various measures to contain the growing number of forest offences. The forest staff, when equipped with fire-arms are not empowered to use them in critical situations. The Forest offenders are now-a-days equipped with modern weapons and are coming in groups and posing a threat to the lives of forest officials besides plundering valuable forest produce. In order to protect the lives of forest officials and as well as to safeguard the valuable property of the Government, forest officials have to resort to a effective preventive action against forest offenders, which at times may result in injury or death to the forest offenders.

2. The Government after examination direct that:-

(i) the fire arms may be used by the Forest Officers to the rank of Foresters and above to protect forest property as well as their lives from the forest offenders. They should use minimum possible force in due discharge of their duties, exercisable, being the right of private defence as conferred under the Indian Pinal Code, 1860 (Central Act No. 45 of 1860).

(ii) Which in the discharge of their duties, if any firing is restored to a magisterial enquiry by the Executive Magistrate of the concerned area should be orders in all such case, and as a consequence of such inquiry, if it is held that there was un-necessary, un-warranted or excessive use of force, a criminal case would be instituted against the delinguent officers after examination by the Government. Till the recommendation of the magisterial inquiry is known, police should not arrest or proceed against the officers who had opened fire etc.

3. Instructions about the use of fire-arms by Forest Officials as contained in Annexure to this order should be followed scrupulously and should be complied with in all cases of use of fire-arms by Forest Officers.

(BY ORDER AND IN THE NAME OF THE GOVERNER OF ANDHRA PRADESH)

D. AURORA,

PRINCIPAL SECRETARY TO GOVERNMENT.

To

The Principal Chief Conservator of Forests, A.P. Hyderabad

All Collectors.

The Registrar, High Court, A.P. Hyderabad

Copy to Home Department.

Copy to Revenue Department.

Copy to Law (A) Department.

Copy to For, I, II, III, IV & V Sections.

Copy to EFES&T (OP) Section (3 copies).

Copy to P.A. to Deputy Secretary, Forests.

Copy to Special Secretary (For).

Copy to S/f s/c.

// FORWARDED : BY ORDER //

Sd/-.,

SECTION OFFICER

ANNEXURE

I. Type of fire arms:

The following categories of weapons may be used by the officers noted against each of them.

- Range Officers and above Revolvers / Pistols.
- Deputy Range Officer / Foresters / Forest Guards

a) DBEL Guns, in general, b) Rifles in Vulnerable areas.

II. Powers of Forest Officers:

The Forest Officials can exercise, like other citizens, their right to private defence under sections 96 and 106 Indian Penal Code, 1860. However, they will enjoy certain amount of protection from criminal prosecution by the Police, for the acts done by them in good faith.

III. Circumstances under which Forest Officials can open fire:

1. Forest Officials can use their fire arms in Forest areas, in general and in other areas where the Forest property exists and where resistance to arrest, recovery of stolen property etc., is offered by organized group of persons while forest officers are discharging their official duties. However, use of fire-arms should be avoided in village and habitations. In such cases they should take help of local police having jurisdiction.
2. On occasions, where firing is to be resorted to, the senior most Forest Officer, leading the Forest party shall take the responsibility.
3. Under the right of private defence, the Forest Officials can open fire for;
 - o Protecting the Forest produce including Wild Life;
 - o Protecting the lives of Forest Officials when there is no other alternative;

1. Some of the examples are given below:

i) When the Forest Offenders equipped with deadly weapons are removing forest produce and they do not surrender when challenged by Forest officials.

ii) When valuable Forest produce is being transported whether on head loads along with weapons or in vehicles, and they do not stop when ordered by Forest Officials.

iii) When poachers armed with weapons are preparing to or actually committing an offence or carrying the Wild Life trophies, and they refuse to stop and handover the properties when ordered by Forest Officials.

- iv) When outsider enter forest areas with arms for hunting Wild Life and when they do not handover arms when ordered to do so.
- v) When the party of forest officials is outnumbered by offenders and there is imminent danger to lives of Forest officials or firearms carried by them;
- vi) When the offenders surround or confront the forest officials with weapons and there is imminent danger to lives of Forest Officials or their weapons;
- vii) When any forest official is taken hostage by offenders and there is no time to get reinforcement and hence they have to reuse their colleague.

1. In all other circumstances, not enumerated above, the Officers using fire-arms should use his discretion on use of fire-arms.
2. The power to use firearms should be exercised to stop the offenders, and hence the purpose should be inure, rather than kill. Firing need not be resorted to and stopped once the objective is achieved. At the time of enquiry, the onus to establish that the fire-arms were used with sufficient cause and jurisdictions will be on the Forest Officer.

IV. Action to be taken after opening fire:

1. As far as possible, firing should be avoided during night times, as due to darkness the arms may go wrong and innocent persons may be affected.
2. The senior most officer in the forest party should order opening of fire, and control it. He should own the responsibility, based on the circumstances.
3. The possible consequences of opening fire are:
 1. No one may be injured due to firing;
 2. One or more offenders may be injured due to firing;
 3. One or more offenders may be killed. In all cases, a message should be sent by telegram / telephone / wireless / messenger without loss of time, to the following authorities; (in the Form-I mentioned herein).
 4. Nearest Police Station;
 5. DFO.
 6. Principal Chief Conservator of Forests.
 7. RDO having jurisdiction;
 8. Superintendents of Police;
 9. District Collectors.

As soon as the message is received by Police, they should visit the scene, and take charge of dead body, if any, and arrange for enquiry by competent authority and postmortem. They will also ensure that there will be no law and order problem as a result of firing.

1. The injured persons should be sent to Hospital for treatment, the senior most Forest Official must lodge a complaint (in Form-II) in writing at the police station having jurisdiction outlining the circumstances under which he had to open fire, number of persons injured or dead etc.,
2. The Forest Officials should protect the scene, from being disturbed, arrange for photographing of the scene before dead body, if any, is removed and till the arrival of competent Executive Magistrate the dead body should not be removed, and no changes should be made at the scene of firing.
3. Arms and ammunition, including empty cartridges should be accounted for and the weapons used for firing should be preserved.
4. The police shall not arrest any Forest Officer, until the completion of enquiry by competent Executive Magistrate, and no Forest Officer would be integrated by them. However, Forest Officials should Co-operate with police in searching the absconding persons, searching for weapons used by offenders etc.,
5. No case or preliminary offence report will be registered by the forest officials when fire arms are used. Since police officers have powers under Forest Act, and Wild Life Act, the Forest Offence would be registered and investigated by them.
6. The Divisional Forest Officer should send a detailed report to Conservator of Forests / Principal Chief Conservator of Forests in consultation with superintendents of Police.
7. The report of the Competent Executive Magistrate would be scrutinized by Government, and Government may adopt any of the following courses:-
 - o Opening of fire by Forest Officials is justified;
 - o Opening of fire is not justified in which cases, criminal action would be initiated against the forest officials who opened fire, and they may be arrested and dealt with as per the prescribed procedure.

1. District Collector has the discretion to dispense with enquiry in which case he must record his reasons and intimate to Government.

V. General Instructions regarding safety of weapons and Training:

1. Whenever, forest officials go into Forest areas with fire arms, there should be a minimum of two persons with fire arms.
 1. Use of fire arms should be made, when such use is unavoidable, and there are no other alternatives.
 2. The DBBL guns or Rifles should be kept in arms racks with chains and a lock. The ammunition should be kept in a box under lock and key. Similarly the pistols, along with holster would be kept in a separate box under lock and key.
 3. The pistols should be linked to a long whistle chord around the neck or shoulder so that the weapons cannot be snatched easily.
 4. While marching, the pistols/Revolvers/Guns/Rifles should not be loaded as there might be accidents. The ammunition should be kept separately and loaded on the specific orders of the officer in charge. When they are moving in a dangerous area or they expect an attack, weapons may be loaded but safety catch should be on.
 5. All arms and ammunition must be accounted for in the offices of Divisional Forest Officers concerned in the "Arms and Ammunition" Register and periodical reports may be submitted to Principal Chief Conservator of Forests.
 6. Weapons should be issued to officers, and proper acknowledgement should be obtained. Weapons issued to one officer should not be used by another officer, except under emergency.
 7. All the weapons should be oiled and cleaned periodically in the District Police armoury.
 8. All officer and men should be put through a brief training programme, in the District armoury or armed reserve force centers, or any places as decided by Principal Chief Conservator of Forests in consultation with the Director General of Police.

// true copy //

Sd/-

Section Officer

FORM – I

Message to be sent to the nearest police station. Divisional Forest Officer / Chief Conservator of Forests. Revenue Divisional Officer Superintendent of Police and District Collector as soon as fire arms are used by Forest Officials.

In _____ beat _____ Range _____ Village of _____ Police Station limits. Range Officer / Section Officer / Forest Guards and party opened fire on _____ at _____ hours. DBBL Guns / Rifles / Pistols were used and _____ rounds were fired to stop the forest offenders / wildlife panchers _____ offenders were injured _____ offenders were killed and _____ forest officials received injuries.

Law and order problem likely. Arrange for police investigation and inquiry by Executive Magistrate.

Range Officer / Section Officer / Forest Guard Sri _____ is waiting at the scene.

Message given by _____ (Name) _____ (Designation)

Date:

Time:

// True Copy //

Sd/-

Section Officer

FORM – II

(Report to be given in nearest police station)

To

The Station House Officer,

_____ Police Station.

Sir,

In continuation of the message in Form-I the details of circumstances etc., which lead to opening fire are detailed below:-

1. Locality of the scene of opening fire.
2. The nature of activity resorted to by Forest Offenders.
3. Number of forest offenders names and addresses, if any, of the offenders.
4. Number of weapons and types of weapons, if any, carried by the offenders.
5. Number of dead persons, their names and addresses, if any.
6. Number of forest offenders, who are injured, their names and addresses.
7. Number of forest officials, their designations who were injured at the scene of firing.
8. Nature and description of forest produce / Wild Life involved.
9. Details of Vehicles, if any, involved in the offence.
10. (a) Number and type of fire-arms used by Forest Officials (DBBL / Rifles / Pistols).

(b) Number of rounds fired (approximately).

Report made by _____ (Name) _____ (Designation)

Date:

Time:

Note: Copy of this report should be immediately submitted to Divisional Forest Officer.

// True Copy //

Sd/-

Section Officer