FOREST LAW

Statutory Forests in Jharkhand (Pre- BLR Act, 1950)

Forest categories under the Indian Forest Act, 1927

- Proposed Reserved Forests – **Section 4**
- Reserved Forests – **Section 20**
- Private Forests managed as Reserved/Protected Forests – **Section 38**

- Forests notified under the Indian Forest Act, 1927 were limited in extent.
- Actual forest cover was substantially larger than the notified forest area.
- Large tracts of forests remained under the control and ownership of landlords (zamindars).

Limitation under the IFA, 1927

- Private forest land could not be declared as Reserved or Protected Forest merely because it contained forest cover.

- State Government could notify such forests only where:

  - ***Rights over forest produce existed wholly or partly in favour of the State***.

Constraints

- Cadastral and Revisional Surveys conducted under tenancy laws:

  <u>Did not record State rights over forest produce on privately owned forest lands.</u>

- Consequently, many private forests remained outside the IFA regime.

NEED FOR SPECIAL LEGISLATION

- Indiscriminate felling and exploitation of forests by landlords became a serious concern.
- Enactment of the **Bihar Private Forest Act, 1947**.
- *The Act targeted private forests under the control of landlords.*

POST BIHAR LAND REFORMS ACT, 1950

§Vesting of estates and intermediary interests under 4(a) of the Bihar Land Reforms Act, 1950.

- **Private Protected Forests under the Bihar Private Forests Act, 1947 vested in the State Government.**

- **Other forest lands belonging to landlords also vested in the State.**

Consequence of vesting

- Bihar Private Forests Act, 1947 ceased to apply to vested forest lands.

Declaration of protected forests under section 29, IFA, 1927

- Vested private forests were brought under the Indian Forest Act, 1927.
- Declared as Protected Forests under Section 29 of the IFA.
- Ensured continuity of protection and forest management after vesting.

Proviso in protected forest notifications

- Protected Forest notifications contain a proviso:

  Rights of individuals and communities have not yet been inquired and recorded.

- Inclusion of the proviso was based on legal advice.

Nature of rights under section 29(3), IFA, 1927

- These are rights **over** forest produce.

- **<u>They are not proprietary or ownership rights.</u>**

Status of individual and community rights over PF

- Rights had already been identified and recorded during:
  - *Cadastral Survey; and*
  - *Revisional Survey Settlement operations.*

- Recorded rights under applicable tenancy laws carry a presumption of correctness.

- **Protected Forest notifications do not reopen settled rights recorded during survey and settlement operations.**

- No fresh inquiry and recording of such rights is required.

Recognition of rights after FRA, 2006

Any claim over forest land can now be recognized only in accordance with the Forest Rights Act, 2006.

Summary of punishment provisions

Forest Category / Offence	Relevant Section
Proposed Reserved Forest	Section 26(1)(a) & (b)
Reserved Forest	Section 26(1)(c)–(j)
Protected Forest	Section 33 read with Sections 30 & 32
Violation of Transit Rules	Section 42 read with Section 41
Boundary Defacement, Cattle Trespass, Encroachment, etc.	Relevant provisions of the IFA and applicable rules

Confiscation of seized property under the IFA

- **Confiscation Proceedings**
  - Confiscation is independent of the criminal trial.
  - Initiated by the Authorized Officer.

Hierarchy of remedies

- **Authorized Officer** – Divisional Forest Officer (DFO)
- **Appeal** – Deputy Commissioner (Appellate Authority)
- **Revision** – Secretary, Forest Department (Revisional Authority)
- **Judicial Review** – High Court under Article 226 of the Constitution

Bar of jurisdiction of courts

- **Upon initiation of confiscation proceedings and communication thereof to the competent Magistrate:**
  - Jurisdiction over the seized property vests exclusively in the confiscation authorities.
- **Thereafter, no Court, Tribunal, or Authority shall have jurisdiction over the seized property except:**
  - Authorized Officer (Section 52)
  - Appellate Authority (Section 52A)
  - Revisional Authority (Section 52B)

IMPORTANT POINTS

Restrictions under the Bihar Private Forests Act, 1947

- Land notified as **Private Protected Forest** under Section 14 ….. Restriction u/s 20
  - Settlement,
  - Transfer,
  - Diversion, or
  - Change of use

  without prior approval of the State Government or the competent authority authorized by it.

- Any action taken in contravention of Section 20 is **void** and has no legal effect.

RESTRICTIONS ON SETTLEMENT OF FOREST LAND

- **Revenue authorities have no jurisdiction to settle land notified as PF/RF.**
  - *Section 43(d), CNT Act, 1908.*
  - *Section 10, Bihar Bhoodan Yagna Act, 1954.*
  - *Revenue Department Letter No. E/XXIV-3046/59-1468-LR dated 18.02.1960.*
  - *Section 23, Indian Contract Act, 1872.*

Vesting under the BLR Act, 1950

- Notification under Sections 3(1) / 3A is **an executive act** declaring vesting.
- Actual vesting occurs **by operation of law** under Section 4(a) of the BLR Act, 1950. Upon vesting:
- **No provision** exists under the BLR Act, 1950 for restoration or return of vested land to intermediaries.

'MUNDARI-KHUNT-KATTIDARI TENANCY

- **Section 256, CNT Act, 1908**
  - Record of Rights (RoR) is **conclusive evidence** regarding:
    - Whether a particular land is recorded as **Mundari Khuntkattidar land or not**.

THANK YOU

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