

REPORT OF THE COMMITTEE CONSTITUTED BY THE GOVERNMENT OF HP ON
KHUDRO DRAKHTAN MALKIYAT SARKAR AREAS IN THE STATE

INDEX

SN	Particulars	Page No.
1	Section-1: Introduction and Background	1 - 16
2	Introduction - 1.1 & 1.2	1-2
3	Background	
4	1.3 – Entry of Khudro Drakhtan Malkiyat Sarkar in Revenue Record	2
5	1.4 – Categories of land with entries of Khudro Drakhtan Malkiyat Sarkar	3
6	1.5 – Quantum of Land with entries of Khudro Drakhtan Malkiyat Sarkar	4
7	1.6 – Previous efforts at Relief, 1986	5-6
8	1.7 - Previous efforts at Relief, 1999	7
9	1.8 – Objections/ Directions of MoEF	8-10
10	1.9 - Clarification of Central Empowered Committee	11
11	1.10 – Present Day Scenario	12
12	1.11 – Orders of the Hon'ble Supreme Court of India	12-16
13	Section -2: Examination of Acts, Rules, Court Orders, Report of Regional Office, MoEF&CC and CEC Decision	17 - 20
14	2.1 – General	17
15	2.2 – The Indian Forest Act	17
16	2.3 – Forest (Conservation) Act, 1980	17
17	2.4 – Orders of the Apex Court dated 12.12.1996	17
18	2.5 – Green Felling in State of HP vis-a-vis orders of Apex Court	18-19
19	2.6 – Report of RO, MoEF&CC, Chandigarh and CEC Decision	20
20	Section - 3: Ground Situation at Present	21 - 23
21	Section 3.1 to 3.5	21-23
22	Section - 4: Deliberations of Committee	24 - 26
23	4.1 – General	24
24	4.2 to 4.7 – Options Considered	24-26

25	Section - 5: The HP Land Preservation Act 1978 as a Management Tool	27 - 29
26	Section 5.1 to 5.4	27-29
27	Section - 6: Recommendations of the Committee	30 - 31
28	Section 6.1	30-31
29	Section - 7: The Final Step	32
30	Section 7.1	32
31	Annexures	33 - 56
	Annexure-1: Punjab Govt. Notification dated 11.01.1919	33
	Annexure-2: HP Govt. Notification dated 26.12.1989	34-35
	Annexure-3: HP Govt. Notification dated 11.03.1999	36
	Annexure-4: IGF, MoEF&CC, GoI's DO dated 18.10.1999	37-38
	Annexure-5: HP Govt. letter dated 16.12.1999	39
	Annexure-6: HP Govt. letter dated 05.03.2001	40
	Annexure-7: RO, MoEF&CC, Chandigarh's letter dated 04.01.2013	41
	Annexure-8(i): Field Report of Sub-committee-I of Committee on Khudro Drakhtan Malkiyat Sarkar Areas	42-43
	Annexure-8(ii): Field Report of Sub-committee-II of Committee on Khudro Drakhtan Malkiyat Sarkar Areas	44-45
	Annexure-9: HP Govt. Notification dated 19.02.2011	46-47
	Annexure-10: Format of Management Plan for KDMS areas	48-49
	Annexure-11: Technical Order No. 670 dated 13.08.1993 issued by Himachal Pradesh Forest Department.	50-56

REPORT OF THE COMMITTEE CONSTITUTED BY THE GOVERNMENT OF HIMACHAL PRADESH ON KHUDRO DRAKHTAN MALKIYAT SARKAR AREAS IN THE STATE

SECTION - 1

INTRODUCTION AND BACKGROUND

INTRODUCTION:

1.1 Whereas on the issue of private lands having entries in revenue records as "Khudro Drakhtan Malkiyat Sarkar (KDMS)" situated in the State of Himachal Pradesh, a meeting of Hon'ble Forest Minister, Himachal Pradesh was held with Hon'ble Union Minister (Environment, Forest & Climate Change) on 27.09.2021, in which it was decided to constitute a committee under the Chairpersonship of Principal Chief Conservator of Forests (Management) from Himachal Pradesh with members drawn from Forest Survey of India (FSI), Indian Council of Forestry Research & Education (ICFRE) and Integrated Regional Office (IRO), MoEF&CC, GoI, Shimla to examine the existing Acts, Rules, Court Orders, Report of Regional Office, MoEF&CC, Chandigarh, decisions of Central Empowered Committee, deletion of entries and ground situation at present in respect of private lands having entries in revenue records as "Khudro Drakhtan Malkiyat Sarkar (KDMS)" in the State of HP. The Committee was to submit its report within a month to the State Government. The State Government will subsequently send the report to the Ministry of Environment, Forests & Climate Change, GoI with its comments for further decision into the matter.

1.2 Whereas, vide Notification No. FFE-B-F(12)-1/2021 dated 8th October 2021, the Government of Himachal Pradesh notified the requisite Committee as under:

SN	Name of Authority	Status
1	Principal Chief Conservator of Forests (Management) O/o Pr. CCF (HoFF), HP	Chairman
2	A Representative of Forest Survey of India (FSI), Dehradun. (Shri S. P. Negi, Regional Director, FSI Shimla was nominated by was nominated by the FSI as member).	Member
3	A Representative of Indian Council of Forestry Research & Education (ICFRE), Dehradun	Member

	(Dr. R. K. Verma, Scientist-G, Himalayan Research Institute (HFRI), Shimla was nominated by the ICFRE as Member).	
4	A Representative of Integrated Regional Office (IRO), MoEF&CC, GoI, Shimla (Shri Ashwani Kumar, Assistant Director was nominated by the IRO, Shimla as Member)	Member

The Committee was assigned the task of examining the existing Acts, Rules, Court Orders, Report of Regional Office, MoEF&CC, Chandigarh, decisions of Central Empowered Committee, Deletion of entries and Ground situation at present in respect of private lands having entries in revenue records as "Khudro Drakhtan Malkiyat Sarkar (KDMS)" situated in Himachal Pradesh and was directed to submit its report to the State Government within a period of one month from the date of notification.

Background:

1.3 Entry of Khudro Drakhtan Malkiyat Sarkar in Revenue Records:

At the time of preparation of revenue records of Dehra, Kangra, Palampur, Narpur and Hamirpur Tehsils of Himachal Pradesh during regular settlement of 1868, the ownership of chunks of the forest land was perhaps wrongly entered/ recorded in favour of individual land owners. This anomaly was detected during the settlement operations of 1913-1919. The Middleton's Settlement Report (1913-1919) and Wazib-Ul-Arj appended with the Misal Hakiyat prepared during that period revealed that the ownership of some of the forest land was wrongly conferred to the individual land owners. Because deletion of such entries was not feasible at that time due to long passage of time, therefore, it was decided to incorporate the entry of "Khudro Drakhtan Malkiyat Sarkar (KDMS)" over such lands, perhaps to preserve the forests to maintain ecology of the area. Thus, the entry of KDMS (trees of spontaneous growth belong to the Government) appeared for the first time in the revenue records prepared during the settlement operations of 1913-1919.

The identification of areas on which the trees were property of the State and preparation of records thereof was thus the most important forest factor dealt in Middleton's Settlement (1913-19). During the course of this settlement, while preparing body of the record of rights, wherever such number occurred in which the Government owns the proprietorship of trees; a note to this effect was recorded in the remarks column at the end of the revenue record forming

part of the Jamabandi. In doing so, the ownership of the Government to the trees in small scattered areas not exceeding 4 acres (4 acres rule) was generally abandoned. The Government, vide letter No. 358 dated 05.06.1912 allowed the settlement officer to give up the ownership of trees upto 4 acres being of no use for the purpose of Forest Conservancy.

All these areas of above said Tehsils of the State in respect of which it was declared in the standing record of Land Revenue Settlement (1910-19) that the trees of spontaneous growth standing on them belong to the Government, are Protected Forests by virtue of Punjab Govt. Notification No. 992 dated 11.01.1919 issued in cancellation of earlier Notification No. 58 dated 26.01.1887 (**Annexure-1**). As per the 11.01.1919 notification, the provisions of Section 4 of the Indian Forest Act are applicable to all the areas, except the areas included in the schedule annexed to this notification.

1.4 Categories of Land with entries of Khudro Drakhtan Malkiyat Sarkar:

The entries of "Khudro Drakhtan Malkiyat Sarkar (KDMS)" appear in the revenue record in following categories of land:

- 1) Where the ownership is in the name of HP Govt. and in possession column, the entry is Jungle Mehdooda/Mehfuza or Gair Mehdooda/ Mehfuza Van Vibhag.
- 2) Where the ownership is in the name of HP Govt. and in possession column, the entry is in the name of private individuals as tenant or Nazayaj Kabaj.
- 3) Where the ownership is in the name of private individual and in possession column, the entry is Jungle Mehdooda/ Mehfuza or Gair Mehdooda/ Mehfuza Van Vibhag.
- 4) Where the ownership is in the name of private individual and in possession column also, the entry is in the name of private individual but the status of land as per entry of Jikar Van Sarkar given at the end of Jamabandi is Jungle Mehdooda/ Mehfuza or Gair Mehdooda/ Mehfuza.
- 5) Where the ownership is in the name of private individual and in possession column, the entry is in the name of other Govt. Deptt. viz health, education etc.

- 6) Where the ownership is in the name of HP Govt. and in possession column, the entry is in the name of other Govt. Deptt. viz health, education etc.
- 7) Where the ownership is in the name of private individual, in possession column also, the entry is again in the name of private individual and nothing appears under status of land as per entry of Jikar Van Sarkar given at the end of Jamabandi.

As per entry of Naksha Van Sarkar status of forests, such land is recorded as Jungle Mehdooda/ Mehfuza or Gair Mehdooda/ Mehfuza against the categories appearing at Sr. No. 1 to 6 above. Such an entry attracts the provisions of Forest (Conservation) Act, 1980 and felling of trees on such land cannot be permitted in view of Hon'ble Supreme Court orders dated 12.12.1996 passed in WP (C) No. 202 of 1995. Even the category 4, where the ownership and possession is with the private individuals, also attracts FCA 1980 due to the status of land Jungle Mehdooda/ Mehfuza or Gair Mehdooda/ Mehfuza Van Vibhag as per entry of Jikar Van Sarkar given at the end of Jamabandi.

1.5 Quantum of Land with entries of Khudro Drakhtan Malkiyat Sarkar:

The State of Himachal Pradesh has a geographical area of 55,673 Km², which constitutes 1.69% of the geographical area of the country. The State lies between 30°22'N to 33°12'N latitude and 75°45' E to 79°04' E longitude and is bordered by Jammu & Kashmir in the North, Punjab in the West, Haryana in the South and Uttarakhand in the Southwest. Predominantly a mountainous State in the western Himalayas, the State has three distinct regions viz the Shiwaliks with altitude upto 1,500 m, middle Himalayan region between 1,500 m to 3,000 m and the Himadris higher than 3,000 m.

The legally classified forest area of the State is 37948 Km² which is 68.16% of geographical area. As per India State of Forest Report (ISFR) 2021 published by the Forest Survey of India (FSI), the forest cover of Himachal Pradesh is 15443 Km² which comprises 27.73% of geographical area. An increase of 9 Km² in forest cover of the State has been recorded as compared to ISFR 2019. The increase in forest cover in the State has been constant from the year 1987.

As per the data provided by the Deputy Commissioners, Kangra, Hamirpur and Una to the State Government during 2015, the total areas of Khudro Drakhtan Malkiyat Sarkar are tabulated in Table-1 below:

Table-1					
SN	District	Total Area (In Ha.)	Cultivated Area (In Ha.)	Non-cultivated/ Non-Forest Area (In Ha.)	Forested Area (In Ha.)
1	Hamirpur	19082	894	9836	8352
2	Kangra	18637	2555	16082	0
3	Una	12173	264	5941	5968
	Total	49892	3713	31859	14320

As depicted above, there is about 35500 hectare non-forest area, including about 3700 hectare cultivated area, having entries of 'Khudro Drakhtan Malkiyat Sarkar (KDMS)' in the revenue records spread over six Forest Divisions of Dharamshala, Nurpur & Palampur of Dharamshala Forest Circle and Dehra, Hamirpur and Una of Hamirpur Forest Circle.

The extent of KDMS areas as a percentage of overall forest cover in HP works out to 3.23%, while in terms of legally classified forest area it works out to 1.31%.

1.6 Previous Efforts at Relief, 1986:

During 1986-89, there was persistent demand from public to delete entries of "Khudro Drakhtan Malkiyat Sarkar" in the revenue records. The Government of Himachal Pradesh appointed a Committee on this issue under the Chairmanship of the then Revenue Minister Sh. Dharam Singh vide notification No. D (D)-1-18/85 dated 21.01.1986. Based on the report of this Committee, the State Govt., vide Notification No. Rev. D (D) 1-18/85-1, dated 26th December, 1989 (**Annexure-2**), notified that:

- (a) An area measuring 802 hectares of land was identified as Ban Sarkar in Kangra and Hamirpur Districts and Bangana Tehsil of Una District in which there was no tree growth,

- (b) Land measuring about 2873 hectares was identified as Ban Sarkar in the above areas which was under cultivation,
- (c) Land measuring about 1434 hectares was identified as Ban Sarkar which could be brought under cultivation in the same areas.

The State Government vide notification dated 26.12.1989 further prescribed following procedure in order to give effect to the above referred decisions:

- (1) In regard to the areas specified in clause (a) above, the entry of "Khudro Drakhtan Malkiat Sarkar" in the remarks column of the Jamabandi in respect of the relevant Khasra Nos. will be deleted.
- (2) In regard to the areas specified in clause (b) above, the entry of "Khudro Drakhtan Bakisam Chil Malkiat Sarkar" will be substituted for the entry of "Khudro Drakhtan Malkiat Sarkar" in the remarks column of the jamabandi in respect of the khasra numbers concerned.
- (3) In regard to the lands mentioned in clause (c) above, the entry of "Khudro Drakhtan Bakisam Chil Malkiat Sarkar" shall be substituted for the existing entry of "Khudro Drakhtan Malkiat Sarkar" in the remarks column of jamabandi in the concerned khasra numbers in respect of the land which can be brought under cultivation.

The notification dated 26.12.1989 also provided that the above decisions will be subject to the rights of the estate right holders, if any, on such trees other than Chil and also keeping in view the considerations of the forest conservancy. The Khudro Drakhtan Malkiyat Sarkar under demarcated protected forests will not be affected by the above decisions. Also, the felling of trees where the ownership has been transferred to the owners of the land will be governed in accordance with the Ten Years' Felling Programme framed under the HP Land Preservation Act, 1978.

As provided in notification dated 26.12.1989, the entry of "Khudro Drakhtan Bakisam Chil Malkiat Sarkar" would be substituted for the entry of "Khudro Drakhtan Malkiat Sarkar", meaning thereby that the status of "Khudro Drakhtan Malkiat Sarkar" (to be called as Khudro Drakhtan Bakism Chil Malkiat Sarkar) is applicable only on natural growing Chil (*Pinus roxburghii*) trees in the private land and not on other tree species including Khair (*Acacia catechu*) trees. Further, the status of the land bearing entry "Khudro Drakhtan Bakisam Chil Malkiat Sarkar" under demarcated protected forests will remain to be unaffected. The felling of trees where the ownership has been transferred to the individual land owners will be governed under ten years' felling programme framed under HP Land Preservation Act, 1978.

1.7 Previous efforts at Relief, 1999:

During the year 1999, it was felt by the Government of Himachal Pradesh that decisions of Notification dated 26.12.1989 could not be implemented in all respect due to legal complications/implications. It was, therefore, decided vide Revenue Department Notification No. Rev (D) (F) 16-12/94 dated nil to go into the whole question of this entry in revenue records and another committee under the Chairmanship of the then Revenue Minister was constituted and based on the report of this committee, the State Govt., vide notification No. Rev D (D) 12-16/94 dated 11.03.1999 **(Annexure-3)**, decided to transfer the ownership of trees to private individuals by special revision of record of rights by deleting the entry of "Khudro Drakhtan Malkiyat Sarkar" appearing in Khana Kafiya (remarks column) of Jamabandies with respect to private lands in the State of HP. It was further directed that notwithstanding the deletion of such entry, the felling of trees shall continue to be regulated under the prevailing Forest Laws.

The impact of this notification was that felling of trees and resin tapping of Chil trees was to be allowed on such lands. However, this notification was partly implemented and the entries could not be deleted in respect of all such areas. As per data provided by the Deputy

Commissioners, Kangra, Hamirpur and Una to the State Govt. during 2015, the total areas in respect of which the entries of Khudro Drakhtan Malkiyat Sarkar (KDMS) were deleted are depicted in Table-2 below:

Table-2						
SN	District	Total Area (In Ha.)	Area of deleted entries (In Ha.)	Cultivated Area (In Ha.)	Non-cultivated/ Non-Forest Area (In Ha.)	Forested Area (In Ha.)
1	Hamirpur	19082	2985	683	2302	0
2	Kangra	18637	14397	2367	12030	0
3	Una	12173	2858	263	2560	35
	Total	49892	20240	3313	16892	35

Though after coming into force the notification dated 11.03.1999, the entries of KDMS were deleted in respect of 20240 hectare of areas from the remarks column of the revenue record (Jamabandies), but these areas continued to be Protected Forests in terms of the then Punjab Government Notification dated 11.01.1919 (Annexure-1) and 'forests' as defined by the Hon'ble Supreme Court of India in its order dated 12.12.1996 passed in WP (C) No. 202/1995 and clarified by the CEC vide its letter dated 04.01.2013 (Annexure-7). Since, in the State of Himachal Pradesh, the green felling from forests, public or private, has been banned by the Hon'ble Supreme Court of India vide order dated 12.12.1996 passed in WP (C) No. 202/1995, therefore, the felling of trees from the KDMS lands could not be permitted/ allowed.

1.8 Objections/ Directions of MoEF:

On GoHP's Notification dated 11/03/1999, the MoEF&CC, GoI vide letter dated 18.05.1999 (Annexure-5), observed that by deleting the entry of Khudro Drakhtan Malkiyat Sarkar from the revenue record, the State Govt. has made all these forest areas recorded as Khudro Drakhtan Malkiyat Sarkar as non-forest entity for which prior permission of the govt. of India under Forest (Conservation) Act, 1980 was required which had not been followed here. The GoI, further, desired the State Govt. to furnish information/ clarification on certain points in this regard, the prominent being:

- (a) Can't the purpose of granting ownership right of spontaneous growth of trees be given to the people without deletion of this entry in question in revenue record? What safeguard have been taken to keep the nature of land intact i.e. forest?
- (b) So far no Management Plan has been received in this office for managing these areas closed under Land Preservation Act. As per directions of Hon'ble Supreme Court, no felling can be done without proper Management Plan duly approved by Govt. of India. Hence Working Plan/ Management Plan for these areas be submitted to this office for approval.

It was further suggested that since the State Govt. cannot change the entry of any forest land to some non-forest entry without prior approval of Govt. of India, hence, the State Govt. should withdraw this notification immediately to maintain status quo of these areas recorded as "Khudro Drakhtan Malkiyat Sarkar" i.e. forest.

With regard to the Notifications No. FFE-B-(F) 9-76/96 dated 24.08.1998 and Rev. D (D) 12-16/94 dated 11.03.1999 issued by the Government of Himachal Pradesh relating to "Khudro Drakhtan Malkiyat Sarkar", "Gair Mumkin" and "Charagah Biladrakhtan", the Inspector General of Forests, MoEF, GoI, vide his D.O. letter No. 9-12/99-RO(HQ) dated 18.10.1999 **(Annexure-4)** received through GoHP letter dated 29.09.2000, also conveyed that issuance of such notifications without prior approval of the Central Government is violation of the Forest (Conservation) Act, 1980. Further, it is a very serious issue and even the Hon'ble Supreme Court has taken the violation of the Forest (Conservation) Act, 1980 very seriously. It was requested that till the Ministry takes a view on this issue, the notification issued by the State Government should be kept in abeyance.

The State Government, vide letter No. Fts. B-A(4)-2/86-II-Loose dated 16.12.1999 **(Annexure-5)**, conveyed that from notification dated 11.03.1999 by the Revenue Department it is clear that by deletion of entries of "Khudro Drakhtan Malkiyat Sarkar" from Khana Kafiya of the Jamabandies by special revision, the land owners also become the owners of the trees standing thereon for all intents and purposes.

In order to implement the Government decision in letter and spirit, the requests of the owners of the trees for extraction of the same may be dealt as under:

- i) The provisions of the Himachal Pradesh Land Preservation Act 1978, and Rules made thereunder shall apply in cases which are not covered under paras (ii) and (iii) below.
- ii) In cases where the classification of land on which the trees are standing is 'DPF', extraction of trees shall not be allowed.
- iii) In cases where the classification of land in the revenue record on which the trees are standing is "Van" and it is expected that land use shall change after extraction of trees, provisions of Section-2 of the Forest (Conservation) Act, 1980 shall apply.

In view of GoI's request, made vide its letter dated 18.10.1999 that till the Ministry takes a view on this issue, the notification issued by the State Government should be kept in abeyance, the matter was referred to the State Government, vide letter No. Ft. 785-13/68(M) Ban Sarkar dated 20.01.2001, no action could be taken to allow felling of trees on such lands whether through regular felling cycle, extension or deviation till the review of matter by Central Govt. To clarify the matter, the State Government, vide letter No. Forest-B-A(4)-2/86-II-Loose dated 5th March, 2001 (**Annexure-6**), further decided that:-

- i) That the decision of the Government regarding allowing of felling in the area where entry of 'Khudro Drakhtan Malkiyat Sarkar' is existing, as conveyed vide letter dated 16.12.1999 (Annexure-5), may be strictly implemented.
- ii) To ensure compliance of the orders of the Hon'ble Supreme Court of India passed in Writ Petition (Civil) No. 202/95 - T. N. Godavarman Thirumulkpad Vs Union of India and others dated 12.12.1996 it has further been decided that:-
 - i) No felling should be permitted in the areas which are being managed through Working Plans.

- ii) No felling should be permitted in thickly wooded area of 5 ha. and above forming a compact block.

1.9 Clarification of Central Empowered Committee:

The Hon'ble High Court of Himachal Pradesh, vide order dated 27.08.2012 passed in CWP No. 11034/2011-Anant Ram Vs State of H.P. and CWP No. 11191/2011-Sukh Dev Singh Vs State of H.P. & Ors, issued following directions:

- "3. Considering the controversy in issue, I am of the considered view that these petitions can be disposed of, without adjudicating upon the issues which are more factual than legal, by issuing a direction to the respondents for sending the petitioners' case for approval to the Central Empowered Committee so constituted by the Hon'ble Supreme Court of India. Significantly, even before this Court, respondents, in their reply, have taken a plea that the land in question, is being presently managed under the Working Plan of Nurpur Forest Division and unless and until approval of the Central Empowered Committee is obtained, no orders in favour of the petitioners can be passed.*
- 4. As such, both the present petitions are disposed of with a direction to the respondents to process the petitioners' case and send the same for consideration, in accordance with law, to the Central Empowered Committee so constituted by the Hon'ble Supreme Court of India in Writ Petition (C) No.202/95, titled as T. N. Godavarman Thirumulkpad versus Union of India and others. Needful be positively done within a period of three months from the production of certified copy of this order."*

In compliance to the above quoted directions of Hon'ble High Court of HP, the matter was taken up with the Central Empowered Committee (CEC), vide letter No. Ft. 42-912/2011(Mgt) Sukh Dev dated 30.10.2012. The Member Secretary, CEC referred the matter further to the APCCF, RO, MoEF, Chandigarh for his perception in the matter. The perception of Regional Office, MoEF, Chandigarh, contained in his letter No. 19-248/2012-ROC/2619 dated 04.01.2013 (**Annexure-7**), is produced as under:-

"It is observed that the revenue entry of the petitioner's land is "Khudro Drakhtan Malkiyat Sarkar" and this type of land is coming under the definition of "Forests" as per Hon'ble Supreme Court orders dated 12.12.1996 passed in the Writ Petition(Civil)No. 202/1995 - T. N. Godavarman Thirumulkpad Versus Union of India.

As the land comes under the definition of 'Forests', provisions of the Forest (Conservation) Act, 1980 will automatically be applicable on such land, irrespective of it being covered under the Working Plan or not.

This type of land will continue to be covered under the provisions of the Forest (Conservation) Act, 1980, even if it is excluded from the Working Plan of Nurpur Forest Division. The State Government of Himachal Pradesh is, however, at liberty to ensure its management as per the provisions of the existing Working Plan or exclude this type of land from the Working Plan of Nurpur Forest Division and prepare a separate Management Plan with appropriate prescriptions and get the same approved from the competent authority."

On the above reference, Member Secretary, CEC vide his letter No. 1-26/CEC/SC/2012-Pt XXXXVII dated 18.01.2013 conveyed that the CEC is in agreement with the perception of Regional Office, Chandigarh and necessary follow up action in the matter may be taken after considering the perception of the MoEF.

1.10 Present Day Scenario:

As may be seen from foregoing paras, the issue remains unresolved till date as the land owners have not been allowed to fell trees or to extract resin (from Chil trees) and it is estimated that around 30-35 thousand landowning families are affected by the entry of Khudro Drakhtan Malkiyat Sarkar in revenue record.

1.11 Orders of the Hon'ble Supreme Court of India:

The Hon'ble Supreme Court of India, vide order dated 12.12.1996 passed in Writ Petition (Civil) No. 202 of 1995 titled as T. N. Godavarman Thirumulkpad Versus Union of India has clarified that the Forest Conservation Act, 1980 was

enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description cover all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof.

Under Para 3 of General Part of the order dated 12.12.1996, it has been ordered that the felling of trees in all forests is to remain suspended except in accordance with the Working Plans of the State Governments, as approved by the Central Government. In the absence of any Working Plan in any particular State, such as Arunachal Pradesh, where the permit system exists, the felling under the permits can be done only by the Forest Department of the State Government or the State Forest Corporation.

Under State specific Orders for the State of Himachal Pradesh and the Hill Regions of the States of Uttar Pradesh and West Bengal, it was further ordered that **there will be no felling of trees permitted in any forest, public or private.** This ban will not affect felling in any private plantation comprising of trees planted in any area which is not a 'forest'; and which has not been converted from an earlier "forest". This ban will not apply to permits granted to the right holders for their bonafide personal use in Himachal Pradesh. In a 'forest', the State Government may either departmentally or through the State Forest Corporation remove fallen trees or fell and remove diseased or dry standing timber from areas other than those notified under Section 18 or Section 35 of the Wildlife Protection Act, 1972 or any other Act banning such felling or removal of trees.

In the year 1997, the State of Himachal Pradesh decided to resume silviculture fellings as prescribed in the Working Plans as was provided in above said order dated 12.12.1996. Since by November 1999, out of 31 Working Plans, 18 were approved from the Government of India and four were at advanced stage of scrutiny/approval, therefore, the State Government decided on 25.11.1999 to commence silviculture felling. However, the Hon'ble Supreme Court vide order dated 14.02.2000 stayed the operation of the decision of the State till further order and directed the State to file an affidavit to inform whether any such order had been passed. In compliance to these directions, the State of HP filed affidavit dated 01.03.2000, clarifying therein the position and also making a prayer to permit the State to carry out silvicultural operations in accordance with the Working Plans, pertaining to its forests approved by the Government of India from time to time, but the matter remained stayed.

During the year 2014, the State of Himachal Pradesh filed Interlocutory Application (IA) No. 3840 of 2014 in WP (C) No. 202/1995 in the Hon'ble Supreme Court, containing following prayers:-

- A) Permit the State Govt. to carry out silvicultural fellings including thinning and other cultural operations, in accordance with the Working Plans approved by the Government of India upto an elevation of 1500 meter above Mean Sea Level in Chir Pine, Khair and Broad-leaved forests only.
- B) Direct the Central Government to consider the Working Plans submitted by the State Govt. for scientific exploitation of the forest wealth of the State in accordance with accepted principles of forest conservation which may be submitted to the Central Govt. by the State Govt. in future.
- C) Pass any other order or orders as this Hon'ble Court deem fit and proper in the facts and circumstances of the case.

In para 13 of this IA, it was submitted that due to the interim orders dated 12.12.1996 and 14.02.2000, no felling of green trees even as per the provisions of the approved Working Plans could be carried-out in the State,

thereby rendering the prescriptions of Working Plans for scientific management of forests redundant. It was further submitted that the scientific management of forests as per the prescription of Working Plan is essential to maintain the quality and hygiene of the forest and their sustainable management.

The I.A. No. 3840/2014 was disposed of by the Hon'ble Apex Court vide order dated 16.02.2018. While disposing the aforesaid application, the Hon'ble Court permitted the silviculture felling on an experimental basis to the extent of felling of Khair trees in Nurpur Forest Range of Nurpur Forest Division in Kangra District; Chil Trees in Bharari Forest Range of Bilaspur Forest Division in Bilaspur District and Sal trees in Paonta Forest Range of Paonta Sahib Forest Division in Sirmour District. The entire Experimental Silviculture Programme was directed to be done under the supervision and guidance of a two member committee headed by Sh. V.P. Mohan, IFS (Retd.). The Committee was directed to submit its report to the Court every six months. The entire programme of Experimental Silviculture Felling was carried out in three selected Forest Ranges of three Forest Divisions of the State under the supervision and guidance of the committee headed by Shri V.P. Mohan, IFS (Retired). The committee submitted its 5th and final report in the Hon'ble Apex Court during April 2021 in which it has been recommended to extend the silviculture felling in the Forest Divisions having approval Working Plans.

During September, 2020, the State Government also filed an Interlocutory Application (IA) No. 87648/2020 in the Hon'ble Supreme Court, containing following prayers:

- a) Allow the State of Himachal Pradesh to carry out silviculture felling of Khair (*Acacia catechu*) trees in the forests areas of the State in accordance with the approved Working Plans;
- b) Pass further relief and orders, which this Hon'ble Court deem fit and proper in the facts and circumstances of the case in the interest of justice.

The Hon'ble Supreme Court vide order dated 15.02.2021 assigned IA No. 87648/2020 to the Committee, headed by Shri V.P. Mohan, IFS (Retired), constituted for supervision and guidance of experimental silviculture felling

programme, for examining the contents of this application while filing its further report regarding result of Silviculture operations already undertaken. This committee, in its 5th and final report submitted in the Hon'ble Apex Court during April 2021, has recommended to allow felling of Khair trees from forests in respect of the Forest Divisions having valid Working Plans. This IA is yet pending in the Hon'ble Court.

SECTION - 2

EXAMINATION OF ACTS, RULES, COURT ORDERS, REPORT OF REGIONAL OFFICE, MOEF&CC AND CEC DECISION

2.1 The Committee in its various meetings deliberated the issue involved in detail against the backdrop and implication of various Acts, Rules, Court Orders, Report of Regional Office, MoEF&CC, Chandigarh and decision of Central Empowered Committee (CEC).

2.2 The Indian Forest Act

As mentioned in para 2.1, the land having entries of Khudro Drakhtan Malkiyat Sarkar was declared as Protected Forests under the Indian Forest Act, 1878. With the coming into force of the Indian Forest Act (IFA), 1927, the provisions of SECTION-IV (Protected Forests) have continued to be applied to the lands in question. There is no specific provision in IFA, 1927 as it applies to the State of Himachal Pradesh to rescind/ withdraw notification issued declaring provision of SECTION IV (Protected Forests) applicable to any class of land.

2.3 Forest (Conservation) Act, 1980

Section 2 of the Forest (Conservation) Act, 1980 provides that no forest land shall be used for any non-forestry purpose except with the prior approval of the Central Government.

2.4 Orders of the Apex Court dated 12.12.1996

The Hon'ble Supreme Court of India, vide order dated 12.12.1996 passed in Writ Petition (Civil) No. 202 of 1995 titled as T. N. Godavarman Thirumulkpad versus Union of India has clarified that the Forest (Conservation) Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description cover all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This

is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof.

- Under Para 3 of General Part of the order dated 12.12.1996, it has been ordered that the felling of trees in all forests is to remain suspended except in accordance with the Working Plans of the State Governments, as approved by the Central Government. In the absence of any Working Plan in any particular State, such as Arunachal Pradesh, where the permit system exists, the felling under the permits can be done only by the Forest Department of the State Government or the State Forest Corporation.
- Under State specific orders for the State of Himachal Pradesh and the Hill Regions of the States of Uttar Pradesh and West Bengal, it was further ordered that **there will be no felling of trees permitted in any forest, public or private.** This ban will not affect felling in any private plantation comprising of trees planted in any area which is not a 'forest'; and which has not been converted from an earlier "forest". This ban will not apply to permits granted to the right holders for their bonafide personal use in Himachal Pradesh. In a 'forest', the State Government may either departmentally or through the State Forest Corporation remove fallen trees or fell and remove diseased or dry standing timber from areas other than those notified under Section 18 or Section 35 of the Wild Life Protection Act, 1972 or any other Act banning such felling or removal of trees.

2.5 Green Fellings in State of H.P. vis-à-vis orders of Apex Court

During the year 2014, the State of Himachal Pradesh filed Interlocutory Application (IA) No. 3840 of 2014 in WP (C) No. 202/1995 in the Hon'ble Supreme Court, containing following prayers:-

- A) Permit the State Govt. to carry out silvicultural fellings including thinning and other cultural operations, in accordance with the Working Plans approved by the Government of India upto an

elevation of 1500 meter above Mean Sea Level in Chir Pine, Khair and Broad-leaved forests only.

B) Direct the Central Government to consider the working plans submitted by the State Govt. for scientific exploitation of the forest wealth of the State in accordance with accepted principles of forest conservation which may be submitted to the Central Govt. by the State Govt. in future.

C) Pass any other order or orders as this Hon'ble Court deem fit and proper in the facts and circumstances of the case.

- In para 13 of this IA, it was submitted that due to the interim orders dated 12.12.1996 and 14.02.2000, no felling of green trees even as per the provisions of the approved Working Plans could be carried-out in the State, thereby rendering the prescriptions of Working Plans for scientific management of forests redundant. It was further submitted that the scientific management of forests as per the prescription of Working Plan is essential to maintain the quality and hygiene of the forest and their sustainable management.
- The I.A. No. 3840/2014 was disposed of by the Hon'ble Apex Court vide order dated 16.02.2018. While disposing the aforesaid application, the Hon'ble Court permitted the silviculture felling on an experimental basis to the extent of felling of Khair trees in Nurpur Forest Range of Nurpur Forest Division in Kangra District; Chil Trees in Bharari Forest Range of Bilaspur Forest Division in Bilaspur District and Sal trees in Paonta Forest Range of Paonta Sahib Forest Division in Sirmour District. The entire Experimental Silviculture Programme was directed to be done under the supervision and guidance of a two member committee headed by Sh. V.P. Mohan, IFS (Retd.). The Committee was directed to submit its report to the Court every six months. The entire programme of Experimental Silviculture Felling was carried out in three selected Forest Ranges of three Forest Divisions of the State under the supervision and guidance of the committee

headed by Shri V.P. Mohan, IFS (Retired). The committee submitted its 5th and final report in the Hon'ble Apex Court during April 2021 in which it has been recommended to extend the silviculture felling in the Forest Divisions having approved Working Plans.

- During September, 2020, the State Government also filed an Interlocutory Application (IA) No. 87648/2020 in the Hon'ble Supreme Court, containing following prayers:
 - a) Allow the State of Himachal Pradesh to carry out silviculture felling of Khair (*Acacia catechu*) trees in the forests areas of the State in accordance with the approved Working Plans;
 - b) Pass further relief and orders, which this Hon'ble Court deem fit and proper in the facts and circumstances of the case in the interest of justice.
- The Hon'ble Supreme Court vide order dated 15.02.2021 assigned IA No. 87648/2020 to the Committee, headed by Shri V.P. Mohan, IFS (Retired), constituted for supervision and guidance of experimental silviculture felling programme, for examining the contents of this application while filing its further report regarding result of Silviculture operations already undertaken. This committee, in its 5th and final report submitted in the Hon'ble Apex Court during April 2021, has recommended to allow felling of Khair trees from forests in respect of the Forest Divisions having valid Working Plans. This IA is yet pending in the Hon'ble Court.

2.6 Report of Regional Office, MoEF&CC, Chandigarh, and CEC Decisions:

In so far as the report of Regional Office, MoEF&CC, Chandigarh and the decision of the CEC are concerned, the same have been discussed in para 1.8 and 1.9 above. The gist of report of Regional Office, MoEF&CC, Chandigarh and CEC decision is that the land with the entries as KDMS are Protected Forests and (i) the State Government notification dated 11.03.1999 regarding deletion of entries was in violation of Forest (Conservation) Act, 1980 and (ii) any felling proposed in these areas must be in accordance with a duly approved Management Plan.

SECTION - 3

GROUND SITUATION AT PRESENT

3.1 The Committee constituted itself into two teams of two members each and took field visits in all the concerned Forest Divisions to ascertain the position attaining at ground and to note the changes that might have occurred since around 150 years had passed when the entry of Khudro Drakhtan Malkiyat Sarkar was made in the land of private owners. The tour reports of both the Sub-committees are at **Annexure – 8(i) & 8(ii)**.

3.2 Based on the field inspections, the following scenario emerges:

- (a) There are numerous small holdings of land (less than one hectare) which are basically being used for housing, commercial activities, horticulture/ agriculture and such other uses.
- (b) There are a few large chunks (more than five hectare) of land with joint holding of the landowners. These chunks exhibit typical features of a forest with moderate to dense vegetation comprising of Toona ciliata, Acacia catechu, Dalbergia sissoo, Phyllanthus emblica, Mallotus philippensis, Mangifera indica, Albizia chinensis, Bombax ceiba, Celtis australis, Aegle marmelos, Leucaena leucocephala, Cassia fistula, Ziziphus mauritiana, Grevia optiva, Morus alba, Albizia procera, Ficus benghalensis, Syzygium cumuni tree species with generally rugged terrain. In Hamirpur and Palampur areas, Chil is also present in some locations. The vegetation differs from site to site. These chunks would definitely qualify to be forests in the sense of dictionary meaning, as defined in the Hon'ble Supreme Court order dated 12.12.1996, as well as forest/ compact wooded block defined by the State Government for private areas vide notification dated 19.02.2011 (**Annexure-9**). The growing stock is non-uniform but with a preponderance of middle aged to mature trees and over mature. At several sites, standing dry trees of Khair and other species were observed. It may be inferred that the KDMS

areas, in particular the larger chunks (over 5 hectare) do not exhibit vigour and vitality and consequently under optimum carbon sequestration potential. Though, the figures of mean annual increment (MAI) or current annual increment (CAI) are not available, these areas may eventually be on decline.

- (c) In so far as the changes on ground are concerned, numerous changes are discernible – (i) change in land use towards agriculture and horticulture, (ii) land has been used for residential dwellings as well as small commercial activities (shops/ hotels etc.) and (iii) roads and paths have been constructed.

3.3 The result of changes in land use is that many of the contiguous patches of these lands have become fragmented and their ecological value has diminished over time. However, it is estimated that nearly 40% of the Khudro Drakhtan Malkiyat Sarkar (KDMS) lands are still available in large chunks (more than five hectare) and definitely have immense ecological value and are generally well protected and well kept.

3.4 The Committee noted that the KDMS lands were not included in the Working Plans of Dehra, Dharamshala, Hamirpur and Palampur Forest Divisions. However, many of the large chunks of these lands have found mention in the Working Plans of Una and Nurpur Forest Divisions and are being managed as per the prescriptions of those particular Working Plans. The list of such areas covered in various Working Plans is tabulated in Table-3 below:

Table-3					
Name of Forest Circle	Name of Forest Division	Name of Working Plan	Name of Range	Name of Mauza	Area (In Ha)
Hamirpur	Una	Kutlehar	Ramgarh	Mo-maniar	217.77
				Chowki Maniar	82.86
				Bahi	47.47
				Tihra	498.59
				Dhanet	556.27
				Thara	227.07

				Kharialta	299.07
			Bangana	Muchhali	7.32
				Solasingi	25.07
				Kotla	50.45
				Heru	100.47
				Arloo	259.46
				Dhar Chamukha	40.97
				Dhiungli	14.34
			Total Kutlehar WP		2427.18
			Total Una Forest Division		2427.18
Dharamshala	Nurpur	Nurpur		Data not made available	

3.5 Thus, the Committee considered for the purpose of making recommendation KDMS lands into three categories – (a) land holding less than five hectare with single or joint holding, (b) land holding more than five hectare and qualifying to be a forest because of contiguity, compactness and woodiness and (c) all other lands/areas covered under Working Plans. The category (b) & (c) are not mutually exclusive.

SECTION - 4

DELIBERATIONS OF COMMITTEE

4.1 The Committee members having perused the issues in detail, having looked at the provisions of various Acts and having undertaken physical visits to many sites in the field converged on two options for providing relief to the landowners in terms of allowing felling of trees for sale and resin tapping of Chil trees in these areas.

4.2 Options Considered:

The first option discussed was repeal/ withdrawal of Notification No. 992 dated 11.01.1919 (Annexure-1) issued by the then Punjab Government under Indian Forest Act, 1878. This option was considered as ideal as it would remove all the hindrances and any kind of tree growth would vest in the landowners free from all encumbrances, though the same effect has been affected through deletion of KDMS entries from the revenue record. Further, the KDMS entry landowners would be placed equally with the other non-Khudro Drakhtan landowners in all matters. This is important as the Committee had noted in its discussions with the landowners that generally the KDMS entry land though being traded had lesser price as compared to non-KDMS lands. The entry of KDMS has kind of suppressed the free market as the landowners not being compensated for the valuable tree growth by the purchasers.

4.3 The second option points to preparation and approval of a Management Plan which will allow resin tapping of Chil trees and felling and sale of trees as per the existing law (HP Land [Preservation] Act, 1978). To this end, this option is aligned to the recommendation made by the two previous Committees as mentioned in para 1.6 and 1.7 above.

4.4 The Committee deliberated upon the pros and cons of these two options as under:

Option 1: Though ideal, the option was found to be tedious requiring detailed analysis of existing holdings, Khasra number-wise and piloting a case for seeking prior approval of the Central Government. It would also

entail as a first step, amending the IFA, 1927 in the State of HP, and adding provision for withdrawing Chapter IV notification issued earlier, that is to say enabling 'power to declare a forest no longer protected'. Thereafter moving the case and obtaining approval of the MoEF&CC, CEC and finally the Supreme Court of India. Further, diversion of nearly 50,000 hectare of Protected Forests would have considerable environmental implications for the State of Himachal Pradesh. Further, even after withdrawal of 1919 notification, the large chunks (above 5 hectare), would be treated as forests for all intents and purposes in terms of Supreme Court order dated 12.12.1996. More importantly, the objective of resolving the issue is not to divert the forests per se but allow felling of trees and resin tapping of Chil trees for economic benefits from renewable natural resources.

Option 2: The preparation of a Management Plan for KDMS lands was deliberated and it was noted by the Committee that Dehra Division had earlier prepared Management Plan for such area and submitted the same to Regional Office, MoEF&CC, Dehradun for approval, on which the Regional Office had raised many observations and pointed out the need for Management Plan to be written in accordance with the National Working Plan (NWP) Code 2014. The Plan was revised and resubmitted to the Integrated Regional Office, MoEF&CC, Shimla and has again been received with almost identical observations stressing the need for Management Plan to be in accordance with the NWP Code 2014. The Committee felt that MOEF&CC had to examine/ evaluate the Management Plan against some set of norms/ criteria or benchmark and the only benchmark currently available is the NWP Code 2014. An approved Management Plan which allows the landowners by allowing them resin tapping and felling/sale of trees in accordance with the HP LPA 1978 and Rules made thereunder would no doubt serve their interest. The Committee also noted that H.P. Land Preservation Act, is an efficient management tool being followed for all privately owned lands in HP since 1978.

4.5 The Committee noted that the National Working Plan (NWP) Code 2014 sets out the principles on which a sound Working Plan of a forest division should

be framed. The principles for writing a Working Plan include bio-diversity conservation, community forest management, fringe forest management, water resources management, soil and water conservation, forest health, forest fires, carbon sequestration, climate change etc. and finally laying down management prescriptions for maintaining sound health of the forest ecosystem. It has generally been held that forest ecosystems on which these principles shall apply are large, mostly contiguous forest areas (Reserve or Protected Forests) within the domain of Forest Departments. That these principles would apply *mutatis mutandis* to the Management Plan of KDMS areas is a moot question.

4.6 The Committee also noted that NWP Code sets out sampling design for forest inventory, survey and mapping, growth data etc. which are juxtaposed against baseline data or previously held data. It was felt that these cannot be applied in toto in the case of a Management Plan for KDMS areas in a division. It was felt that the benchmark for writing Management Plan for such areas needs to be simple, practical and facilitative. Once the benchmark of a Management Plan is formulated/ revised and accepted; preparation, scrutiny and approval of the Plan is likely to become much easier. The Committee deliberated on a revised benchmark/ format of the Management Plan for KDMS lands which need to be adopted and the same is placed at **Annexure-10**.

4.7 It was further felt that the approval process of Management Plan should also be made simpler and rather than approaching MoEF&CC for approval, an approval committee headed by Principal Chief Conservator of Forests (HoFF) of the State be recommended. The composition of such a Committee is discussed under Section-6(vi) of this report.

SECTION - 5

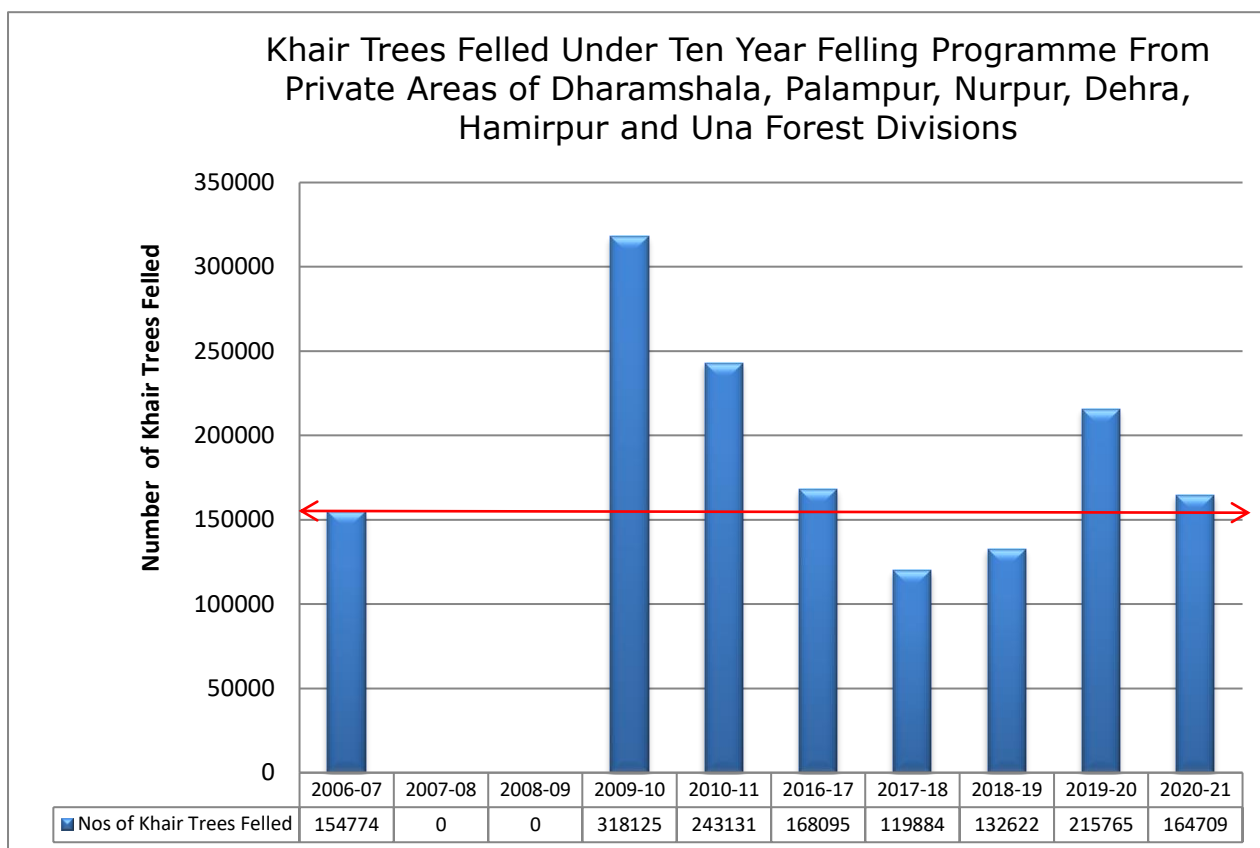
THE HP LAND PRESERVATION ACT, 1978 AS A MANAGEMENT TOOL

5.1 Typically while prescribing yield for Working Plans, enumeration and growth data alongwith volume tables is used. This is not possible in the case of KDMS lands, as enumeration data, annual increment, and volume tables are not available. Further there has been no concept of KDMS lands being divided into typical management units, i.e. forest blocks and compartments. Thus, the only way to regulate felling is by way of opting for simple selection felling principles and prescribing yield on the basis of exploitable diameter and retention of standing volume for future. Such a prescription is readily available and has been a part of the Technical Order No. 670 dated 13.08.1993 (**Annexure-11**) issued by the Himachal Pradesh Forest Department under the provisions of the HP LPA, 1978. The HP LPA is applicable on all private lands and regulates felling of trees for domestic use and sale. All private areas in a Forest Division identified through revenue villages are worked on a ten year rotation basis. The landowners are able to sell their trees once in a period of ten years.

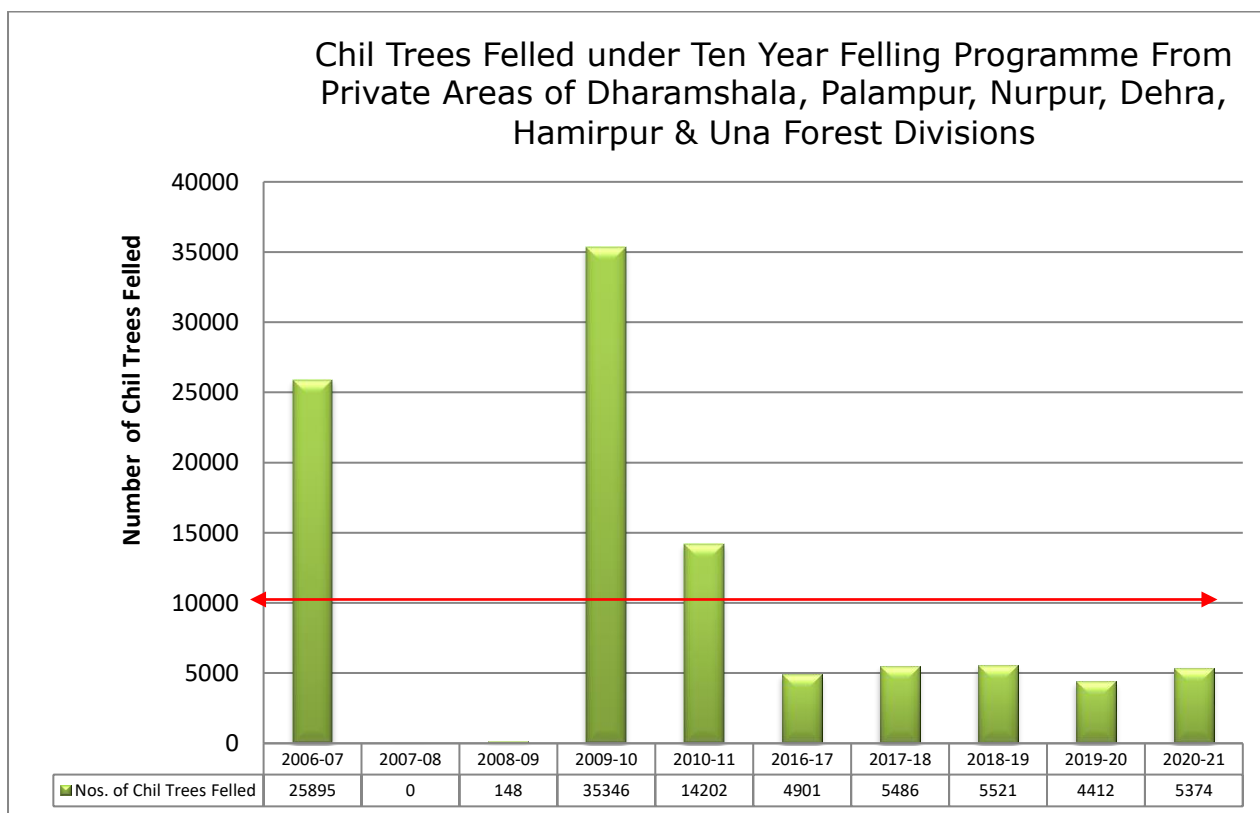
5.2 An effort was made to analyze the number of trees being sold by private landowners, other than KDMS, in the forest divisions having KDMS lands so as to assess the number of trees being offered for sale at the intervals of every 10 years. This data is presented in Table-4 below followed by Graph-1 to 3:

Table-4			
Trees felled under ten year felling programme from private areas of Dharamshala, Palampur, Nurpur, Dehra, Hamirpur & Una Division			
Year	No. of Khair Trees Felled	No. of Chil Trees Felled	No. of OBL Felled
2006-07	154774	25895	18975
2007-08*	0	0	0
2008-09*	0	148	0
2009-10	318125	35346	44336
2010-11	243131	14202	21690
2016-17	168095	4901	18345
2017-18	119884	5486	5475
2018-19	132622	5521	383
2019-20	215765	4412	0
2020-21	164709	5374	5376
*No felling in 2007-08 & 2008-09 due to Supreme Court Orders			

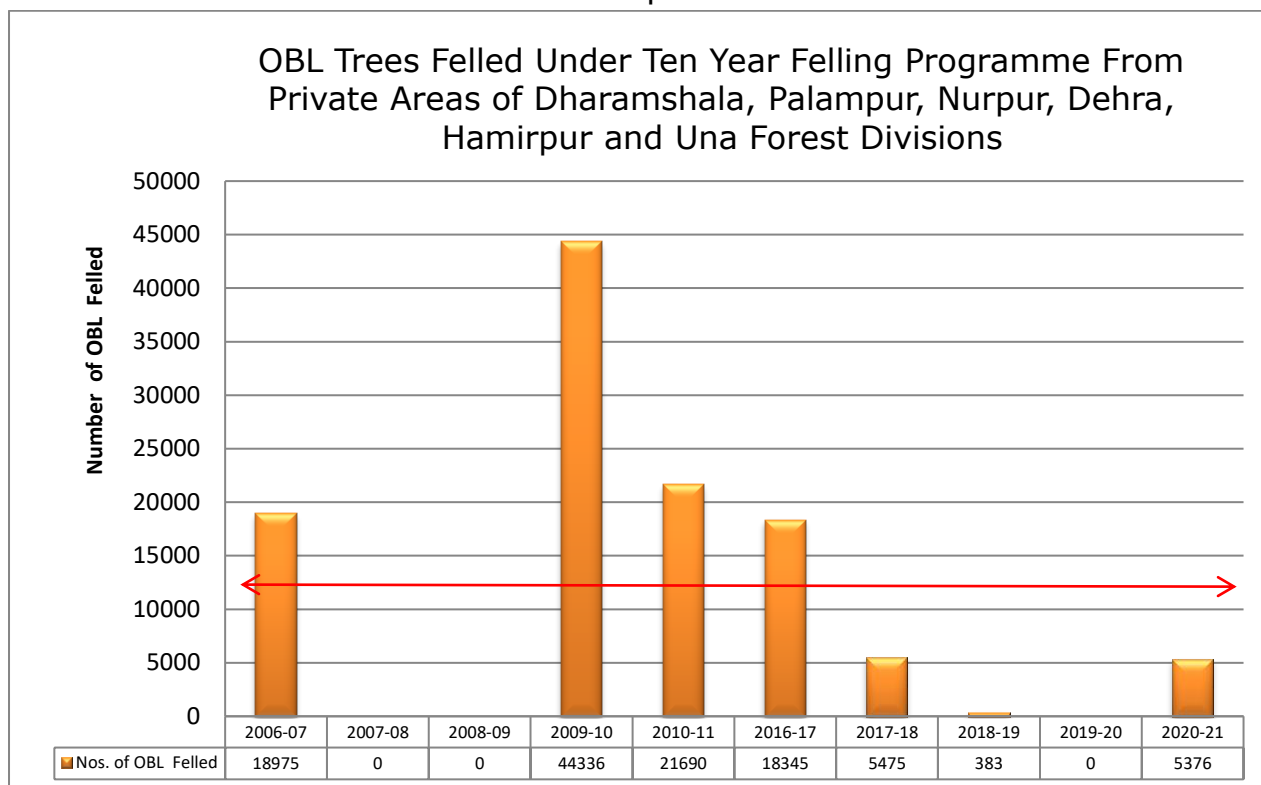
Graph-1



Graph-2



Graph-3



5.3 It is inferred from these tables and graphs that almost equal number of trees continues to remain available for felling on regular basis. It is common knowledge that the landowners have come to realize that trees standing on their lands particularly Khair is a cash crop which can offer good economic return every 10 years. Hence, the landowners protect, nourish, and plant Khair and other broad leave trees and there is no reason to doubt that the same would not apply to KDMS landowners, if felling is allowed in their areas.

5.4 In the State of Himachal Pradesh, the marking of trees in private areas is to be done strictly on silviculture principles. The working of scheduled species (Chil in case of KDMS areas) is done through the HP State Forest Development Corporation Limited. Except in the case of Khair trees, not more than 1/3rd of the total number of trees and more than 40% volume from each species is allowed for marking and exploitation. In case of Khair, the exploitable diameter is 20 centimetre d.b.h. No clear felling of the area is permissible even for the purpose of raising orchards [HPLPR 1983 – 4(2)].

SECTION - 6

RECOMMENDATIONS OF THE COMMITTEE

6.1 Keeping in mind the nature of KDMS lands, applicability of provisions of SECTION-IV of the Indian Forest Act, 1927, need of landowners for economic return from the tree growth, tenets of forest conservancy and welfare of communities at large, the Committee recommends as follows:

- i. Resin tapping of Chil trees in all KDMS areas shall be allowed in favour of landowners on the strength of latest revenue papers confirming the deletion of KDMS entry. Resin tapping shall be in accordance with the H.P. Resin and Resin Products (Regulation of Trade) Act, 1981. Currently, Chil trees above 35 cm d.b.h are allowed to be tapped.
- ii. The Management Plan for all KDMS lands, except those areas which are covered under Working Plans of respective Forest Divisions, shall be prepared and felling of trees shall be regulated as per the provisions/ prescriptions of the HP Land Preservation Act, 1978 and also the ten year cycle be followed which will be the same as applicable to other areas/ lands in the same village.
- iii. The KDMS areas covered under Working Plan of a Division shall be managed as per prescriptions thereunder till the currency of the respective Working Plans. Upon expiry of the said Working Plan, the KDMS areas will be taken out from its purview and included in the existing Management Plan (prepared for KDMS areas) of the concerned Forest Division which shall stand updated to that extent.
- iv. In respect of those KDMS areas which are covered under the existing Working Plan of a Forest Division, if (and when) the green fellings are permitted by the Apex Court, HPFD shall constitute separate lots for exploitation by the H.P. State Forest Development Corporation (HPSFDC). Revenue/royalty from such lots shall not be paid by HPSFDC into the account of HPFD/Consolidated Fund of the State, but shall be paid to the land owners. Also, there being no bar on removal of dead/ fallen trees (treated as hygienic fellings), HPFD should mark such trees for constituting lots to be exploited by HPSFDC. The revenue shall accrue to the land owners.

- v. The Management Plan will be a simple and practical document which will regulate the felling keeping in view the forest conservancy and needs of the landowners for realizing income from sale of trees. The Management Plan is recommended to have six chapters covering the following important elements:
- (a) CHAPTER 1 – Knowing the Areas.
 - (b) CHAPTER 2 – Knowing the Vegetation.
 - (c) CHAPTER 3 – Existing Ground Situation.
 - (d) CHAPTER 4 – Estimation of Growing Stock.
 - (e) CHAPTER 5 –Management Prescriptions.
 - (f) CHAPTER 6 –Monitoring and Evaluation.
 - (g) CHAPTER 7 - Period of Management Plan.
 - (h) CHAPTER 8 – Mid-term Updation of Management Plan.
- vi. The Management Plan so prepared in accordance with the recommendations contained in this report, shall be approved at the State level by a broad based Committee in which farmer's organisation, two technical experts, HP Forest Department and MoEF&CC are represented. The constitution of such a Committee is proposed/ suggested as under:

SN	Authority	Capacity
1	Principal Chief Conservator of Forests (HoFF), HP	Chairman
2	Representative of Farmers' Organisation from KDMS areas to be nominated by GoHP	Member
3	Representative of FSI, Dehradun	Member
4	Representative of ICFRE, Dehradun/ HFRI, Shimla	Member
5	Representative of MOEF&CC/ IRO Shimla	Member
6	Chief Conservator of Forests (Working Plan), Mandi	Member Secretary

SECTION 7

THE FINAL STEP

7.1 The Committee noted that State Government may have to approach the Hon'ble Supreme Court by filing an application to allow the landowners of KDMS lands for felling of trees from their private lands in accordance with the approved Management Plans in modification of order dated 12.12.1996 passed in WP (C) No. 202/1995 titled as T. N. Godavarman Thirumulkpad versus Union of India and others, vide which the felling of green trees from forests whether private or public has been banned in the State of Himachal Pradesh.

Annexure-1**Viii) Notification No. 992 dated 11.1.1919**

In accordance with the provision of section 28 of Act VII of 1878 the Indian Forest Act. His Honor the Lieutenant Governor of the Punjab is pleased in cancellation of Punjab Government Notification No. 58 dated the 26th January, 1897 to declare the provision of Chapter IV of that act applicable to all areas in the Kangra, Palampur, Dehra, Nurpur and Hamirpur Tehsils of the Kangra District in respect of which it is declared in the standing the Land Revenue Settlement of 1910-19 that the trees of spontaneous growth record standing on them belong to Govt. except the area included in the schedule annexed to this notification.

Schedule

1. Areas which have been declared Protected Forest by notification No. 57 dated the 26.01.1897 as amended by notification No. 91 dated 11.1.1919.
2. Areas which have been described as reserved or unclassed forests in the standing record of the Land Revenue Settlement of 1910-19
3. Areas in Talqua Dada Siba and the Jagir of the Raja of Goler(Tehsil Dehra) Taluqua Nadaun and Kutlehar(Tehsil Hamirpur) and Mauzas Kothi Khor and Kothi Swar (Tehsil Palampur).
4. Those areas in which the Deputy Commissioner may from time to time sanction appropriation for cultivation or for any other purpose after payment to Government of the value of the trees standing thereon.

Annexure-2

H.P. Govt. Notification regarding entry of "Khudro Drakhtan Malkiat Sarkar"

Government of Himachal Pradesh

"Revenue Department"

* * * * *

No.Rev.D(D)1-18/85-I, Dated Shimla-171002, the 26th Dec., 1989.

NOTIFICATION

Whereas the Government of Himachal Pradesh had appointed a Committee headed by Shri Dharam Singh, Hon'ble Revenue Minister (also known as Dharam Singh Committee) to go into the matter of Ban Sarkar vide Notification No. Rev. D(D)1-18/85, dated 22-1-1986.

2. Whereas according to the survey conducted at the instance of this Dharam Singh Committee:

- (a) an area measuring 802 hectares of land was identified Ban Sarkar in Kangra and Hamirpur Districts, and Bangana Tehsil of Una District, in which there was no tree growth; and
- (b) land measuring about 2873 hectares was identified as Ban Sarkar in the above areas which was under cultivation; and
- (c) land measuring about 1434 hectares was identified as Ban Sarkar which could be brought under cultivation in the same areas.

3. Whereas the recommendations of the State Committee have been considered by the Govt. and certain decisions have been taken.

4. Now, therefore, in exercise of the powers vested in him under Section 80 of the Indian Forest Act, 1927 (Central Act No. XVI of 1929) and Section 38 of the H.P. Land Revenue Act, 1953 (H.P. Act No. 6 of 1954) and all other powers enabling him in this behalf, the Governor of Himachal Pradesh is pleased to prescribe the following procedure in order to give effect to the above referred decisions:-

- (i) In regard to the areas specified in clause (a) of para 2 above, the entry "Khudro Drakhtan Malkiat Sarkar" in the remarks column of the Jamabandi in respect of the relevant khasra numbers will be deleted;
- (ii) In regard to the areas specified in clause (b) of para 2 above, the entry of "Khudro Drakhtan Bakisam Chil Malkiat Sarkar" will be substituted for the entry of "Khudro Drakhtan Malkiat Sarkar" in the remarks column of the Jamabandi in respect of the Khasra numbers concerned;
- (iii) In regard to the lands mentioned in clause (c) of para 2 above, the entry of "Khudro Drakhtan Bakisam Chil Malkiat Sarkar" shall be substituted for the existing entry "Khudro Drakhtan Malkiat Sarkar" in the remarks column of the Jamabandi in respect of the khasra numbers concerned in respect of the land which can be brought under cultivation;
- (iv) These decisions will be implemented through mutations in the revenue records which will be entered by the Patwari concerned after a spot inspection and checking of entry by the Kanungo also after a spot inspection and attestation thereof by the Assistant Collector (Tehsildar)/Settlement Tehsildar/Consolidation Officer concerned within their respective jurisdictions after inspecting the spot;
- (v) The decisions from (i) to (iii) above will be subject to the rights of the estate rightholders, if any, on such trees other than Chil and also keeping in view the considerations of the forest conservancy.

5. The "Khudro Drakhtan Malkiat Sarkar" under demarcated protected forests will not, however, be affected by the above decisions.

6. Felling of trees where the ownership has been transferred to the owners of the land will be governed under ten years' felling programme framed under the H.P. Land Preservation Act of 1978.

7. The above order issues in consultation with the Govt. in the Forest Deptt. vide their U.O. No. FTS(A) 4-2/86, dated 26-12-1989.

By order

Sd/-

Secretary (Revenue) to the
Govt. of Himachal Pradesh.

Endst. No. Rev.D(D)1-18/85-I, Dated Shimla-2, the 26th Dec., 89.

Copy forwarded for information and necessary action to:-

1. The Commissioner-cum-Secretary, Forest Deptt. to Govt. H.P., Shimla-2.
2. The Principal Chief Conservator of Forests, Shimla-1.
3. The Divisional Commissioner, Kangra at Dharamshala.
4. The Deputy Commissioners, Hamirpur, Kangra and Una.
5. The Settlement Officer, Kangra at Dharamshala.
6. The Director of Land Records, Shimla.
7. The Controller of Printing Press, Shimla for immediate publication in Himachal Rajpatra if necessary, in as extraordinary issue.
8. The Deputy Secy. (GAD) to the Govt. of H.P., Shimla-2.
9. Guard file (with 50 spare copies).

They would ensure immediate implementation of the above order, keeping in view the context of the Dharam Singh Committee Report.

M.C. Chauhan,
Under Secy. (Revenue) to the
Govt. of Himachal Pradesh.

Annexure-3

(Authoritative English Text of this Department notification
No. Rev. D(D) 12-16/94 dated 11/3/99 as required under
clause(3) of Article 348 of the Constitution of India.)

Government of Himachal Pradesh
Revenue Department.

No. Rev. D(D) 12-16/94

Dated: 11/3/99

NOTIFICATION

Whereas it appears to the Governor of Himachal Pradesh that existing record-of-rights with respect to Private Lands in the State of Himachal Pradesh requires special revision by deleting the entry "Khudrao Darkhtan Malkiyat Sarkar" appearing in Khanna Kafiast (Remarks Column) of Jamabandi;

Now therefore, in supersession of all previous notifications, if any, issued in this behalf, in exercise of the powers conferred by Sub Section(1) of Section 33 of the Himachal Pradesh Land Revenue Act, 1953 (Act No. 6 of 1954), the Governor of Himachal Pradesh is pleased to direct the special revision of record of rights by deleting the entry "Khudrao Darkhtan Malkiyat Sarkar" appearing in Khanna Kafiast (Remarks Column) of Jamabandies with respect to Private Lands in the State of Himachal Pradesh;

Governor of Himachal Pradesh is further pleased to direct that notwithstanding the deletion of the entry "Khudrao Darkhtan Malkiyat Sarkar" forthwith, the felling of trees shall continue to be regulated under the prevailing Forest Laws.

By Orders

Financial Commr. cum-Secretary (Revenue)
to the Government of Himachal Pradesh.

No. As above.

Dated:

Copy forwarded for information and necessary action to:-

1. The Commissioner-cum-Secretary, Forest Deptt. to Govt. of Himachal Pradesh Shimla-171002.
2. The Principal Chief Conservator of Forests Shimla-1

Annexure-4

S.C. SHARMA
ADDL. IGF(Wildlife)

Telegram : PARYAVAHAN,
NEW DELHI

दूरभाष
Telephone : 4362285
टेलीक्स
Telex : W-66185 DOE IN
FAX : 4360678

भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
पर्यावरण भवन, सी. जी. ओ. कॉम्प्लेक्स
PARYAVARAN BHAVAN, C.G.O. COMPLEX
लोदी रोड, नई दिल्ली-110003
LODHI ROAD, NEW DELHI-110003

D.O. No. 9-12/99-RO(HQ)
Dated the 18th October, 1999.

Dear Shri Goswami,

May I draw your attention to my earlier D.O. letter on the notification issued by the Government of Himachal Pradesh vide FEE-B-(F) 9-76/96 dated 24.8.98 and REV D(D) 12-16/94 dated 11.3.99 regarding "Khudro Drakthan Malkiyat Sarkar", "Gair Mumkin" and "Charagh biladrakthan". Apparently, issue of such notification without prior approval of the Central Government is violation of the Forest (Conservation) Act, 1980. Conservator of Forests (Central), Chandigarh has already sought clarification from the Government of Himachal Pradesh vide letter No.12-22/97-ROC dated 10.11.98 and 30.10.98.

2. This Ministry is yet to get the response of the State Government in the matter. You may be aware that it is a very serious issue and even the Hon'ble Supreme Court has taken the violation of the Forest (Conservation) Act, 1980 very seriously. It is, therefore, requested that complete details as sought by the Regional Office, Chandigarh may be furnished to the Ministry without any further delay. I would also request you to furnish impact of this in terms of area and financial liability. Till the Ministry takes a view on this issue, it is also requested that notification issued by the State Government should be kept in abeyance.

With regards,

Yours sincerely,

(S.C. Sharma)

Shri B.N. Goswami
Chief Secretary
Government of Himachal Pradesh
Shimla.

Most Immediate

Personal Attention

original per
No. FFE-B-F(13)185/99
Government of Himachal Pradesh
Forest Department

...

From *5/10*

The F.C?Cum-Secretary (Fts) to the
Government of Himachal Pradesh Shimla-2.

To

✓ The Pr. Chief Conservator of Forests,
Himachal Pradesh Shimla-1.

Dated Shimla-171002, the *29-9-2000*

Subject:- Felling of trees from areas having status Khudro
Drakhtan Malkiyat Sarkar.

air,

"Jai Hind"

I am directed to refer to the subject cited above and to say that before such cases of felling are decided you are requested that a comprehensive note on the problems arising after the delation of entry of Khudro Drakhtan Malkiyat Sarkar be prepared and submitted to this Department, so that issue could be sorted out. A copy of letter No.9-12/99-RO(HQ) dated 18.10.99 written by Sh. S.C? Sharma, Additional Inspector General of Forest (Wild life) Ministry of Environment and Forest Govt. of India is also enclosed herewith for your comments in the matter immediately.

This may be treated as most urgent.

Encl- above

Yours faithfully,

Sanjay
Additional Secretary (Fts) to the
Government of Himachal Pradesh

...

Annexure-5

No. Fts-B-A(4)-2/86-II-Lesse-
Government of Himachal Pradesh,
Department of Forests.

From:

The Commissioner-cum-Secretary(Fts) to the
Government of Himachal Pradesh.

To

The Principal Chief Conservator of Forests,
Himachal Pradesh, Shimla-171001.

Dated Shimla-171002 the 16th December, 1999

Subject:-

Change of classification of land recorded as
"Khudra-Brakhtan-Malkiyat Sarkar."

Sir,

Jai Hind.

I am to refer to your office letter No.Ft-785-
13/63-(M)-Van-Sarkar-dated 30th June, 1999 and 26th July, 1999
on the above stated subject and to say that from the Notification
No. Rev-B(A)-12-16/94-dated 11.3.1999 by the Revenue Department
it is clear that by deletion of entries of "Khudra Brakhtan-
Malkiyat Sarkar" from the Khanna Kafiati of the Jamabandis by
special revision, the land owners also become the owners of the
trees standing thereon for all intents and purposes. In view of
this in order to implement the Government decision in letter and
spirit the requests of the owners of the trees for extraction of
the same may be dealt as under:-

- i) The provisions of the Himachal Pradesh Land
preservation Act, 1978 and Rules made thereunder
shall apply in cases which are not covered
under paras(ii) and(iii) below.
- ii) In cases where the classification of land on
which the trees are standing is "BPF"
extraction of trees shall not be allowed.
- iii) In cases where the classification of land, in
the revenue records, on which the trees
are standing is "Van" and it is expected that
land use shall change after extraction of
trees, provision of section 2 of the Forest
(Conservation) Act, 1980 shall apply.

Please acknowledge receipt of this communication.

Yours faithfully,

Commissioner-cum-Secretary(Fts) to the
Government of Himachal Pradesh.

Annexure-6

No. Forest-E-A(4)-2/86-II-Loose
Government of Himachal Pradesh
Department of Forests.

From: The F.C.-cum-Secretary (Forests) to the
Government of Himachal Pradesh.

To: The Pr. Chief Conservator of Forests,
Himachal Pradesh, Shimla-1.

Dated Shimla-2, the 5th March, 2001

Subject:- Change of classification of land recorded as "Khudro
Brakhtan Malkiyat Sarkar".

I am directed to refer to your letter No. Ft. 785-13/68
(M) Ban Sarkar dated 19.1.2001 and subsequent U.O. Note dated 12.2.2001
addressed to the F.C.-cum-Secretary (Forests) to the Govt. of H.P. on
the above stated subject and to say that in pursuance of the discussion
which took place in the meeting held on 14.2.2001 in which the Addl.
Pr. C. S.P., HP and other officers of the department were also present,
the matter was placed before the higher authorities and it has been
decided:-

1. That the decision of the Government regarding
allowing of felling in the areas where entry of
Khudro Brakhtan Malkiyat Sarkar is existing, as
conveyed vide this office letter of even No. dated
16.12.99, may be strictly implemented.

2. To ensure compliance of the orders of the Hon'ble
Supreme Court of India passed in Writ Petition
(Civil) No. 202/95 T.N. Godavarman Thirumulkpad Vs.
Union of India and others dated 12.12.95 it has
further been decided that:-

i) That no felling should be permitted in the areas
which are being managed through Working Plans.


ii) ^{that} No felling should be permitted in thickly wooded
area of 5 hac. and above forming a compact block

Meanwhile, the information requested by the Govt. of
India, vide their M.O. letter No. 9-12/99-RO(HQ) dated 18.10.1999 as
sent to you vide this department letter of even No. dated 16.12.99
may also be sent to the Government at the earliest.

Yours faithfully,


(Signature)
Secy. Secretary (Forests) to the
Government of Himachal Pradesh

Annexure-7



इत्य मेव जयते

ए. के. गोयल, भा. व. से.
अपर प्रधान मुख्य वन संरक्षक (केन्द्रीय)
A K GOYAL
Additional Principal Chief
Conservator of Forests (Central)



जहाँ है हरियाली ।
वहाँ है खुशहाली ॥

Telephone No. : (0172)-2638061
Fax No. : (0172)-2638135
भारत सरकार
पर्यावरण एवं वन मंत्रालय, उत्तर क्षेत्रीय कार्यालय
बेज नं० 24-25, सेक्टर-31 ए, चण्डीगढ़-160030
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT AND FORESTS
Northern Regional Office,
Bays No. 24 & 25, Sector 31-A,
Dakshin Marg, Chandigarh-160 030
Email: akg@nic.in
Website: www.nromcoef.gov.in

F.No. 19-248/2012-ROC / 2619

To ✓ Shri M.K. Jiwarjka
Member Secretary,
Central Empowered Committee,
(Constituted by the Hon'ble Supreme Court of India
in Writ Petition (Civil) No. 202/95 & 171/96)
2nd Floor, Chankya Bhawan, Chankyapuri,
New Delhi-110 021

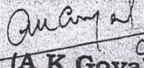
Sub: CWP No. 11034/2011-Anant Ram Versus State of Himachal Pradesh & Others and CWP No. 1191/2011- Sukh Dev Singh Versus State of Himachal Pradesh & Others-regarding

Ref: CEC letter No.1-26/CEC/SC/2012-Pt. XXXXVII dated 11th December, 2012.

On perusal of the letter received from PCCF, Himachal Pradesh and the annexures attached to the letter under reference, it is observed that the revenue entry of the petitioner's land is "**Khudro Drakhtan Malkiat Sarkar**" and this type of land is coming under the definition of "**forests**" as per Hon'ble Supreme Court Orders dated 12.12.1996 passed in the Writ Petition (Civil No. 202/1995)-T.N. Godavarman Thirumulkoad Versus Union of India.

2. As the land comes under the definition of 'Forests,' provisions of the Forest (Conservation) Act, 1980 will automatically be applicable on such land, irrespective of it being covered under the Working Plan or not.

3. This type of land will continue to be covered under the provisions of the Forest (Conservation) Act, 1980, even if it is excluded from the Working Plan of Nurpur Forest Division. State Government of Himachal Pradesh is, however, at liberty to ensure its management as per the provisions of the existing Working Plan or exclude this type of land from the Working Plan of Nurpur Forest Division and prepare a separate Management Plan with appropriate prescriptions and get the same approved from the competent authority.

Yours faithfully

(A K Goyal)

01/01/13

Annexure-8(i)

**TOUR REPORT FOR THE FIELD VISIT OF KHUDRO DARKHATAN MALKIYAT
SARKAR AREAS OF DISTRICT KANGRA (HIMACHAL PRADESH)**

Dr. R.K. Verma. Scientist –G, HFRI, Shimla and Sh. Ashwani Kumar, Asstt. Director, Integrated Regional Office, Shimla visited the Khudro Darkhatan Malkiyat Sarkar Areas of Dehra, Nurpur and Dharamshala Forest Division from 12.11.2021 to 14.11.2021. The detail report is as below:

1. Dehra Forest Division:

Aj. Tika Berli: Tika Berli site of Khudro Darkhatan was situated at 31°47'39.9" N Latitude, 76°22'50.5" E Longitude and 525 m altitude. The area of this site was about 23.07 ha and consists of mixed forest of tree species viz., *Toona ciliata*, *Acacia catechu*, *Dalbergia sissoo*, *Phyllanthus emblica*, *Mallotus philipensis*, *Mangifera indica*, *Albizia chinensis*, *Bombax ceiba*, *Celtis australis*, *Aegle marmelos*, *Leucaena leucocephala*, etc. The shrubs species occurred in the area were *Lantana camara*, *Murraya koenigii*, *Carissa carandus*, *Adhatoda zeylanica*, *Flacourtia indica* etc.

Bj. Bheraj Charanti: Bheraj Charanti site of Khudro Darkhatan was situated at 31°48'05.6" N Latitude, 76°22'44.5" E Longitude and 534 m altitude. The area of this site was about 25.09 ha and consists of mixed forest of tree species mainly dominated by *Acacia catechu*. The tree species occurred were *Acacia catechu*, *Cassia fistula*, *Ziziphus mauritiana*, *Dalbergia sissoo*, *Phyllanthus emblica*, *Mallotus philipensis*, *Mangifera indica*, *Albizia chinensis*, *Bombax ceiba*, *Leucaena leucocephala*, etc. The shrubs species occurred in the area were *Lantana camara*, *Murraya koenigii*, *Carissa carandus*, *Adhatoda zeylanica*, *Flacourtia indica*, etc.

Cj. Tika Ladana: Tika Ladana site of Khudro Darkhatan was situated at 31°54'13.1" N Latitude, 76°13'16.1" E Longitude and 533 m altitude. The area of this site was about 01 ha. At this site 01 hotel was constructed and scattered trees were present in the remaining area. The tree species occurred were *Acacia catechu*, *Cassia fistula*, *Ziziphus mauritiana* and *Leucaena leucocephala*.

Dj. Ralakad: Ralakad site of Khudro Darkhatan was situated at 31°56'55.9" N Latitude, 76°14'16.2" E Longitude and 526 m altitude. The area of this site was about 1.5 ha. This site consist cultivated land and scattered trees on bunds. The tree species occurred were *Grewia optiva*, *Acacia catechu*, *Dalbergia sissoo*, *Albizia chinensis* etc.

2. Nurpur Forest Division:

Aj. Indpur: Indpur site of Khudro Darkhatan was situated at 32°08'41.1" N Latitude, 75°43'49.2" E Longitude and 315 m altitude. The area of this site was about 422.7 ha. This site consist of houses, cultivated lands, orchards and mixed forest of tree species. The tree species occurred were *Acacia catechu*, *Celtis australis*, *Leucaena leucocephala*, *Butea monosperma*, *Albizia procera*, *Morus alba*, *Mangifera indica*, *Dalbergia sissoo*, *Cassia fistula*, *Bombax ceiba*,

Mallotus phillipensis etc. The shrub species occurred in the area were *Murraya koenigii*, *Flacourtia indica*, *Adhatoda zeylanica*, *Lantana camara* etc.

B]. Dantol: Dantol site of Khudro Darkhatan is situated at 32°09'46.2" N Latitude, 75°43'54.9" E Longitude and 357 m altitude. The area of this site is about 138 ha. This site consists of houses, cultivated lands, orchards and mixed forest of tree species. The tree species occurred were *Acacia catechu*, *Bombax ceiba*, *Dalbergia sissoo*, *Grewia optiva*, *Mallotus phillipensis*, *Cassia fistula*, *Toona ciliata*, *Morus alba*, etc. The shrubs species occurred in the area were *Lantana camara*, *Murraya koenigii*, *Carissa carandus*, *Ipomea carnea*, *Adhatoda zeylanica*, *Flacourtia indica*, etc.

C]. Tipri: Tipri site of Khudro Darkhatan was situated at 32°15'11.2" N Latitude, 75°43'47.0" E Longitude and 432 m altitude. The area of this site was about 198 ha. This site consists of houses, cultivated lands, and mixed forest of tree species. The tree species occurred were *Acacia catechu*, *Bombax ceiba*, *Dalbergia sissoo*, *Grewia optiva*, *Mallotus phillipensis*, *Cassia fistula*, *Toona ciliata*, *Morus alba*, *Albizia lebbbeck*, *Acacia nilotica*, *Ficus benghalensis*, *Albizia procera*, *Anogeissus latifolia*, *Bauhinia variegata*, etc. The shrubs species occurred in the area were *Lantana camara*, *Murraya koenigii*, *Carissa carandus*, *Ipomea carnea*, *Adhatoda zeylanica*, etc.

3. Dharamshala Forest Division:

A]. Rani Tal: Rani Tal site of Khudro Darkhatan was situated at 32°01'01.4" N Latitude, 76°13'33.6" E Longitude and 536 m altitude. The area of this site was about 15 ha and consists of mixed forest of tree species viz., *Toona ciliata*, *Acacia catechu*, *Dalbergia sissoo*, *Phyllanthus emblica*, *Mallotus phillipensis*, *Mangifera indica*, *Albizia chinensis*, *Cassia fistula*, *Toona ciliata*, *Ficus benghalensis*, *Syzygium cumuni*, *Bombax ceiba*, *Leucaena leucocephala* etc. The shrubs species occurred in the area were *Lantana camara*, *Murraya koenigii*, *Carissa carandus*, *Adhatoda zeylanica*, etc.

8828
(Dr R.K. Verma) 24.11.2021

24/11/21

Annexure-8(ii)

Field Inspection Report of two Members Sub-Committee of the Committee on Khudro Drakhtan Malkiyat Sarkar Areas undertaken in Hamirpur District.

The two member Sub-committee of the Committee constituted by Government of HP comprising of Shri Rajiv Kumar, IFS, Principal CCF (Management) and Shri S. P. Negi, IFS, Regional Director, Forest Survey of India, Shimla undertook field visit to Khudro Drakhtan Malkiyat Sarkar areas in the district of Hamirpur on 9-10 December, 2021 :-

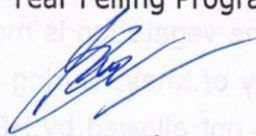
1. The first site visit was in village Ghalotna, Panchayat Neri, Tehsil and District Hamirpur. The Khudro Drakhtan Malkiyat Sarkar area is spread in several non-contiguous patches across the village but a large chunk of 32 hectare is also present. The compact portion of 32 hectare contains Chil, Khair, Shisham and other Misc. BL trees. The compact portion is rugged and mountainous. The land which is having easier gradient has been taken up for agriculture and horticulture purposes. The vegetation is mostly middle aged to mature with a sprinkling of sapling mainly of Khair. During discussions with the villagers, it emerged that resin tapping is not allowed by HP Forest Department in the Chil trees and neither the removal of dead, dry and fallen Khair trees have been allowed. The total land in the village is around 86 hectare so almost $\frac{1}{3}^{\text{rd}}$ is under Khudro Drakhtan Malkiyat Sarkar. The villagers were asked about retention of trees and providing them with some sort of compensation in the form of Payment ^{for} Ecosystem Services, but majority of villagers were against such a practice. They were of the view that they should be allowed to fell and sell their trees as per their wish as per the law of the land applied to other areas. non-KDMS lands.

2. The next village visited was village Drabeli, Mauza Majhog Samlui in Tehsil and District Hamirpur. In this village landless people were allotted Nautor land and land holdings are very small. There is no large contiguous patch of Khudro Drakhtan Malkiyat Sarkar area and isolated Chil and Khair trees were seen standing on the individual plots. Most of the land was taken up for residential and agricultural/horticultural practices.

3. The 3^{rd} site visited was Dhangota village, Mauza Dhatwal, Tehsil Bijhri, District Hamirpur. The total land in the village is around 720 hectare, out of which around $\frac{1}{3}^{\text{rd}}$ land was under Khudro Drakhtan Malkiyat Sarkar. This land


is having steep and rugged terrain with Chil, Khair, Shisham and other ~~Misc.~~ ^{BL tree} species mostly middle aged to mature ~~and over mature~~.

There are some dried up trees as well. Some of the land owners have planted Eucalyptus and Teak also in their portion of land. Around seventy villagers both men and women gathered to interact with the Committee members and they impressed upon the need for allowing sale of trees belonging to them. Here also it was noticed that Chil trees were not being tapped and even the dried trees were not being removed. The villagers were firm in their opinion that same law should be applicable to them for felling and sale of trees and once the entries had been deleted they should be free to harvest their trees as per the Ten Year Felling Programme.



(Rajiv Kumar)

Principal CCF (Management)



(S. P. Negi)

Regional Director,
FSI, Shimla

Annexure-9

Government of Himachal Pradesh
Forest Department

NOTIFICATION

No. FFE-B-E(3)-31/2001-I Dated: Shimla-2, the 19th February, 2011.

Whereas, the Expert Committee constituted by the State Government in compliance of interim order dated 12.12.1996 of the Hon'ble Apex Court in Writ Petition (C) 202 of 1995 titled – T.N. Godaverman Vs Union of India and others decided that the 'compact wooded block' above 5 ha which are not recorded as 'forest' in the revenue record shall be treated as 'forest'.

2. And Whereas, during the hearing of Civil Appeals No. 8133, 8134 and 8135 of 2003 on 01.02.2010 in the Central Empowered Committee constituted by the Hon'ble Supreme Court of India in Writ Petition (C) 202 of 1995 titled – T.N. Godaverman Vs Union of India and others, it was suggested by the Central Empowered Committee that the definition of 'Forests' as defined by the State of Himachal Pradesh needs further clarification by way of certain definable parameters.

3. And Whereas the Central Empowered Committee vide its recommendations dated 7th September, 2010 communicated to the Hon'ble Apex Court that the CEC is in agreement with the definition of the 'compact wooded block' decided by the State and recommended that the Civil Appeals No. 8133, 8134 and 8135 of 2003 may be decided with the direction that the State of Himachal Pradesh will notify the definition of 'compact wooded block' decided by it immediately.

4. And Whereas on the recommendations/ Report of the Central Empowered Committee, the Hon'ble Supreme Court of India on 22/11/2010 in the above matter has passed following order:-

"The CEC vide its report dated 7th September, 2005 inter alia observed that it will be appropriate that the State of Himachal Pradesh notifies the definition of Compact Wooded Block as decided by the Himachal Pradesh Forest Department.

Learned counsel for the State of H.P. submits that so far the State did not issue any such Notification. In such circumstances, we direct the State of H.P. to examine the issue and issue appropriate Notification accepting the said definition of Compact Wooded Block as has already been decided by the Forest Department. The appropriate Notification in this regard shall be issued within three months from today."

5905

Now therefore, in compliance of the order of the Hon'ble Apex
definition of 'forest'/'compact wooded block' is notified as under:-

1. "If the private area is notified under Indian Forest Act, 1927 or other Act or is entered as van/ban/vani/jungle in the revenue record it will be treated as forest."

2. For other type of areas not recorded as indicated in point 1.

There are two components under this definition:-

Compactness of the area above 5 Ha. and

Woodiness in this area above 5 Ha.

(a) Compactness of an area above 5 Ha would be an area of private land with itself or in contiguity with other adjacent private khasras only

(b) Woodiness in this area of above 5 Ha would be as defined below:-

Accordingly, the definition in different agro-climatic zones would be as under:-

i) Temperate areas:- These areas consisting of conifer forests of deodar, fir, spruce, kail, and of oaks rhododendrons and other broad leaved species will be defined as under:-

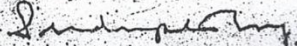
"A compact wooded private area of more than five hectares constituted by itself or in contiguity with private khasras of one or more than one land owners and having more than 400 trees of natural origin and not of plantation origin per hectare of Class-III and above in this compact wooded block will constitute a forest."

ii) Sub-tropical areas:- These areas consisting of chil, khair and other broad leaved forest species will be defined as under:-

Chil forests:- The above definition for temperate area will hold good in these forest.

Khair and other broad leaved species: "A compact wooded private area of more than five hectares constituted by itself or in contiguity with private khasras of one or more than one land owners and having more than 800 trees of natural origin and not of plantation origin per hectares of less than class III or for a mixed crop (mature and young) the trees being worked out by taking one mature tree equal to two young trees and vice versa in this compact wooded block will constitute a forest"

By Order


Principal Secretary (Forests) to the
Government of Himachal Pradesh

Annexure-10**FORMAT OF MANAGEMENT PLAN FOR KDMS LANDS****Chapter-1 KNOWING THE AREAS:**

This section will include general description of the area in brief, situation and location, configuration of the ground, geology – rock and soil, climate, map, legal position, important water resources, if any, and list of all the Khudro Drakhtan Malkiyat Sarkar (KDMS) areas above 5 hectare (hereinafter referred to as listed KDMS areas).

Chapter-2 KNOWING THE VEGETATION:

This section will include description of vegetation occurring in listed KDMS areas such as crop age, health, re-generation, disease, vitality and vigour.

Chapter-3 EXISTING GROUND SITUATION:

This section will find mention of the description of the existing ground situation in terms of type of land use, change in land use, agricultural/horticultural practices and past history of general vegetation.

Chapter-4 ESTIMATION OF GROWING STOCK:

The growing stock is to be estimated on the basis of simple sampling design in respect of listed KDMS areas. Atleast two sampling plots of 0.1 hectare each should be laid out for a plot of 5 hectare following the grid pattern, overlaid on the "*Tatima/Latha*". To clarify further, an area of 5 hectare would require 2 sampling plots of 0.1 hectare each, that of 10 hectare, 4 sampling plots and so on. The growing stock will be extrapolated over only listed KDMS areas, excluding/leaving the smaller areas to prevent over estimation of growing stock.

Chapter-5 MANAGEMENT PRESCRIPTIONS:

Describe Management Prescriptions mainly for resin tapping and felling of trees in accordance with the Land Preservation Act, Rules made thereunder and Technical Order of the Himachal Pradesh Forest Department. The prescription should take care of markings on true selection principles, status of regeneration and coppice etc.

Chapter-6 MONITORING AND EVALUATION:

This section will describe methodology for Third Party Monitoring to be undertaken in the year following the year of felling in listed KDMS areas to (i) ascertain whether markings, retentions and fellings were done in accordance with the prescriptions of HP LPA, 1978, (ii) ascertain regeneration status particularly that of coppice, (iii) ascertain the growing stock and its comparison with the earlier growing stock (pre-felling) - for assessing the post-felling growing stock, same methodology and sampling design as mentioned in Section-4 above is to be used and (iv) a second third party evaluation of the regeneration status and changes in the land use shall be undertaken in the 7th to 8th year following the year of felling.

Corrective action shall be suggested by the Monitoring Agency and if the growing stock is found to be >15% deficient than the prescription (that is to say if retained volume for a species (except Khair) is more than 15% deficient than 60% of standing volume estimated pre-felling, taking one listed KDMS area as a whole (& not landowner wise), the listed KDMS area shall be skipped in the next 10 year felling programme to allow for restocking of such areas. Such areas will be considered for felling in the next 10 year felling programme following the skipped 10 year cycle.

Chapter-7 PERIOD OF MANAGEMENT PLAN:

The management plan shall be of 10 years duration which aligns with National Working Plan Code 2014, as well as felling cycle under HP LPA, 1978.

Chapter-8 MID-TERM UPDATION OF MANAGEMENT PLAN:

In normal circumstances, a mid-term updation/ revision of Management Plan is not anticipated. However, as mentioned under Section – 6.1 of the report, in respect of those KDMS areas that are being managed/included in any Working Plan which completes its plan period during the currency of a Management Plan of KDMS areas of the said Forest Division, such KDMS areas will be excluded from the respective Working Plan and included in the Management Plan to that extent and the Management Plan will be updated mid-term.

Annexure-11

Department of Forest Farming & Conservation
Himachal Pradesh

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Technical Order No. 670 Dated 13th August, 1993.

Subject :- Sale and felling of Khair Trees from Private Lands in Himachal Pradesh under the H.P. Land Preservation Act, 1978 and H.P. Land Preservation Rules, 1983.

The sale and felling of khair trees growing on private lands is regulated according to the approved 10 years felling programme framed under the H.P. Land Preservation Act, 1978 and the rules framed there under. Following guidelines are issued for regulating sale & felling of Khair trees throughout the State with a view to adopt uniformity :-

1. DEMARCATION

- 1.1 The demarcation of the areas must be done in the preceding year to the year in which the area is due for felling as per 10 years felling programme. The demarcation of the land of the concerned area will be carried out by the Field Kanungo in the presence of the Deputy Ranger of the area concerned.
- 1.2 In case of joint khata in which more than one owners (co-sharers) are involved every owner has to furnish affidavit indicating their willingness for the sale of trees. However in such cases, the land owners can also furnish power of Attorney in favour of particular individual as per the Govt. instructions contained in their letter No. Van(F)12-34/83-Part-IV dated 12.3.1993, the contents of which stood conveyed to all CFs(T) DFOs vide Memo No. Ft.783-54/70(M) order dated 30.3.1993.

2 MARKING

- 2.1 The marking of khair trees will be carried out by the Block Officer in the presence of Field Kanungo and land owners and case with revenue papers, marking lists and with the following certificates recorded, will be sent to the DFO:-
 1. Certified that the trees have been marked after following the prescribed procedure for demarcation/markings the connected revenue papers, application and an affidavit of the land owners etc. were duly scrutinised by me.
 2. Certified that the case has been processed by taking a joint Khata or a single ownership irrespective of the No. 1 co-shares in the joint Khata.
 3. Certified that the area from where these trees have been marked for sale are due for felling during the prescribed year of felling as per approved 10 years felling programme of the Forest Division concerned.

-[2]-

4. Certified that the trees for which the sanction has been sought for are actually standing in privately owned malkiyati areas of the applicants lands owner and no tree has been marked from land ceiling areas vested with the government under the provision of H.P. Village Common Land (Vesting and Utilisation) Act, 1974. Certified that no trees has been marked within one chain from Govt. land.
5. Certified that the land owners in question have not sold any more trees of other species nor they will be allowed to do so from their private land during the current year season. Further no fellings have taken place in the Khasra Nos in which marking has been done now during the last 10 years period.
6. Certified that the demarcation/markings has been carried out by field Kanungo of revenue department and by me personally. I am satisfied with the correctness of demarcation given by the field Kanungo.
7. Certified that ^{nc}all trees have been marked from Govt. land.
8. Certified that no demarcation has been carried out on Govt. land which are under unlawful possession of the applicant owner (s).
9. Certified that the list of the trees found in private land at the time of demarcation has been prepared carefully and the species given are correct and tally with the field.
10. Certified that no such trees standing in the areas granted under Naulor has been marked for which the price has not been paid by the applicant owners. Land ceiling certificate duly signed by the Collector has been obtained and no trees marked in the areas liable to Vest in the Govt. under the ibid Act.
11. Certified that markings have not been done in one Khata involving more than one contractor.
12. Certified that the above marked trees are in Malkiyati land for which demarcation has been given by the Field Kanungo/Competent Revenue official on the site.
13. Certified that the land where marking has been carried out is not mortgaged to any agency. That the owner of the land vide his affidavit enclosed in original has taken the responsibility for the payment of dues of Khair trees to the other co-sharer of land in which trees have been marked for sale to the contractor.
14. Certified that no demarcation in the land of _____ has been made which is mortgaged in favour of any Institution/Agency.

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15. Certified that no demarcation has been carried out in "Khadyater/Ghasni" the lands adjoining Govt. land or Forests, the demarcation has been done by leaving one Jarabe/chain.
16. Certified that the power of Attorney has been attested by the Notary/Oath Commissioner which is the competent authority for the purpose.

2.2 MINIMUM DIAMETER FOR MARKING OF KHAIR TREES

The marking in private areas is to be done strictly on silvicultural principles. Exploitable diameter will be 20 cms. dbh and no clear felling of the area shall be allowed even for purpose of raising of orchards (H.P.L.P.R. 1983 4(2) (c)).

2.3 COMPLETION OF KHAIR MARKINGS

It has been experienced that Khair markings are carried out almost through out the year, sometime towards fag end of the prescribed year of felling, resulting in extensions for subsequent year. Therefore, it is hereby ordered that all Khair markings would be completed by 15th September in the year of felling positively and the cases after marking would be submitted to the DFOs who after due scrutiny will issue felling orders expeditiously.

3. CHARGING OF SECURITY

As a uniform policy to safeguard the interest of the department, a security of 10% subject to a maximum of Rs. 5000/- of the value of the trees worked out at market rates will be got deposited in the post office saving bank and will be released only after successful completion of work.

4 FELLING OF KHAIR TREES

4a) Felling of Khair trees will be allowed as under :

- | | |
|--|--|
| i) Up to 200 Khair trees in each case in a year | By the concerned DFO |
| ii) 200 & above khair trees in each case in a year | By the concerned Conservator of Forests. |

Where only demarcation and marking completed and no felling order has been completed issued ; and where felling order is issued either felling is carried out partly or felling is not done at all, all such cases will be referred to the Pr. Chief Conservator of Forests for seeking extension in working period upto one year.

4(b) FELLING, CONVERSION AND STACKING OF KHAIR TREES

- i) The trees will be felled and converted into billets of standard 1m length except the terminal billets which may be of length from 0.5 m to 1.5 m for ensuring complete utilisation.

- [4] -

- ii) Standard 1 m length billets would be further sorted out and stacked in following mid girth classes i.e.

20.1 cm to 30 cm.
30.1 cm to 40 cm.
40.1 cm to 50 cm
50.1 cm to 60 cm and so on upto 90.1 cm and up girth class.

- iii) All the non standard size billets i.e. remaining billets will be stacked in one lot after actual measurements.

4(c) MEASUREMENTS

The billets will be of 1 m standard length which should be ensured by issuing 1 m length bamboo sticks to the laborers. However, the girth will be measured in 10 cm girth classes upto 90.1 cm and over girth class. The recording would be made tree wise. For each billet extracted the volume will be calculated according to formula $(G/4)^2 \times L$ taking mid girth measurement under bark as 'G'.

On each billet, on one face felling order No./ Tree No. will be written.

4(d) KHAIR FUELWOOD

All the tops, tops and branches which are not convertible into billets of minimum 20 cm mid girth under bark are to be stacked as fuelwood.

5. UPROOTING OF KHAIR TREES

No uprooting of Khair trees will be allowed except from areas under cultivation or where the land in question is proposed to be brought under cultivation. In the later category of land, the uprooting will be allowed only under prior permission of the DEO based on spot inspection of the area and considering the slope of the area etc. No such uprooting of trees in Ghannies and other sloping Banjar areas will be allowed.

6. REPORTING

With a view to have information about the total removal of Khair trees and likely yield available for processing, an abstract of all the felling permissions given by DEO will be sent to the concerned CF on given proforma (Annexure-1) immediately after the closing of prescribed year of felling. The C.F. will forward the same in a consolidated form for the whole circle on the same proforma.

7 EXPORT OF KHAIR WOOD

7.1 POWERS

Export permit will be issued by the concerned DFOs(T) & WL in case of Khair wood to be exported within the Division and from one Division to another and in the event of export of khair wood from one Circle to another with the prior approval of the Conservator of Forests concerned and in case of export of khair wood outside the State with the prior approval of the Government.

7.2 REPORTING

To have complete data about the khair wood extracted and export allowed; the detail of all the exports given by DFO in each case of felling of khair from private areas will be furnished to the concerned C.F. in the prescribed form (Annexure-II). C.F. will forward a consolidated report of the Circle to the Direction Office by 15th May of the succeeding financial year.

8. PROCESSING OF KHAIR WOOD

8.1 KATHA BHATTIES

Permission for installation of Katha Bhatti will be granted only where minimum quantity of 400 meter girth Khair wood is available. No permission for installation of katha bhatti will be allowed for less quantity. General principle of allowing establishment of katha bhatti will be away from the area in which the khair lots is under work by the H.P.State Forest Corporation will be followed.

8.2 REPORTING

Data about the total khair wood extracted and utilized for manufacturing of katha, will be furnished by DFO to the concerned Conservator of Forest in the prescribed proforma (Annexure-III). The C.F. will forward the same in a consolidated form for the whole circle to Direction office.

9. CONDITIONS REGARDING PLANTATION CHARGES

According to rule 4(3)(b) of H.P.Land Preservation Rules, 1983. DFO may require the owners to deposit such amount not exceeding Rs. 3/- per plant in lieu of three plants to be planted. For the present this rate is Rs. 2/- per plant as already conveyed vide this office Memo No. Ft.783-54/70(M) order dated 9.2.1993. DFO will incorporate necessary condition in the felling permission that the owners will be bound to plant three plants for every tree felled within one year of felling and where the owners fail to fulfill this condition within stipulated period, the planting of requisite number of plants will be done by the DFOs out of the money kept as deposit for the purpose as per instructions issued separately.

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10. FELLING OF KHAIR TREES UNDER CONSOLIDATION OF LAND HOLDING

Felling of khair trees for the excess number of trees coming in exchange between the old and new land owners will be allowed in the same manner as if the area in question fall under normal prescribed year of felling. To that extent which instructions/orders applicable in normal cases of sale and felling of khair trees will hold good in such cases also.

11. DEVIATIONS

All cases of deviation will be dealt with as per the Government guidelines which are reiterated below :-

- i) The deviation/extension may not be allowed in the private sale cases for the felling of trees from the private land. The felling of trees from the private land may be done according to 10 years felling programme framed under the H.P. Land Preservation Act, 1978 and the rules framed there under;
- ii) The other operations like demarcation of land from the private land may be carried out in the preceding year to the year in which the area is due for felling as per 10 year felling programme. The marking and felling of trees should take place in the year in which the area is actually due for felling as per the 10 year felling programme;
- iii) The Govt. may consider for the felling of trees from the 10 years felling programme only in exceptional cases keeping in view the full justification of the case on receipt of recommendations of the Pr. Chief Conservator of Forests as under :-
 - a) Deviation for arrear of felling will be allowed only upto maximum of 2 years from the prescribed year of felling (i.e. deviation can be considered for the cases pending from 1991-92 in 1993-94. Each case falling within this limit will be processed on merit keeping in view the reason for not seeking/getting the permission during the prescribed year of felling;
 - b) In no case, felling in advance of the prescribed year's felling programme will be processed.

12. RATES OF STANDING TREES

As provided in the rule 4(2)(g) of H.P. Land Preservation Rules, the concerned Divisional Forest Officers will impose following restrictions in addition to the other standard conditions already in operation, in the interest of conservancy and misuse of khair extracted from private areas:-

- a) The price of Khair trees to be paid to the growers/farmers is to be ensured.

-[7]-

In no case the farmers/growers should be paid less than the price fixed by the Govt./Competent authority for the year in which actual felling is carried out;

- b) Payments at the rates as fixed by the Competent authority/Govt. of converted khair wood to be paid to contractors/farmers by mechanized khair processing units/katha bhatti owners are required to be ensured;
- c) Rates referred above in 12(a) and (b) are to be given wide publicity in the local press and also through beat of drum;
- d) Concerned R.O. will ensure that all the agencies pay rates as referred above to the farmers/growers and will attend to the cases, of exploitation on top priority;
- e) The rates mentioned in 12(a) and (b) are to be ensured by making mention in the felling permission/permit as provided in Rule 4(2)(g) of Land Preservation Rules, 1983.

(V. P. Mohan)
Pr. Chief Conservator of Forests,
Himachal Pradesh.