

# H.P. Forest (Timber Distribution to Right Holders) Rules, 2010 – Facts and Figures thereof.

## 1. Introduction:

These rules cover the Timber Distribution (T.D.) Rights for construction and maintenance of residential house, cowshed that too for bonafide domestic use without affecting the other rights contained in the Forest Settlements in operation. Some doubts and misconceptions are uncalled for and are clarified as under.

- Forest centered based on the principle that if the forests will remain then only people will be able to exercise rights namely of Timber distribution (TD). Further these rights are People centered more so rural poor centered.
- The rights recorded in settlement other than Timber distribution (TD) like free grant for last rites of the dead, collection of medicinal herbs, grazing etc. have not been touched upon and would remain to be exercised as they were in the past.
- To have transparency involvement of people in Timber Distribution through their Gram Sabha has been ensured.

## 2. Rationalization Process:

Hon'ble High Court before deliberating and deciding the issue under consideration of PIL with them directed the State Govt. to rationalize the timber distribution process which took into account the following aspects

- As the TD is concerned with Land holding in rural areas that too for construction of house/cowshed for domestic purpose the TD in Urban areas has been done away with.
- If the Right Holders have land holding at more than one place then TD will be granted at only one place of the choice of land holder.
- TD will only be enjoyed by original Right Holder and not by those who have purchased land after taking permission under Section 118 of the HP Tenancy and Land Reforms Act, 1972 from now onwards.
- The ratio of TD rates of Chil, Deodar and Kail at the time of Forest Settlement when their rates of TD were initially fixed was 1:5 to 1:8, which has now gone to 1:8,8700 in case of Deodar, 1:30,000 in Kail, and 1:15,000 in Chil, thus requiring rationalization, which has been affected after about more than 100 years.
- The people would be given converted timber near to their place of residence at rate of 30% and 10% of average commercial rates at which timber is sold by HP Forest Development Corporation.

## 3. Legal position:

The various settlement reports mention that ***'if the exercise of rights as admitted in any forest, would endanger the existence of forest, the extent to which the rights will be exercisable can be re-determined and should the exercise of rights become detrimental***

***to the exercise of the forests over which these are exercised, the extent to which the rights will be exercisable can be re-determined.***

Yet this option has seldom been exercised in the past for conservation of forests. H.P. Forest Settlement Rules, 1965 have been framed under Section 76 of IFA, 1927. The guiding principle laid down for determining the rights and concessions under these rules are as under: ***“All these rights and concessions are meant for the satisfaction of personal bonafide requirements and subject to condition that forests are to be maintained in perpetuity. The right of user of easement is always a limited one; it can never extend so as to destroy the servient estate. The right exists so long as the (servient) property is safe or continues to exist, because if the (servient) estate ceases to exist, the right ceases with it. So while dealing with the claims, the Forest Settlement Officer should see that the forests are not unduly burdened”.***

Keeping into consideration the powers delegated to the state Govt. under Section 32 of IFA, 1927, based on the guiding principles under HP Forest (Settlement) Rules, 1965 and the orders passed by Hon'ble HP High Court the HP Forest (Timber Distribution of Right Holders) 2010 have been formulated and notified.

These rules in brief contain the following

**4. Quantity.**-(1) Timber Distribution shall be granted in converted form from the depots to be specified separately as per scale fixed below:-

For construction of new house = 3 cubic meters; and

For maintenance = 1 cubic meter.

(2) Timber Distribution shall be given from salvage (fallen, dry standing), silviculturally available green trees in the order of preference.

**5. Periodicity.** - The periodicity for grant of Timber Distribution to the Right Holders will be as under:-

- (i) For new construction once in life time or 30 years whichever is later;
- (ii) For additions/alterations – once in 15 years; and
- (iii) sufferers of natural calamities/fire sufferers: as per actual requirement as recommended by the Sub Divisional Officer (Civil) and after personal verification by the ACF/DFO concerned subject to the grant not exceeding the maximum limit prescribed under rule-4.

**6. Rates.** - The rates to be charged from the different types of Right Holders for grant of Timber Distribution will be as under:-

- (i) Right Holders above poverty line- 30% of the rates at which timber is sold by the Himachal Pradesh State Forest Development Corporation Ltd commercially;

(ii) Right Holders below poverty line- 10% of the rates at which timber is sold by the Himachal Pradesh State Forest Development Corporation Ltd. Commercially; and

(iii) Right Holders suffering from natural calamities- Free of cost.

**7. Priority for grant of Timber Distribution.-** Priority for grant of Timber Distribution shall be given to the Right Holders belonging to Below Poverty Line and then Right Holders above poverty line shall be granted Timber Distribution on first come first served basis.

**8. Procedure for grant of Timber Distribution.-**

i) Application for grant of Timber Distribution, on the form appended to these rules as 'Annexure-I' shall be submitted by Right Holder (s) to the Panchayat concerned after getting necessary remarks from the Patwari concerned.

ii) The Panchayat after ascertaining genuineness of the requirement of the Right Holders shall pass resolution in the Gram Sabha of the Panchayat indicating actual quantity of requirement of Timber Distribution of the individual (s) concerned.

iii) After resolution recommending grant of Timber Distribution is passed by the Gram Sabha of the concerned panchayat, right holders shall submit his Timber Distribution application to the Forest Guard (FG) of the area.

iv) FG shall enter the same in the register maintained for the purpose and issue receipt of the application to the Right Holder.

v) He shall send his recommendations to the Block Officer after ascertaining the genuineness of demand, who in turn shall submit his recommendations to the Range Officer.

vi) After receipt of Timber Distribution application from the Range Officer, the Divisional Forest Officer shall take action for sanction of the Timber Distribution after satisfying himself about the genuineness of the requirement and silvicultural availability of trees/timber in the concerned forest and intimate his decision/ Timber Distribution grant to the Right Holder concerned on the proforma appended to these rules as 'Annexure II'.

vi) A schedule for grant of Timber Distribution shall be framed and notified for publicity to all panchayats and other functionaries in the Forest Division by the Divisional Forest Officer.

**9. Time schedule for grant of Timber Distribution.-**The right holders shall apply for grant of Timber Distribution through concerned Panchayat to the concerned forest guard by 31<sup>st</sup> March each year which has been extended to 30<sup>th</sup> April this year. The application shall be processed and Timber Distribution shall be given to eligible right holders between September to December of the year as per procedure under rule 8 and no Timber Distribution shall be granted thereafter for that year.

**10. Depot.** - The depots from where Timber Distribution in converted form shall be supplied to the right holders shall be notified by the Divisional Forest Officer every year. Any change during

the next year in the place of these depots shall also be notified. These notifications shall be widely circulated up to the Panchayat level by the Divisional Forest Officer.

The rates in this respect for various species during 2009-10 were as under:

Species	Average weighted sale (commercial) rates in Rupees of HPSFDC Ltd.	Rate per Cums at 30%.	Rate per Cums at 10%.	Estimated cost per standard size sleeper	
				For Right holders above poverty line.	For Right holders below poverty line.
Deodar	25614	7684	2561	768	256
Kail	15379	4614	1538	461	154
Fir/Spruce	7588	2276	759	228	76
Chil	5775	1733	578	173	58

It is hoped that rates during 2010-11 would be on the similar order.

## 12. Merit of these rules over previous provisions of T.D. in various settlements:

The advantage these rules have provision for grant of TD under various settlements are as under:-

- i) These Rules of TD have been integrated and unified for whole of the state.
- ii) Timber will be available in converted form and near to the place of residence of the people helping them in saving precious time and money during this schedule.
- iii) The rules are forest centered as well as right holder centered based on the guiding principles of HP Forest Settlement Rules, 1965 as indicated in point 3 which will help in conservation of forests and so also catering to the demand of TD to the present and future generations.
- iv) The periodicity and quantity has been made based on optional requirement so that forest remains and TD continues to be given in perpetuity.
- v) Priority has been given to poor and needy (BPL) followed by other people who need wood in TD.
- vi) A detailed procedure for grant is enshrined in the Rules itself which is time scheduled for the year.
- vii) People have been empowered as the application for needy will start from the Gram Sabha.
- viii) The right holder now has to simply give application duly authenticated by the Gram Sabha of the Panchyat to the FG which will pass through the various chanel of the Forest Deptt. and the applicants would get their converted TD at the earmarked depots between September to December.

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