

Government of Jammu and Kashmir
Forest, Ecology & Environment Department
Civil Secretariat, Jammu

Subject: - SWP No. 331/2016 titled Showkat Hussain Mintoo V/s State of J&K & Others.

Government Order No. : 79 - JK (FST) of 2021

Dated : 08.07.2021

Whereas, a complaint was lodged before the then vigilance organization (now ACB) in the year 2011 against S/Sh. S.H Mintoo, the then Divisional Manager, Extraction Division Bhandarwah, Mohd Ayoub Zargar, Dy. Manager and Mohd Ramzan Butt, the then in charge compartment 22/Kellar, regarding embezzlement of timber extracted from Comptt. 22/Kellar; and

Whereas, based on the allegations levelled against the officers/officials in the complaint, a departmental enquiry was ordered against the aforesaid officers/officials and articles of charges were served to the officers/officials inter-alia on the grounds, viz. (a) Causing wilful damage to corporation property, (b) Causing loss to SFC exchequer and (c) Gross negligence in supervision of Corporation stocks; and

Whereas, on receipt of the reply to the charge sheet, a formal enquiry was ordered to be conducted vide SFC Order No. 110 of 2012 dated 22.03.2013; and

Whereas, the enquiry committee upon taking evidence submitted a report dated 25.04.2013, wherein, charges of embezzlement against the Officers/Officials were found baseless, but, the committee came to the conclusion that there were administrative lapses on the part of the petitioner. What was stated in its observations in paragraphs (vi), (vii), (x) & (xi) is as under:-

(vi) *Losses reported at both the occasions viz. in February 2008 and March 2009 have been taken very lightly by the authorities, i.e., DM/GM/RM concerned who were directly responsible for the execution of the works and not pursued seriously with the authorities at Head Office i.e. GM(R&B) responsible for monitoring and advising the MD SFC on the working of SFC in each Division.*

(vii) *The DM of the time failed to conduct the inspection of the reported lost stocks and take any preventive or recovery measures. As such, administrative is lapse on his part.*

(x) *The official functionaries including the DM/GM of the time failed to discharge their duties seriously and in right earnest of supervisory obligations as well as in stopping the GREF agency from inflicting losses to SFC timber if it was actually being done*

by the GREF. They (SFC functionaries) should have even registered the FIR's in this case.

- (xi) *During the spot inspection by Sh. D.L. Sharma, Ex. G.M. (V&S) (as per his report) alongwith DM Audit-I and others at Senai on 20-21/04/2012 about 9 logs were found fully and partly buried under boulders and debris was observed which clearly indicated that the loss to the timber by way of bulldozing and slides too have taken place. Extent of and quantum of losses occurred due to this cannot be assessed at this moment.*

Whereas, consequent to the aforesaid Enquiry Committee report, the Managing Director, SFC vide his office communication No. 4749/Bx/SFC dated 12.03.2014, recommended that allegations of misappropriation of SFC stocks against the officers/officials be dropped and proposed that the royalty loss suffered by the J&K State Forest Corporation amounting to Rs. 92,922.41 shall be recovered from S/Shri S.H. Mintoo the then Divisional Manager Bhandarwah and Mohammed Ramzan Butt, Supervisor Grade-I in equal proportion; and

Whereas, the recommendation was accordingly, submitted for appropriate orders before the SFC Management Committee. The SFC Managing Committee in its meeting held on 01.08.2015 after considering the entire matter arrived at a conclusion to uphold the recommendations of the then MD with regard to dropping of the charges as well as writing off the royalty. Thereafter, the matter was, referred to the Administrative Department for approval; and

Whereas, the Administrative Department examined the recommendations of the Management Committee and taking cognizance to the report of the enquiry committee and the recommendation of the then Managing Director, State Forest Corporation furnished vide NO. 13/GM/V&S/SFC dated 24.04.2013 and No. 4779-50/Bix/SFC dated 12.03.2014, directed to effect recovery of loss of royalty amount to Rs. 92,922.41 suffered on this account by the SFC from Sh. S.H. Mintoo the then Divisional Manager Bhandarwah and Mohammed Ramzan Butt, Supervisor Grade-I in equal portion; and

Whereas, the Managing Director, SFC vide his order No. 16 of 2016 Dated 02.02.2016 ordered for recovery of the amount of Rs.92,922.41/- from Sh. S.H. Mintoo and Sh. Mohammad Ramzan Butt, in equal proportion; and

Whereas, Sh. S.H. Mintoo challenged the said order before the Hon'ble High Court at Jammu by filling writ petition bearing SWP No.331/2016, the said writ petition was disposed of by the Hon'ble Court on 16.05.2018 by quashing the impugned order and directed the Government to re-look on the entire issue and take an independent view of the matter, after considering in its correct prospective the recommendations made by the SFC, Managing Committee; and

Whereas, the MD, FDC vide its communication dated 09.04.2019 submitted that pursuant to the directions of recovery of the loss of royalty, 50% share of royalty component amounting to Rs. 46,461/- from Mohammad Ramzan Butt on his retirement has been recovered and requested to re-look the entire matter in light of Hon'ble Court directions; and

Whereas, on the advice of Department of Law, Justice & PA, the Administrative Department filed appeal against the order/judgment dated 16.05.2018 passed in SWP No.331/2016 before the Hon'ble Division Bench, Jammu bearing LPA No.146/2020 titled "UT of J&K & Ors. V/s Showkat Hussain Minto". Subsequently, the said appeal was dismissed on 11.02.2021 with the following observations:-

"We do not see anything bad with the impugned judgment dismissing the writ petition of the petitioner/appellant herein. The impugned judgment is well within the canons of law and the writ court has appreciated the controversy in its right perspective.

The Writ Court has left it open for the appellants to take a re-look on the entire issue and take an independent view of the matter after considering in its correct perspective the recommendations made by the SFC Management Committee, therefore, the right of the appellants to again go through the matter is not closed."

Whereas, pursuant to the above mentioned orders/ directions, the case of the petitioner has been re-examined in the Department on its merit, viz-a-viz recommendations made by the SFC Management Committee, enquiry committee report dated 25.4.2013 and recommendation of the then Managing Director, State Forest Corporation furnished vide NO. 13/GM/V&S/SFC dated 24.04.2013 and No. 4779-50/Bix/SFC dated 12.03.2014; it has been established that administrative lapse and failure has been attributed to Sh. S.H. Minto the then DM and Sh. Mohammed Ramzan Butt, then Supervisor-I, for not discharging their legitimate duties and responsibility for protecting the timber and it has also been established that the losses have been taken place on account of carelessness and in-efficiency of the immediate supervisory staff.

Now, therefore, after thoughtful consideration of the above said fact, records pertaining to the case and considering the report of the enquiry committee dated 25.04.2013, recommendations of MD, SFC dated 12.03.2014 and also examining the views of SFC Management Committee, it has been established that the loss of royalty to the SFC has been suffered due to failure and negligence in the discharge of

legitimate duties by the officer/officials namely Sh. S.H. Mintoo the then Divisional Manager Bhandarwah and Sh. Mohammed Ramzan Butt, Supervisor Grade-I.

Accordingly, loss of royalty suffered to State Forest Corporation (now J&K Forest Development Corporation) amounting to Rs. 92,922.41 has to be recovered from Sh. S.H. Mintoo the then Divisional Manager Bhandarwah and Sh. Mohammed Ramzan Butt, the then Supervisor Grade-I in equal proportion.

By order of the Government of Jammu and Kashmir.

Sd/-

(Sanjeev Verma) IAS

Commissioner/ Secretary to Government

No: - FST/Lit/FPF/202/2014

Dated: 08.07.2021

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
2. Managing Director, J&K Forest Development Corporation, Jammu.
3. Director, Archives, Archeology & Museum, J&K Jammu
4. Sh. Ayjaz Lone, Deputy Advocate General, J&K High Court, Jammu.
5. Pvt. Secretary to Commissioner/Secretary to Government, Forest, Environment and Ecology Department.
6. All petitioners.
7. I/c Website, Forest, Environment and Ecology Department.
8. Government Order file (w.2.s.cs)/Stock file.


(Vivek Phonsa) JKAS

Deputy Secretary to Government