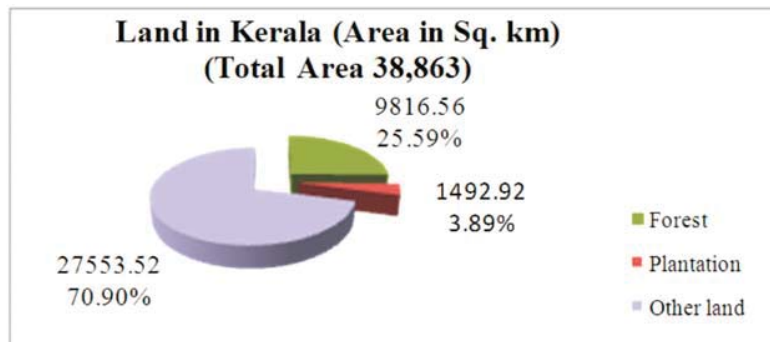


Chapter-III
Management of Forest land

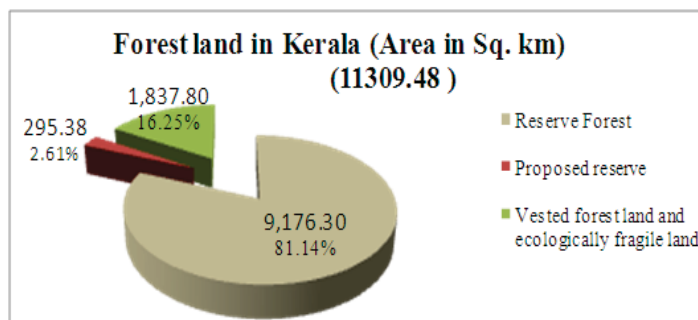
CHAPTER-III: MANAGEMENT OF FOREST LAND

3.1 Introduction

The forest area¹ under the administrative control of Forest and Wildlife Department is 11,309.48 sq. Km which includes plantation area of 1,492.92 sq. Km which is 13.20 *per cent* of the total forest area.



The distribution of forest area according to legal status is 9,176.30 sq. Km (81.14 *per cent*) of Reserve Forest, 295.38 sq. Km (2.61 *per cent*) proposed reserve and 1,837.80 sq. Km (16.25 *per cent*) vested forest & ecologically fragile land.



Vast areas of forest land was leased out or given as grants by the former Maharajas of Travancore and Cochin. The rates of rent for the leases and grants were negligible. Before 1980, i.e., prior to enactment of Forest Conservation Act 1980, land was given on lease to PSUs like KSEB, Plantation Corporation, Rubber Board, Kerala Forest Development Corporation, Hindustan News Print Ltd., Malabar Cements etc., through executive orders of State Government. After enactment of Forest Conservation Act, State government is assigning forest land in unavoidable circumstances on lease only after getting consent of Central government. Time expired leases are also being renewed only on the consent of Central government. Kerala Land Assignment (Regularisation of occupation of forest land prior to 1 January 1977) Special Rules 1993, was enacted under Kerala Land Assignment Act 1960, to regularise occupation of forest land prior to 1977.

¹ Statistics based on the Administration Report of the Department for the year 2010-11 (latest position).

3.2. Organisational set up

At Government level Forest & Wildlife Department is headed by the Additional Chief Secretary (Forest & Wildlife). At Departmental level it is headed by Principal Chief Conservator of Forests & Head of Forest Forces (PCCF & HOFF). Department is broadly divided into Territorial, Wildlife and Social Forestry Wings. Territorial Wing is headed by the Principal Chief Conservator of Forests (PCCF) and consists of Circles, Divisions including Timber Sales Divisions, Ranges, Timber Depots, Forest Stations, Section Offices, Check Posts etc. Matters connected with general administration of the Department. including lease of land are also being attended to by the Territorial Wing. The Department also has Vigilance, Planning, Inspection and Evaluation, IHRD Wings etc.

3.3. Objectives of audit

The broad objectives of the study were to assess whether:

- Government has a sound forest land management policy in line with policies of Central government.
- rules framed were adequate for the management and disposal of forest lands.
- a well defined mechanism exists to assign forest lands on lease as well as on registry.
- system to check the encroachment of forest land exists.
- an effective internal control mechanism was available in forest department.

3.4. Scope and methodology of audit

Files and records maintained in Forest & Wild Life Department, three Territorial Circles² and five Divisions³ including Forest Headquarters of the State were test checked. The data collected was analysed with reference to the audit criteria and audit queries raised. Findings of Audit were discussed with the Department and Government. The draft note on audit was sent to the Government on 10 October 2013 for their response.

Entry meeting in respect of the Forest and Wildlife Department was conducted on 22 March 2013. Their views were considered while conducting audit. An exit meeting was conducted on 2 December 2013 in which the points noticed in audit were discussed in detail. The views of Government/Department were considered while finalising the report.

3.5. Criteria of audit

The criteria for this audit were derived from the provisions of Act/Rules viz.,

- The Kerala Forest Act, 1961(KF Act 1961).

² Kollam, Palakkad and Thrissur.

³ Chalakudy, Nemmara, Punalur, Thrissur and Vazhachal.

- The Kerala Grants and leases (Modification of Rights) Act, 1980 (KGL (MR) Act, 1980).
- The Kerala Grants and leases (Modification of Rights) Rules, 1990 (KGL (MR) Rules, 1990).
- The Forest (Conservation) Act, 1980 (FC Act,1980).
- Kerala Land Assignment (Regularisation of Occupation of Forest Land Prior to 1 January 1977) Special Rules 1993.
- In addition, the notifications/instructions issued by Government and the Principal Chief Conservator of Forests had been taken as the criteria for audit.

3.6. Acknowledgements

Audit acknowledges the help and co-operation extended by Government as well as the Principal Chief Conservator of Forests & Head of Forest Forces, Circle Officers, Divisional Officers etc.

3.7. Audit findings

Several deficiencies/defects in the assignment of forest land were noticed in audit which are given below.

3.7.1 Absence of records of forest land and land on lease

Addl. Principal Chief Conservator of Forest (Protection) and Divisional Conservator of Forest (Protection) are responsible for monitoring land on lease and collection of lease rent. Register showing details of land on lease is not being maintained in the office of APCCF (P). Instead, details are collected from circle offices when required. In circle offices also such registers are not being maintained as a usual practice. Thus the details of land on lease in a consolidated form was not readily available.

On this being pointed out the PCCF & HOFF promised to maintain a consolidated record of forest land in Kerala.

3.7.2 Failure to frame Rules/revise lease rent timely

KGLMR Act, 1980 was enacted to protect the revenue interest of the State. However, the KGLMR Rules, 1990 could be enacted only after ten years, in 1990, fixing the lease rent collectable. Amended provision of Rule 3 (2) of the KGLMR Rules, 1990 which came into force from 25 November 2009 fixes lease rent at seventy five *per cent* of the money value in rupees of the yield obtainable in the year of the revision after deducting the standard expenditure or three *per cent* of land value whichever is higher. But this is subject to limitation that rent shall not exceed the rate applicable to forest lands leased out to public sector undertakings (PSUs) from time to time. As per Rule 3 (2)(b), lease rent should be revised every three years. Thus, as long as the lease rent of PSUs remain unchanged, the provision for revision is meaningless.

Audit scrutiny revealed that no system exists in the department for the periodical revision of lease rent for forest land leased out to PSUs. Rate of

lease rent for PSUs was revised last as ₹ 1,300 per Ha. *per annum* in January 1989. CCF submitted a proposal (May 2000) for revision of lease rent at ₹ 5,000 per Ha. *per annum* with effect from 18 December 1999. But as lease rent applicable to PSUs was not revised so far (March 2013) it continues to be computed at the rate of ₹ 1,300 per Ha. *per annum*.

3.7.3 Loss due to non-revision of lease rent for PSUs

Total land leased out to PSUs and individuals in five forest circles⁴ is 1,33,553.44 Ha. as on 31 March 2013. Out of this, land leased out to PSUs is 1,19,178.88 Ha. The main PSUs having forest area on lease along with area of land are given in Annexure X.

The maximum rate of lease rent payable by private entities and individuals are also limited to the rate applicable to PSUs. At the existing rate of lease rent the income from the PSUs and individuals would be ₹ 17.36 crore per year. If the rates were revised to ₹ 5,000 per Ha. *per annum*, income would raise to ₹ 66.78 crore per year. Thus loss of revenue in a year due to non-revision of lease rent for PSUs comes to ₹ 49.42 crore.

On this being pointed out Government stated (January 2014) that a proposal for revision of lease rent had been submitted to the Finance Department. Further report has not been received (May 2014).

3.7.4 Accounting of lease rent

Lease rent on forest land is being collected by divisional officers and accounted under the head of account 0406 Forestry and Wildlife-01-800-90-Forest land lease rent. Audit noticed difference between departmental figures and figures booked by the Office of the PAG (A&E), Kerala from the vouchers and reflected in the approved Finance Accounts of the Government. Further the Department did not complete the reconciliation for the years 2010-11 and 2011-12. During 2012-13, reconciliation was completed and figures booked by the Office of the PAG (A&E) were accepted by the Department. But the difference has neither been rectified nor reason for difference explained.

The difference between departmental figures and figures in finance accounts maintained by the Office of the PAG (A&E), Kerala during the audit period is as follows:

(₹ in crore)

Year	Amount of lease rent	
	Departmental figure	as per finance accounts
2008-09	1.33	*
2009-10	1.55	*
2010-11	2.28	2.65
2011-12	2.09	1.20
2012-13	2.03	0.76

**Upto 2009-10 there was no separate sub head for receipts from lease rent.*

⁴ Southern Circle, Kollam, High Range Circle, Kottayam, Central Circle, Thrissur, Eastern Circle, Palakkad and Northern Circle, Kannur.

The difference between departmental figures and figures in finance accounts needs explanation. Reasons for reduction in lease rent during 2011-12 and 2012-13 with respect to preceding years though called for have not been furnished by the Department.

On this being pointed out, Government stated (January 2014) that the Department would take necessary action to reconcile the figures before the close of the financial year. Further report has not been received (May 2014).

3.7.5 Arrears in lease rent collection

Lease rent due to the Government from forest land worked out to ₹ 17.36 crore per year. Against this, lease rent collected ranged from ₹ 1.33 crore to ₹ 2.28 crore at the rate of ₹ 1,300 per Ha. *per annum* in a year as shown below, indicating huge arrears in collection.

(₹ in crore)			
Year	Lease rent due at ₹ 1,300 Ha. <i>per annum</i> on leased out area ⁵	Amount of lease rent collected by Department	Shortage of collection
2008-09	17.36	1.33	16.03
2009-10	17.36	1.55	15.81
2010-11	17.36	2.28	15.08
2011-12	17.36	2.09	15.27
2012-13	17.36	2.03	15.33

Most of the PSUs, though they were running commercial activities were not remitting lease rent due, to the Department. Audit scrutiny of 140 cases (60 PSUs and 80 individuals) showed that total lease rent arrears due from them amounted to ₹ 196.85 crore as shown below:

Sl. No.	Category	Number of cases	Area (in Ha.)	Arrear amount (₹ in crore)
1	Public Sector Undertakings	60	40,858.92	196.72
2	Others	80	1,271.57	0.13
Total		140	42,130.49	196.85

Divisional forest offices (DFO) are monitoring the collection of lease rent and the clearance of arrears of lease rent. In none of the DFOs test checked, registers showing details of lease, lease rent due, collected and balance to be collected etc., were maintained. Instead collection was watched through files.

Age wise and stage wise details of the arrears were also not available. No effective action has been taken by the Forest and Wildlife Department to realise the arrears.

On this being pointed out, Government stated (January 2014) that action was being taken to revise the lease rent and realise the arrears in consultation with Law and Finance Departments. Further report has not been received (May 2014).

⁵ 1,33,553.44 Ha. in five forest circles.

3.7.6 Non-execution of lease agreement with PCK

A lease deed was executed in 1971 leasing out forest land measuring 4,261.05 Ha. in Chalakudy Forest Division to the Plantation Corporation of Kerala (PCK). But PCK was handed over 385.15 Ha. in excess of the land leased out. Audit found that Deputy Conservator of Forest (Protection) and the Additional Principal Chief Conservator of Forest (Protection) had directed the DFO Chalakudy in 2001 and 2011 to make necessary steps to execute the lease agreement with PCK for the remaining 385.15 Ha. of land with them which was left out while executing the deed in 1971. The agreement has not been executed for the last 42 years.

On this being pointed out, Government stated (January 2014) that they would take appropriate action to constitute a committee to review lease cases. Further, it was stated that the survey work would be completed early and there after agreements would be executed. Further report has not been received (May 2014).

3.7.7 Short demand of dues

Scrutiny of lease files and registers of DFO (Territorial division), Punalur in audit revealed that forest land measuring 2,345.78 Ha. falling in Punalur Division was given to the State Farming Corporation of Kerala Ltd (SFCK) for plantation purposes on lease since 1972. SFCK was permitted⁶ to convert the lease rent dues amounting to ₹ 1.40 crore for the period from 1987 upto March 1992 (at the stipulated rate of ₹ 1,300 Ha. *per annum*) as share capital. Though SFCK defaulted in payment of lease rent for the period from 1971-72 to 2003-04, they remitted lease rent from 2004-05 onwards. The arrears of lease rent for the period from 1987 to 31 March 1992 was not converted as share capital till date. Audit found that, as on 31 March 2013 Divisional Forest Officer (DFO) Punalur demanded ₹ 11.53 crore only from the lessee as arrears with penal interest for the period from 1971-72 to 1986-87 and from 1992-93 to 2012-13 instead of ₹ 30.14 crore. This resulted in short demand of dues of ₹ 18.61 crore.

On this being pointed out, Government stated (January 2014) that the arrears of lease have to be calculated afresh in consultation with Law and Finance Departments. Further report has not been received (May 2014).

3.7.8 Failure to check adherence to lease conditions

An extent of 80.71 Ha. of forest land in Kodassery Village within the jurisdiction of Chalakudy Forest Division was leased out by the Dewan of former Cochin State to a society, 'The Alwaye Settlement Colony', for the purpose of establishing a colony for the Cochin depressed classes students. Out of the total extent of 80.71 Ha. land leased out, 67.03 Ha. was apportioned for building a colony. A tribal school was established in 4.05 Ha. of land by the Government and the remaining 9.63 Ha. land is in possession of the society.

The lease rent fixed for the entire land was ₹ 100 per year which was subsequently raised to ₹ 200. The lease of the land has not been renewed in

⁶ GO(MS) No.20/93/F&WLD dated 8 March 1993.

accordance with Kerala Grants and Leases (Modification of Rights) Act, 1980 and lease rent was not collected since 2009. The lease rent which had to be renewed from 25 November 2009 had not been renewed.

There was no system in the forest department to monitor the utilisation of leased land during post lease period to see whether the land was used for intended purposes by intended beneficiaries. Since the whole land was not utilised for intended purpose, the Government has to verify the extent of unused land and initiate action to resume the balance land of 9.63 Ha.

On this being pointed out Government admitted (January 2014) that confusion existed on the extent of the land in possession. Further report has not been received (May 2014).

3.7.9 Failure to take action in cases of violations

Audit noticed that in many cases, the lessees violated the lease conditions including alienation. But the forest department did not initiate any action against the assignees. Illustrative cases are given below.

3.7.9.1 Violation of lease conditions in respect of lands leased out in Perumpara Estate

A scrutiny of lease files of DFO, Chalakudy revealed that an extent of 38.04 Ha. of forest land (Perumpara Estate) in Sholayar Range of Vazhachal Division was leased out to one Ramalingam Iyer by the erstwhile Government of Cochin by two lease deeds for 22.05 Ha. and 15.99 Ha. on 11 December 1935 and 26 September 1938 respectively.

Subsequently, 2.86 Ha. was claimed to be set apart for public purposes. The lessee sold his lease hold rights of the remaining land of 35.18 Ha. to another person. Though the government land on lease cannot be transferred by way of sale, the transfer was approved⁷ by Government in the above case. Land was transferred many times and registered by Government in favour of the transferees.

On the death of the last occupants, the leasehold right of above property was transferred to their linear descendants. On the above property, the occupants availed two loans amounting ₹ 85 lakh from Urban Co-operative Bank Ltd., Chalakudy in 2004 by furnishing a lease agreement made on 1968. The loans with interest have not been repaid (November 2013). As the loans were availed illegally from bank, the Police have registered a case (Crime No.666/2006).

Even after the violation of lease rules by alienating government land in 1968 and mortgaging the leased land, the resumption procedure has not yet been initiated.

On this being pointed out, Government stated (January 2014) that action is being taken to terminate lease agreement in respect of this estate. The draft show cause notice to be served on the present holders of the estate is under examination. Further report has not been received (May 2014).

⁷ Lr.No.21021/ FGI/76/AD dated 03 May 1976.

3.7.9.2 Alienation of forest land given on lease

Scrutiny of files connected with lease of forest land in DFO, Thrissur revealed that 404.76 Ha of forest land in Madakkathara Village (Thrissur *Taluk*) was given on lease in 1905 and 1907 to M/s Cochin Rubber Company. The lessee transferred this land to one Thattil Vareed Kochuvareed. From him the land came in favour of his wife and from her to so many other persons. With passage of time 389.35 Ha.⁸ land was transferred and the details of possession of the balance land remains unknown.

On this being pointed out Government stated (January 2014) that it was decided to conduct a survey of the forest land transferred without permission. Further report has not been received (May 2014).

3.7.10 Incorrect assignment of forest land

Forest land can be assigned only with the concurrence of Government of India. Audit noticed cases where forest land was assigned against the above provisions which are given below as illustrative cases.

3.7.10.1 Assignment of forest land in excess of Government of India direction

As per the Rules 5 and 6 of KLA Rules, 1964, maximum land of 20.24 Are can be assigned for personal cultivation and maximum 6.067 Are of land can be assigned for house site.

Audit noticed from the records available in *taluk* offices that 8,115 persons occupied 2,726.39 Ha. of forest land under Thrissur and Chalakkudy forest divisions in three *taluks* viz. Thrissur, Mukundapuram and Thalappally of Thrissur district prior to 1 January 1977. Joint verification was conducted by R&DM department and Forest department and list of persons occupying the land was sent for consent of Central Government for regularisation under the Kerala Land Assignment (Regularisation of occupation of forest lands prior to 01 January 1977) Special Rules, 1993. The details of approval/assignment were as follows:

Details of list approved for assignment/assignment made			
Sl. No.	Particulars	No. of persons	Area in Ha.
1	Assignment permitted by the Government of India	8,115	2,726.39
2	Applications received	5,723	-
3	Balance cases in which applications had not been received	2,392	-
4	Land assigned and <i>patta</i> issued	3,901	1,161.39
5	Balance cases pending with department	1,822	-

Audit observed the following irregularities in the assignment of land:

- 16.72 Ha. of land was assigned unauthorisedly by Special *Tahsildar* (LA) I and II, Thrissur to 62 persons who were not included in the list

⁸ Peechi Irrigation Canal: 15.54 Ha. (38.41 Acre), K M Augustine & Others: 46.04 Ha. (113.76 Acre), Annamma Antony & Others: 66.01 Ha. (163.12 Acre), Kerala Agricultural University: 261.76 Ha. (646.80 Acre).

approved by the Government of India after joint verification by the R&DM department and Forest department prior to the sanction.

- While assigning 40.57 Ha. of land in 53 cases, 19.12 Ha. of forest land has been given in excess of the area permissible for assignment as per the KLA Rules, 1964 and stipulated by the Government of India instructions.

On this being pointed out, Government stated (January 2014) that the details of land assigned were with R&DM department and hence the details are not available in the Forest Department. Further report has not been received (May 2014).

3.7.11 Impact

Impact of audit observations discussed in this chapter are as follows:

Sl. No.	Para No.	Para	Area in Ha.	Amount (₹ in crore)
1	3.7.5	Arrears in lease rent collection	42,130.49	196.85
2	3.7.7	Short demand of dues	2,345.78	18.61
Total			44,476.27	215.46

3.7.12 Conclusion

Review of land management by Forest Department led Audit to conclude that:

- there was no system existing in the department for identification and inventorisation of forest land.
- violations of lease conditions by the lessees were not properly monitored and there was no system to take immediate action to resume the land in cases of violation.
- there was no system to ensure the strict compliance of Government of India directions limiting the assignable area under provisions of KLA Rules, 1964.
- there was no system existing for periodical verification of assigned or leased forest land to ascertain post registry/lease violations which resulted in alienation unnoticed and not reported for years together.
- there existed no system for timely fixation of lease rent, renewal of rate of lease rent.

3.7.13 Recommendations

Audit recommends :

- identifying and inventorising all forest lands on a war footing by surveying and demarcating the land.
- developing a mechanism to monitor and renew the lease/lease rent within the time period stipulated in Act/Rules.
- putting in place a mechanism to realise lease rent dues promptly.
- ensuring that agreements are executed in all lease cases.