



FACULTY OF JURIDICAL SCIENCES

COURSE: LL.B.

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NAME OF FACULTY: Mohammad Aqib

Lecture-35



LECTURE 35: Prevention and Detection of Offences and Penalties under Wildlife(Protection) Act

Prevention and Detection of Offences

Sec. 50 of this Act confers power of entry, search, arrest and detention on the Director or any other officer authorized by him or the chief wildlife warden or Officer authorized by him or any Police Officer not below the rank of Sub-inspector. Officer not below the rank of Assistant Director of Wildlife Preservation or Wildlife Warden shall have the powers to issue a search warrant, to enforce the attendance of witnesses, to compel the discovery and production of documents and material objects and to receive and record evidence. Cognizance of Offence No court shall take cognizance of any offence against the Wildlife Protection Act except on a complaint by: The Director of wildlife preservation or any other officer authorized in this behalf by the Central Government or; The Chief Wildlife Warden or any other officer authorized by the State Government; or, any person who has given notice of not less than 60 days, in the manner prescribed, of the alleged offence and of his intention to make a complaint to the Central Government or the State Government or the officer authorised as aforesaid.

Punishments

Sec. 9 of the Act prohibits hunting of any wild animal specified in Schedules 1, 2, 3, and 4. Any person who hunts any wild animal shall be punishable with imprisonment for a term which may extend to 3 years or with fine which may extend to Rs. 25000/- or with both. However, if any person commits the offence in the sanctuary or national park, with respect to any animal specified in Schedule 1, he shall be punishable with imprisonment which shall not be less than 1 year but may extend to 6 years and also with fine which shall not be less than 5000/-. As per section 51 of the Act, Any person who contravenes any provision of this Act (except Chapter VA and section 38J) or any rule or order made there under or who commits a breach of any of the conditions of any license or permit granted under this Act, can be punished with imprisonment for three years or with fine or with both: Any person who contravenes any provisions of Chapter VA, can be punished with imprisonment for three years to seven years and also with fine which shall not be less than ten thousand rupees; Any person who contravenes the provisions of section 38 J can be punished with imprisonment of six months, or with fine up to two thousand rupees, or with both.

Any person, who commits an offence in relation to the core area of a tiger reserve or where the offence relates to hunting in a tiger reserve or altering the boundaries of the tiger reserve, such offence can be punished on first conviction with imprisonment for three years to seven years, and

also with a fine which shall not be less than fifty thousand rupees but may extend to two lakh rupees; and in the event of a second or subsequent conviction with imprisonment for seven years and also with a fine which shall not be less than five lakh rupees but may extend to fifty lakh rupees.

If any person, exercising powers under this Act, vexatious and unnecessarily seizes the property of any other person on the pretence of seizing it for the reasons mentioned in sec. 50, he shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Forfeiture of Property Derived from Illegal Hunting and Trade A new chapter, Chapter VI-A, had been incorporated by the Wildlife (Protection) Amendment Act of 2002. According to this new chapter, if any person or associate of persons or trust acquires property from illegal hunting or trade of wildlife, it shall be forfeited to the State Government by the competent authority. Such property can be forfeited after taking all necessary steps (inquiry, investigation or survey in respect of any person, place, property, documents institution, etc.) and after tracing and identifying any such property. During the investigation and proceeding of forfeit the property, if the competent authority finds that only a part of the acquired property is proved illegal, the authority shall make orders, giving an opportunity to the person affected, to pay a fine equal to the market value of such part of property in lieu of forfeiture.

Offences by Government Departments and Authorities

If a person, authority or department is found guilty of committing an offence under the Forest Conservation Act, he shall be liable to be proceeded against and punished accordingly as per the rules of the act. The head of department or an authority or any other person can avoid punishment if he proves that the offence was committed without his knowledge or he exercised his full power to stop the offence to be committed.