



मुख्य वनसंरक्षक (प्रादेशिक) नागपूर यांचे कार्यालय

बी.एस.एन.एल.,संचार लक्ष्मी बिल्डींग, 118 बटालियन च्या बाजूला, कस्तुरचंद पार्क समोर, नागपूर -440001
दुरध्वनी क्रमांक 0712-2562250, फॅक्स क्रमांक 0712-2565393, E-mail - ccftnagpur@mahaforest.gov.in

क्रमांक कक्ष-३/महसुल/तेंदु/प्र.क्र. /३६२ /१८.१९ नागपूर, दिनांक २६/४/२०१८

प्रति,

मे.मोरारजी त्रिभुवनदास अॅन्ड कंपनी
विठ्ठल नगर, गोंदिया
तालुका गोंदिया
जिल्हा गोंदिया-४४१६०९

विषय:-अपील अर्ज क्रमांक ३/२०१८,
मे.मोरारजी त्रिभुवनदास अॅन्ड कंपनी
विठ्ठल नगर, गोंदिया.
विरुद्ध
उपवनसंरक्षक गोंदिया वनविभाग,गोंदिया

विषयांकित प्रकरणी दिनांक १६/४/२०१८ रोजी झालेल्या सुनावणीच्या अनुषंगाने केलेल्या आदेशाची प्रत सोबत जोडून आपले माहिती व आवश्यक कार्यवाही करिता पाठविण्यात येत आहे.

सहपत्र-वरिलप्रमाणे

(संजीव गौड)
मुख्य वनसंरक्षक (प्रादेशिक)
नागपूर

प्रतिलिपीप्रतिलिपी-अपर प्रधान मुख्य वनसंरक्षक (अकाष्ट वनोपज) नागपूर तथा अपीलीय प्राधिकरण यांना आदेशाच्या प्रतिसह माहिती व आवश्यक कार्यवाहीस सादर.
प्रतिलिपी-उपवनसंरक्षक गोंदिया वनविभाग यांना आदेशाच्या प्रतिसह माहिती व आवश्यक कार्यवाहीस सादर.

२१/४
मुख्य वनसंरक्षक (प्रादेशिक)
नागपूर

**OFFICE OF THE CHIEF CONSERVATOR OF FORESTS
(TERRITORIAL), NAGPUR**

B.S.N.L., Sanchar Laxmi Building, Opposite Kasturchand Park, Nagpur (M.S.) – 440 001.
Phone No – 0712-2564 569. E-mail – ccftnagpur@yahoo.in

APPEAL NO. 3/2018

M/s Morarji Tribhuvandas & Company,
Vitthal Nagar ,Gondia
Taluka Gondia,
Dist. Gondia-441601 -----

Appellant

VERSUS

The Deputy Conservator of Forests,
Gondia Forest Division, Gondia-----

Respondent

ORDER

1. Before appreciating the subject matter, it shall be worth to appreciate the mode of collection, disposal and trade of Tendu leaves in the State of Maharashtra.

1.1. The collection and disposal of Tendu leaves in the entire State used to be governed by the Maharashtra Forest Produce (Regulation of Trade) Act, 1969 and the Rules made thereunder. In the year 1996 the Parliament enacted The Provisions of Panchayats (Extension to the Scheduled areas) Act 1996 (hereinafter referred to as PESA), whereby the State Legislatures have been directed that Panchayats at appropriate level and gramsabha are endowed specifically with the ownership of Minor Forest Produce (MFP) in Scheduled Areas. Accordingly the Maharashtra Legislature enacted the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act 1997 (hereinafter referred to as 'the Transfer of Ownership of Minor Forest Produce Act'). As per the Said Act, the ownership of Minor Forest Produce in the Government Lands in Scheduled Areas excluding National Parks and Sanctuaries vested in Panchayat at appropriate level and gramsabha.

1.2. Thereafter in the year 2006, Parliament enacted another Act namely the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter referred to as 'the FRA'). The Said Act has defined the Forest Rights and vested such Forest Rights in the Forest Dwelling Scheduled Tribes and the Other Traditional Forest Dwellers. Both the above terms are defined in the Said Act. Section 2(i) of the Said Act defines the term Minor Forest Produce (MFP) as under.

"Minor Forest Produce" includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like.



1.3. Section 3(1) (c) has the provision, whereby the Forest Dwelling Scheduled Tribes and the Other Traditional Forest Dwellers shall have right of ownership access to collect, use and dispose of Minor Forest Produce (MFP) which have been traditionally collected within or outside the village boundaries. As per Rule 2(1) (ca) framed under the FRA, the said forest right has been classified as 'community right', commonly known as Community Forest Rights, hereinafter referred to as 'CFR'

1.4. Rule 2 (1) (d) explains the term disposal of the Minor Forest Produce (MFP) as under

Disposal of Minor Forest Produce (MFP) under Clause (c) of Subsection (1) of section (3) shall include right to sale as well as individual or collective processing, storage, value addition, transportation within or outside forest areas through appropriate means of transported for the use or their cooperatives or associations or federations for livelihood.

1.5. Section 11 of the FRA empowers the Ministry of Tribal Affairs in the Central Government as the Nodal Agency for its implementation. the Ministry of Tribal Affairs (MoTA) vide guidelines No.23011/11/13-FRA(Pt) dated 13 February 2015 has issued clarifications in respect of disposal of Minor Forest Produce (MFP) in accordance with FRA vis-à-vis PESA, wherein it has been clarified that Sale of MFP can also be effected through cooperatives or associations or federations of right holders.

1.6 It is pertinent to point out that as per the notification dated 19/08/2014 issued by Hon'ble Governor of Maharashtra, the term MFP used in the Transfer of Ownership of MFP Act has been brought at par with that given in the FRA. Accordingly, the tendu leaves came under the definition of MFP both under the FRA and the Transfer of Ownership of MFP Act.

1.7 In light of the above background, the collection and disposal of tendu leaves is now governed by three different Acts in the State of Maharashtra which are as under.

- 1) **In Scheduled Areas** :- As per the Transfer of Ownership of MFP Act
- 2) **Outside Scheduled Areas where CFR have been granted** :- As per the FRA
- 3) **Areas other than Scheduled Areas and CFR Areas**:- As per the Maharashtra Forest Produce (Regulation of Trade) Act 1969.

2. Scheduled Areas do not exist in the Nagpur Circle. Thus the collection and trade of Tendu leaves in Non-CFR area is governed by the Maharashtra Forest Produce (Regulation of Trade) Act, 1969, through tender process. Accordingly, the Tender was published by the Forest Department vide Office of the Principal Chief Conservator of Forests (Head of Forest Force) Maharashtra State, Nagpur No Desk -20(2)/CR-03(16.17)/701/of 2016-17,Nagpur dated-15/12/2016. It is pertinent to mention that the Tendu units along with notified yields in CFR and Non CFR areas was duly mentioned in the above said Tender. So far as CFR areas are concerned, the concerned forest-right holders are empowered as mentioned in para 1.4 above.



3. As per the above said Tender, the notified yield in respect of the unit, in respect of which the appeal has been preferred is as under.

Sr.No.	Number & Name of Unit	Notified yield (Standard Bags) Non CFR Area	Notified yield (Standard Bags) CFR Area	Total yield (Standard Bags)
1	2	3	4	5=3+4
1	25 Kanhalgaon 26 Parsodi	1300	0	1300

4. The case of the Appellant is that he submitted the offer for 1300 standard bags under impression that Chichtola, Mahajantola and Bichtola (Village Mhaisuli) were within the above said group of units. However the Tendu leaves collected from the said area were not received by the Appellant when the collection started. Therefore his collection was reduced by 119.850 standard bags. Therefore the Appellant requested the Respondent to proportionately reduce the targeted collection from 1300 standard bags to 1180.150 standard bags by deducting the above shortfall of 118.950 standard bags. The Appellant further points out that initially the Respondent vide his letter dated 2/1/2018 recommended to the Chief Conservator of Forests, Nagpur to reduce the targeted collection as stated above. However, subsequently vide communication dated 21/02/2018, the Respondent rejected the request of the Appellant on the ground that village Mhaisuli (Chichtola, Mahajantola and Bichtola) is not the part of the 25 Kanhalgaon 26 Parsodi that were awarded to the Appellant, hence he was not entitled for compensation in respect of an area which was not the part of units awarded to him.

5. The Appellant has further contended that the above said Chichtola, Mahajantola and Bichtola were part of Unit-26 Parsodi for last several years. The Appellant has therefore requested to declare the communication dated 21/02/2018 from the Respondent as bad in law.

6. Heard the Parties on 16/04/2018

7. I have carefully gone through the Tender Document dated 15/12/2016. Page 7 of the Tender document shows Mhaisuli in the group of unit namely 27 Mhaisuli, 28 Palasgaon, 29-Bonde which is other than the unit 25- Kanhalgaon, 26 Parsodi which has been awarded to the Appellant and which is the subject matter of the present Appeal.



8. The details of villages included is various Tendu units and notified yield therein as mentioned in the Tender document leaves no ambiguity. Though, initially the Respondent has recommended the reduction proposed by the Appellant, but when his attention was drawn by his official superior to the fact mentioned in para 7 above, the Respondent had rightly corrected himself and made amended communication to the Appellant.

9. For the reason stated above, I proposed to pass following order.

ORDER

- 1) **The Appeal is hereby rejected.**
- 2) **As per Condition No.17 of the Agreement, the Appellant shall be at liberty to prefer an appeal within 30 days from the receipt of this order before Additional Principal Chief Conservator of Forests (NTFP), M.S., Nagpur.**

27/04/18
(Sanjeev Gaur)
Chief Conservator of Forests
(Territorial), Nagpur

Place- Nagpur
Date-27/04/2018

