

V. THE TELANGANA SCHEDULED AREAS MINOR FOREST PRODUCE (REGULATION OF TRADE) REGULATION, 1979

The Andhra Pradesh Scheduled Areas Minor Forest Produce (Regulation of Trade) Regulation, 1979 published in A.P. Gazette (EO) Part. IV-B dt. 26.4.1979, has been adopted in the State of Telangana vide Notification issued in G.O.Ms.No.34, EFS&T (For.I), Dept., dt. 01.06.2016.

The following regulation which was made on the 26th December, 1978 by the Governor of Andhra Pradesh under Paragraph 5 (2) of the Fifth Schedule to the Constitution of India after consulting the Andhra Pradesh Tribes Advisory Council, received the assent of the President on the 28th March, 1979 and the said assent is hereby first published in the Andhra Pradesh Gazette for general information.

ANDHRA PRADESH REGULATION 1 OF 1979

A regulation to make provision for regulating in the public interest, the trade of certain minor forest produce by creation of a State monopoly in such trade in the scheduled areas of the State of Andhra Pradesh.

In exercise of the powers conferred by sub-paragraph (2) of Paragraph 5 of the Fifth Schedule to the Constitution of India, the Governor of Andhra Pradesh, with the assent of the President, hereby makes the following Regulation in the Thirtieth Year of Republic of India, namely:

1.Short title, extent, commencement and application:— (1) This Regulation may be called the Telangana Scheduled Areas Minor Forest Produce (Regulation of Trade) Regulation, 1979.

(2) It extends to the whole of the Scheduled Areas of the State of Telangana.

(3) It shall come into force in such Scheduled Areas and on such 1[date] as the Government may, by notification, specify and they may specify different dates for different Scheduled Areas.

(4) It shall apply in respect of such minor forest produce as may be notified by the Government, from time to time.

----- 1.The Regulation will come into force in all the scheduled areas in the state of Andhra Pradesh on 1-1-1980 vide G.O.Ms.No.1 Social welfare dt 1-1- 1980 published in A.P. Gazette (EO) Part.I dt 1-1-1980.

CASE LAW

The object and purpose of the Regulation was to create a State monopoly in the trade of minor forest produce in Scheduled Areas through Andhra Pradesh Scheduled Tribes Cooperative Finance and Development Corporation alone, any declaration or injunction granted by the High Court cannot stand. *A.P. Coop. Finance and Development Corporation vs. B. Pundiah.* (1983) 4 SCC 466 ; AIR 1983 SC 1290.

Pruning of leaves does not amount to transfer of an immovable property. Leaves in a tree are part of immovable property, but when they fall; they cease to be immovable property. As the tenderer is not involved in plucking of leaves from a tree, the restrictions laid down in the regulations applicable to scheduled areas do not come into play. *Andhra Pradesh Tribal (Girijan) Welfare (Abhyudaya) Union and others vs. State of A.P and others*, AIR 2001 AP 306

2.Definitions:— In this Regulation, unless the context otherwise requires:-

- (a) "agent" means the agent appointed under Sec. 3;
- (b) 'Corporation' means the Girijan Co-operative Corporation Ltd., Visakhapatnam ;
- (c) *Government* means the State Government ;
- (d) 'grower' means-

(i) In respect of any minor forest produce grown in any land constituted as reserved forest or in any forest or waste land declared as protected forest under the Telangana Forest Act, 1967, (Act 1 of 1967) the Government; and

(ii) in respect of any minor forest produce grown in any of the land-

(a) the Government, where the minor forest produce is grown on unoccupied land which is the property of the Government or which is placed under their control and management;

(b) the owner, occupier, tenant, lessee or other person having right or the possession and enjoyment of the land, on which the minor produce is grown and includes every person, who, from time to time, claims title to such produce through him ;

(e) '*minor forest produce*' means any forest produce other than timber, trees and charcoal, as may be notified by the Government in this behalf;

(f) '*notification*' means a notification published in the Telangana Gazette; and the word 'notified' shall be construed accordingly;

(g) '*prescribed*' means prescribed by rules made by the Government under this regulation;

(h) '*Scheduled Areas*' means the areas which have been or may be declared to be scheduled areas by the President under sub-paragraph (1) of paragraph 6 of the Fifth Schedule to the Constitution of India;

(i) words and expressions used but not defined in this regulation and defined in the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation 1 of 1959) (adopted) and the Telangana Minor Forest Produce (Regulation of Trade) Act, 1971. (Act 4 1971) shall have the meanings respectively assigned to them under that Regulation and Act.

3. Appointment of Corporation as Agent:— (1) The Government may for the purposes of purchase of and trade in any minor forest produce on their behalf, appoint the Corporation as an agent for any scheduled area.

(2) The terms and conditions of appointment and the manner of the purchase of, and trade in, any minor forest produce by the Corporation and the price at which such minor forest produce shall be purchased by the Corporation from growers shall be such as may be prescribed.

4. Restriction on purchase or transport of minor forest produce:—(1) Upon the issue of a notification under sub-section (3) of Section 1 in respect of any scheduled area, no person other than the Corporation shall sell or purchase or cure or otherwise process or collect or store or transport any minor forest produce to which this regulation applies.

Explanation:— (1) Any sale to or purchase from the Corporation of a minor forest produce shall not be deemed to be a sale or purchase in contravention of the provisions of this section.

(2) Any person desiring to sell any minor forest produce may sell the produce to the Corporation in such form and in such manner as may be prescribed.

(3) No grower shall carry on,

(a) any trade or business in,

(b) any industry in the case of,

the minor forest produce to which this regulation applies, except in accordance with the provisions of this regulation or the rules made thereunder.

5. Opening of purchase centres and publication of price-list at depots, etc.:— (1) There shall be set-up by the Corporation such number of purchase centres and at such places, as it may, taking into consideration the convenience of the growers of the respective minor forest produce, deem fit. A price list of such produce and the hours of business shall be prominently displayed on a notice board kept for the purpose at every such price centre.

(2) The Corporation shall be bound to purchase the minor forest produce offered for sale at the purchase centre during the hours of business in the raw form from all the growers of the price fixed;

(3) Any person aggrieved by the refusal to purchase the minor forest produce by the Corporation may prefer an appeal to such authority, in such manner and within such time as may be prescribed. The appellate authority shall dispose of the appeal in such manner as may be prescribed and its decision thereon shall be final.

6. Act of 1971 not to apply to the scheduled areas:— Nothing in the Telangana Minor Forest Produce (Regulation of Trade) Act, 1971, shall apply to minor forest produce in the scheduled areas in respect of which the provisions of this regulation apply.

7. Establishment of check post or barrier and search and seizure etc: ---(1) The Corporation may, with a view to secure compliance with the provisions of this Regulation, direct the setting up of check posts of erection of barriers or both wherever deemed necessary.

(2) Any officer authorized by the Corporation in this behalf may, with a view to securing compliance with the provisions of this regulation or the rules thereunder or to satisfying himself that the said provisions have been complied with.

(i) stop and search any person, boat, vehicle or receptacle used or- intended to be used for the transport of a minor forest produce.

(ii) enter and search any place ; and

(iii) where there is reason to believe that an offence punishable under this regulation or any rule made thereunder has been committed in respect of any minor forest produce, seize such minor forest produce together with the receptacles, if any, in which it is contained and all tools, ropes, chains, boats, vehicles or cattle used in committing any such offence.

(3) Every officer seizing minor forest produce and other property under Clause (iii) of sub-section (2) shall place on such produce or other property a mark indicating that the same has been so seized and shall, except where the offender agrees in writing forthwith to get the offence compounded in the manner prescribed, make a report of such seizure to the Magistrate.

(4) The officer who has seized any property other than the minor forest produce, under Clause (iii) of sub-section (2) may release the same on the execution by the owner thereof a bond or the production of the property so seized, if and when so required, before the Magistrate.

(5) Upon the receipt of any report under sub-section (3), the Magistrate shall, except where the offence is compounded, take such measures as may be necessary for the trial of the accused and the disposal, of the minor forest produce and other property according to law.

(6) The minor forest produce and other property seized under Clause (iii) of sub-section (2) shall be kept in the custody of the officer until the compensation for compounding the offence is paid or until an order of the Magistrate directing its disposal is received.

(7) The provisions of Section 102 and 103 of the Code of Criminal Procedure, 1898, (Act 5 of 1898) relating to search and seizure shall, so far as may be, apply to searches and seizures under this section.

8. Penalty: ---(1) If any person contravenes any of the provisions of this regulation or the rules made thereunder-

(a) he shall be punished with imprisonment which may extend to one year or with fine which may extend to two thousand rupees, or with both;

(b) the minor forest produce in respect of which such contravention has been made or such part thereof as the Court may deem fit, and any boat, vehicle other than a cart drawn by animals, vessel or other conveyance or any other articles used in committing such offence, shall be liable to confiscation ;

Provided that if the Court is of the opinion that it is not necessary to direct confiscation in respect of the whole or as the case may be, any part of the minor forest produce or other property, it may, for reasons to be recorded, refrain from doing so.

(2) No Court shall take cognizance of any offence punishable under the regulation except on a complaint made by an officer of the Corporation duly authorized by the Corporation or such other officer as may be authorized by the Government in this behalf.

9. Savings in respect of acts done in good faith:— (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be so done in pursuance of this regulation or the rules made thereunder.

(2) No suit or other legal proceeding shall lie against the Corporation for any damage caused or likely to be caused or any injury suffered or likely to be suffered by virtue of the provisions of this

regulation or by anything which is in good faith done or intended to be so done in pursuance of this regulation or the rules made thereunder.

10. Regulation to override, other laws etc.:— The provisions of this regulation shall have effect notwithstanding anything inconsistent therewith in any other law, custom, usage or agreement for the time being in force or any judgment, decree or order of a Court, Tribunal or other authority.

11. Power to make rules:— The Government may, by notification, make rules to carry out all or any of the purposes of this regulation.

12. Power to remove difficulties:— If any difficulty arises in giving effect to the provisions of this regulation, the Government may, by notification, make such provisions not inconsistent with the provisions of this regulation as appear to them to be necessary or expedient for the removal of the difficulty:

Provided that no such notification shall be made after the expiration of two years from the commencement of this regulation.

