

**GUJARAT MINOR FOREST PRODUCE TRADE
NATIONALISATION ACT, 1979**

7 of 1979

[March 3, 1979]

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Statement of Objects and Reasons :- In order to eliminate exploitation of the tribal who collect timruleaves and mhowra and other minor forest produce from the areas in the State by private

trade, and for development of minor forest wealth of the State it was considered necessary to nationalise trade in the minor forest produce. As the Gujarat Legislative Assembly was not in session at that time the Gujarat Minor Forest Produce Trade Nationalisation Ordinance, 1978 (Gujarat Ordinance No. 1 of 1978) was promulgated to achieve the aforesaid object. Thereafter a Bill called the Gujarat Minor Forest Product Trade Nationalisation Bill 1978 (Gujarat Bill No. 35 of 1978) was published so as to the aforesaid Ordinance. However, before the 6th session of the 5th Gujarat Legislative Assembly prorogued on the 12th September, 1978 the Bill could not be taken up. By virtue of sub-clause (a) of clause (2) of article 218 of the Constitution the aforesaid Ordinance has caused to operate at the expiration of six weeks from the 21st August, 1978 being the date of the re-assembly of the Gujarat Legislative Assembly i.e. on the 1st October 1978. Therefore as the Gujarat Legislative Assembly was not in session, the Gujarat minor Forest Produce Trade Nationalisation (Second) Ordinance, 1978 was promulgated to achieve the aforesaid object. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

2. The following notes on clauses explain the important provisions of the Bill:-

Clause 3.- Sub-clause (1) of this clause impose restriction on sale, purchase or transport of minor forest produce on all persons other than the State Government, an authorised officer or an agent. Sub-clause (2) of this clause enables-

- (1) any person to sell minor forest product to or purchase minor forest produce from the State Government, authorised officer or agent,
- (2) a grower to transport any minor forest product grown by him from the place where it is grown to a purchasing centre or depot.
- (3) any person who has purchased any minor forest produce from the State Government or authorised officer or agent and any person who has purchased any minor forest produce under paragraph (e) of sub-clause (2) to transport the same, in accordance with a permit issued to him.
- (4) any person to import any minor forest produce or to transport the minor forest produce so imported in accordance with a permit issued to him.
- (5) any person who has purchased any minor forest produce from the persons specified therein to sell specified to minor forest produce to any other person and the other person to purchase the same.

Clause 4.- This clause empowers the State Government to fix after consultation with the Advisory Committee constituted under clause 7 and having regard to the factors specified in sub-clause (3) the price at which minor forest produce shall be purchased by the State Government, an

authorised officer or an agent from the growers of the produce. Clause 5.- This clause empowers the State Government to divide in respect of any minor forest produce the whole State into such number of units comprising such areas as it deems fit. Clause 6.- This clause empowers the State Government for the purpose of selling, purchasing or transporting any minor forest produce on its behalf to appoint any person as agent in charge of any unit on such terms and conditions as may be specified by the State Government to appoint the Gujarat State Forest Development corporation Limited as its sole agent on such terms and conditions as may be determined by the State Government. Clause 7.-This clause empowers the State Government to constitute an Advisory Committee for the purpose of advising the State Government in the matter of fixation of fair and reasonable price at which any minor forest produce may be purchased by the State Government, an authorised officer or an agent and in respect of such other matters relating to administration of the Act as may be referred to it. Clause 8.- This clause authorises the State Government to set up purchasing centres and depots in each unit. Clause 9.- This clause impose a duty on the State Government or the authorised officer or agent to purchase at the price fixed under clause 4 any minor forest produce offered for sale at the purchasing centre or depot and provides a remedy to any person who is aggrieved by refusal to purchase minor forest produce or by appropriation of minor forest produce to State Government. Clause 10.- This clause provides for an appeal to the State Government against the decision of the competent officer under clause 9. Clause 11.- This clause requires a grower of minor forest produce to get his name and address registered, if he was grown n any year any minor forest produce exceeding the prescribed quantity. Clause 13.- This clause empowers the State Government to delegate any of its powers except those under clauses 4 and 20 to any officers not below the specified rank. Clause 14.- This clause provides for powers of entry, search and seizure etc. Clause 15, 16 and 17.- These clauses relate penalty, attempts and abetment and cognizance of offences. Clause 20.- This clause empowers the State Government to make by notification in the Official Gazette, rules for carrying out the purpose of Act and in particular to provide for all or any of the mater specified in sub-clause (2) of the said clause 20. Clause 21.- This clause provide for non-application of the provisions of the Indian Forest Act, 1927 to the minor forest produce in respect of matters covered by the Act. Clause 22.- This clause

empowers the State Government to make an orders for the purpose of removing any difficulty, if such difficulty arises in giving effect to the provisions of the Act. Clause 23.- This clause provides for repeal of the Gujarat Minor Forest Produce Trade Nationalisation (Second) Ordinance, 1978 and the consequential savings.

1. Short title, extent and commencement :-

(1) This Act may be called the Gujarat Minor Forest Produce Trade Nationalisation Act, 1979.

(2) It extends to the whole of the State of Gujarat.

(3) It shall be deemed to have come into force on the 28th November, 1978.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(1) "agent" means an agent appointed under section 6;

(2) "appointed day" means the 28th November, 1978 being the date on which the Gujarat Minor Forest Produce Trade Nationalisation (Second) Ordinance, 1978 (Gujarat Ord. 9 of 1978) came into force;

(3) "authorised officer" means an officer of the State Government appointed by it, by an order published in the Official Gazette, to sell, purchase or transport any minor forest produce on behalf of the State Government under the provisions of this Act, and includes an officer of the Corporation authorised by It under sub-section (3) of Section 6 ;

(4) "Code" means the Bombay Land Revenue Code, 1879 (Bom. Vof 1879);

(5) "Committee" means the Advisory Committee constituted under sub-section (1) of section 7;

(6) "Corporation" means the Gujarat State Forest Development Corporation Limited formed and incorporated under the Companies Act, 1956 (1 of 1956);

(7) "grower" means a person who grows any minor forest produce in the land in his possession, whether as an occupant, tenant or in any other capacity, and includes, in relation to such produce grown in any unoccupied land or any forest land or waste-land comprised

in any reserved or protected forest constituted under the Indian Forest Act, 1927 (XVI of 1927),-

(a) where such land is leased, the lessee, and

(b) where such land is not leased, the State Government;

(8) "import" means to bring into the State from outside the State otherwise than across a customs frontier;

(9) "minor forest produce" means any of the following classes of forest produce:-

(a) timru leaves.

(b) mhowra flowers.

(c) mhowra fruits. seeds and doli.

(d) any other class of forest produce which the State Government may, by notification in the Official Gazette, declare to be a minor forest produce for the purposes of this Act;

(10) "prescribed" means prescribed by rules made under this Act;

(11) "State" means the State of Gujarat;

(12) "Unit" means an area of the State constituted as a unit under section 5;

(13) words and expressions used but not defined in this Act shall have the meanings assigned to them, in the Code or, as the case may be, in the Indian Forest Act, 1927 (XVI of 1927).

3. Restriction on sale, purchase or transport of minor forest produce :-

(1) Notwithstanding anything contained in any law for the time being in force or in any settlement, grant, agreement, usage, custom, or any decree or order of a Court or any Tribunal or any document having the force of law, no person other than the State Government, an authorised officer or an agent shall sell, purchase or transport-

(i) with effect on and from the appointed day, any of the minor forest produces specified in sub-clauses (a), (b) and (c) of clause (9) of section 2, and

(ii) with effect on and from the date of publication in the Official

Gazette of a notification issued under sub-clause (d) of clause (9) of section 2, the minor forest produce declared as such under such notification.

(2) Subject to the provisions of the Bombay Prohibition Act, 1949, (Bom. XXV of 1949), it shall be lawful for-

(a) any person to sell any minor forest produce to, or purchase any minor forest produce from, the State Government, authorised officer or an agent:

(b) a grower to transport any minor forest produce grown by him from any place in a unit where such produce has been grown to a purchasing centre or depot set up in that unit under section 8 or to any other place in that unit;

(c)

(i) any person who has purchased any minor forest produce from the State Government, or an authorised officer or an agent, and.

(ii) any person who has purchased any minor forest produce from another person under clause (e), to transport the same, in accordance with the terms and conditions specified in a permit issued by such authority and in such manner as may be prescribed, for the purpose of being used in the manufacture of finished goods within the State or for the purpose of sale outside the State, or for the purpose of re-sale to the State Government, an authorised officer or an agent;

(d) any person to import any minor forest produce or to transport the minor forest produce so Imported, in accordance with the terms and conditions of a permit issued by such authority and in such manner as may be prescribed: and

(e)

(i) any person, who has purchased any minor forest produce from the State Government or authorised officer, or an agent to sell such of the minor forest produce, as may be specified by the State Government by general or special order published in the Official Gazette, to any other person; and

(ii) other person to whom the minor forest produce is so offered for purchase to purchase the same, in accordance with the terms and conditions specified in a permit issued to the seller for the purpose

of sale and to the purchaser for the purpose of purchase, by such authority and in such manner as may be prescribed.

Explanation.- For the purpose of this section, a transfer of a right to collect any minor forest produce or an exchange of minor forest produce for some other thing shall be deemed to be a sale, and an acquisition of a right to collect any minor forest produce or an exchange of any thing for some minor forest produce shall be deemed to be a purchase.

4. Fixation of price by State Government in consultation with Committee :-

(1) The State Government shall, after consultation with the Committee and having regard to the factors specified in sub-section (3), fix in respect of each class of minor forest produce, the price at which such produce shall be purchased by it or by an authorised officer or by an agent from growers of that produce in the year following the year in which the price is fixed:

Provided that the price at which such produce shall be purchased in the period commencing on the appointed day and ending on the 31st December, 1979 by the State Government or by an authorised officer or by an agent from growers of that produce shall be fixed by the State Government and shall be published in such manner as may be prescribed before such produce is so purchased.

(2) The price fixed under sub-section (1) shall be published in the Official Gazette and in such other manner as may be prescribed, not later than the 31st day of December of the year in which it is fixed, and the price so fixed shall not be altered during the year to which it relates:

Provided that where the Committee fails to tender advice within the period specified under sub-section (3) of Section 7 or such further period not exceeding fifteen days as the State Government may allow, the State Government may fix the price without such advice.

(3) For the purpose of fixing the price of any minor forest produce under sub-section (1), the State Government shall have regard to the following factors, namely:-

(a) the price, if any, fixed under this Act or under any other law for the time being in force, for the concerned minor forest produce in the unit during the preceding three or two years or one year, as the

case may be, for which such price may have been fixed, and where no such price may have been fixed for any such year or years the price for the concerned minor forest produce prevailing in the year in which the price is fixed or such price as would have prevailed, in the unit during the next succeeding year,

(b) the quality of the minor forest produce,

(c) the transport facilities available,

(d) the cost of transport,

(e) the general level of wages for unskilled labour prevalent in the unit, and

(f) such other factors as may be prescribed.

5. Constitution of units :-

The State Government may, in respect of any minor forest produce, by notification in the Official Gazette. divide the whole State into such number of units, and each of them comprising such areas, as the State Government may deem fit.

6. Appointment of agents :-

(1) The State Government may, for the purpose of selling, purchasing or transporting any minor forest produce on its behalf, appoint any person as an agent in charge of any unit and it shall be lawful to appoint the same person as an agent for more than one unit.

(2) The terms and conditions of appointment of any agent shall be such as may be specified by the State Government in the order of appointment:

Provided that nothing contained in this sections hall prevent the State Government from appointing the Corporation as the sole agent for the purpose of selling, purchasing or transporting any minor forest produce and such appointment shall be on such terms and conditions as may be determined by the State Government.

(3) If the Corporation is appointed by the State Government as its sole agent under this section, it shall be lawful for the Corporation to authorise any person including its officers for the purpose of selling, purchasing or transporting any minor forest produce on its behalf under the provisions of this Act.

(4) The State Government may prescribe the procedure for the appointment of an agent under sub-section (1).

7. Constitution of Advisory Committee. :-

(1) The State Government shall, by notification in the Official Gazette, constitute an advisory Committee consisting of such members not exceeding five as may be specified in such notification for the purpose specified in sub-section (2):

Provided that-

(i) atleast one member shall be from amongst the persons who, in the opinion of the State Government, are traders ordinarily carrying on the trade of buying or selling of some minor forest produce,

(ii) atleast one member shall be from amongst the persons who. In the opinion of the State Government, are growers, and

(iii) atleast one member shall be from amongst persons belonging to the Scheduled Tribes, who are members of the Forest Laborers Co-Operation Societies.

Explanation- For the purpose of this proviso, -

(i) a trader or a grower shall mean, in a case where the trader or the grower is a local authority, a society, a company or any other association of individuals, a person authorised in writing by such local authority, society, company or association, as the case may be, to represent it on such committee;

(ii) Scheduled Tribes; shall means tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Gujarat under article 342 of the Constitution.

(2) The Committee shall advice the State Government in the matter of fixation under section 4 of the fair and reasonable price at which any minor forest produce may be purchased by the State Government, an authorised officer or an agent, and in respect of such other matters relating tot he administration of this Act as may be referred to it by the State Government.

(3) The Committee shall tender its advice to the State Government within such period as the State Government may specify in that be half.

(4) The Committee shall perform its functions in such manner as may be prescribed.

(5) The members of the Committee shall be entitled to such remuneration and travelling and other allowances as may be prescribed.

(6) The term of the Committee shall be one year from the date on which it is constituted:

Provided that the State Government may, by an order in writing, extend the said term for a further period not exceeding one year.

8. Setting up purchasing centers and depots :-

(1) The State Government shall, having regard to the convenience of growers and collectors of minor forest produce, set up at such places in each unit such number of purchasing centers or depots as it may think fit, for the purchase and sale of minor forest produce under the provisions of this Act.

(2) At every such purchasing centre and depot, there shall be displayed prominently on a notice board kept for the purpose a list showing in Gujarati and in such other script or language as may be intelligible to the persons in that locality, the price of each of the minor forest produce fixed by the State Government under section 4 and the hours at which any minor forest produce shall be purchased or sold at that centre or depot.

9. Purchase of Minor forest produce :-

(1) The State Government or the authorised officer or agent shall be bound to purchase at the price fixed under section 4 any minor forest produce offered for sale at the purchasing centre or depot during the hours notified for the purpose under sub-section (2) of Section 8 :

Provided that the State Government or the authorised officer or the agent may refuse to purchase any minor forest produce which, in the opinion of the State Government, authorised officer or, as the case may be, the agent is not fit for the purpose of manufacture of finished goods using such produce, or for any other commercial purpose.

(2) Any person aggrieved by the refusal of the authorised officer or the agent to purchase any minor forest produce may, within fifteen

days from the date of such refusal, make a complaint such refusal to such officer superior in rank to the authorised officer, as the State Government may empower in this behalf for the purpose of hearing such complaints.

(3) On receipt of a complaint under sub-section (2), the officer empowered to hear complaints under sub-section (2) (hereinafter referred to as "the competent officer") may, after holding such inquiry as he thinks fit and after hearing the parties concerned, either allow or reject the complaint.

(4) Where the competent officer allows the complaint on the ground that the refusal of the authorised officer or the agent to purchase the minor forest produce was not justified, he may direct the authorised officer or the agent, to purchase the same, and to pay to the aggrieved person such price for the minor forest produce so purchased by him as the aggrieved person would have been entitled to under sub-section (1) had the authorised officer or the agent, as the case may be, not refused to purchase it.

(5) Nothing in this section shall be construed to debar the State Government or the authorised officer or the agent from appropriating to the State Government any minor forest produce offered for sale, if the State Government or the authorised officer or the agent has reason to believe that such produce appertains to forest or land belonging to the State Government and paying to the person so offering such produce for sale only such charges, if any as may have been incurred by such person in collecting such produce, subject to such rules, as the State Government may from time to time make.

(6) Where any person is aggrieved by the appropriation of the minor forest produce to the State Government under sub-section (5) by an authorised officer or an agent, he may make a complaint to the competent officer.

(7) On receipt of a complaint under sub-section (6) the competent officer may, after holding such inquiry as he thinks fit and after hearing the parties concerned, either allow or reject the complaint.

(8) Where the competent officer allows the complaint, he may direct the authorised officer or the agent to make payment to the aggrieved person of an amount not less than the price of such minor forest produce as would have been payable to him under this section at the time when such produce was appropriated to the

State Government.

10. Appeal :-

Any person including an authorised officer or an agent, aggrieved by the decision of the competent officer under subsection (3), (4), (7) or (8) of Section 9 may, within a period of thirty days, from the date of communication to him of such decision, make an appeal to the State Government and the decision of the State Government on such appeal shall be final and shall not be called in question in any court.

11. Registration :-

Every grower, not being the State Government, who has, during the year immediately preceding the appointed day or the year preceding any subsequent day, grown any minor forest produce exceeding such quantity as may be prescribed shall, within thirty days after such day, on payment of such fees and in such manner as may be prescribed get his name and address registered in a register to be kept by the prescribed officer, together with the particulars regarding the quantity of the minor forest produce grown by him and the land in which such produce is grown during such year.

12. Disposal of minor forest produce :-

Any minor forest produce purchased by the State Government or by an authorised officer or an agent, under this Act, shall be sold or otherwise disposed of in such manner as the State Government may, by a general or special order, in writing direct.

13. Delegation of powers :-

The State Government may, by an order published in the Official Gazette, delegate any of its powers (other than the power to fix the price of minor forest produce under section 4 and the power to make rules under section 20) or functions under this Act or the rules made thereunder to any officer or authority not below the rank of a Range Forest Officer of the State Government or an Assistant Project Manager of the Corporation, who shall exercise or perform the same, subject to such conditions and restrictions as the State Government may specify in the order.

14. Power of entry, search, seizure etc. :-

(1) Any forest officer not below the rank of a Range Forest Officer or any Police Officer not below the rank of a Sub-Inspector or any

other person authorised by the State Government in this behalf, may, with a view to securing compliance with the provisions of this Act or the rules made 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 any minor forest produce:

(ii) enter and search any place;

(iii) seize minor forest produce in respect of which he suspects that any provision of this Act or the rules made thereunder has been, is being or is about to be, contravened, along with the receptacle containing such produce or the vehicle or boat used in carrying such produce.

(2) Every person seizing any minor forest produce or other property under clause (iii) of sub-section (1) shall place on such produce or other property a mark indicating that the same has been so seized.

(3) Any forest officer not below the rank of a Range Forest Officer who has seized any property other than a minor forest produce, under clause (iii) of sub-section (1) may release the same on the execution by the owner thereof of a bond for the production of the property so released, whenever required.

(4) The minor forest produce and other property seized under clause (iii) of sub-section (1) shall be kept in the custody of the forest officer not below the rank of a forest guard or village headman until an order of his disposal is received.

(5) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure shall, so far as may be, apply to searches and seizures under this section.

15. Penalty :-

If any person contravenes the provisions of section 3 or 11 or of any of the terms and conditions of a permit issued under clause (e), (d) or (e) of sub-section (2) of section 3,-

(a) he shall, on conviction, be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both; and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence.

(b) the minor forest produce in respect of which such contravention has been made or such part thereof as the court may deem fit shall be forfeited to the State Government:

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

16. Attempts and abetment :-

Any person who attempts to contravene, or abets the contravention of any of the provisions of Section 3 or Section 11 or of any of the terms and conditions of a permit issued under clause (c), (d) or (e) of sub-section (2) of section 3, shall be deemed to have contravened that provision.

17. Cognizance of offence :-

No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by any Forest Officer not below the rank of a Range Forest Officer or by a police officer not below the rank of a Sub-Inspector or by such other officer as may be authorised by the State Government in this behalf.

18. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against the State Government, the Corporation, an authorised officer, an agent or any other employee of the State Government or of the Corporation for any thing in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

19. Declaration that Act gives effect to certain directive principles :-

It is hereby declared that the provisions of this Act are for giving effect to the policy of the State to wards securing the principles specified in article 46 of the Constitution.

20. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made to provide for all or any of the following matters, namely:-

(a) the authority by which and the manner in which a permit may be issued under clauses (c), (d) and (e) of sub-section (2) of that Section 3 :

(b) the other manner in which the price fixed under sub-section (1) of section 4 shall be published under sub-section (2) of that section;

(c) the factors that may be prescribed under clause (f) of subsection (3) of section 4:

(d) the procedure to be followed in making appointment of an agent under section 6:

(e) the manner in which the functions of the Committee shall be performed under sub-section (4) of section 7 and allowances to which the members of the Committee shall be entitled under sub-section (5) of that section;

(f) regulation of payment of charges payable to a person under sub-section (5) of section 9

(g) the quantity exceeding which the grower has grown the minor forest produce for the purpose of being liable to be registered under section 11, the fees to be paid for being registered, the manner in which his name and address shall be registered under the said section and the officer empowered to keep the register for the registration of growers under the said section;

(h) any other matter which is to be or may be prescribed under this Act.

(3) In making any rules under this section the State Government may direct that a breach thereof shall be punishable with fine not exceeding one thousand rupees and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature

shall be published in the Official Gazette, and shall thereupon take effect.

21. Indian Forest Act not to apply to minor forest produce for purposes covered under this Act :-

Nothing contained in the Indian Forest Act, 1927 (XVI of 1927) shall apply to any minor forest produce in respect of matters for which provisions are contained in this Act.

22. Removal of difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may make such order, not inconsistent with the provisions of this Act as may appear to it to be necessary, for the purpose of removing the difficulty:

Provided that no order shall be made under this sub-section after the expiry of a period of two years from the appointed day.

(2) Every order issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during the session in which it is so laid or the session immediately following. Any rescission or modification so made by the State Legislature shall be published in the official Gazette and shall thereupon take effect.

23. Repeal and saving :-

(1) The Gujarat Minor Forest Produce Trade Nationalisation (Second) Ordinance, 1978 (Gujarat Ord. 9 of 1978) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under corresponding provisions of this Act.