

# **The Orissa Kendu Leaves (Control of Trade) Rules, 1962**

**(The 6th January, 1962)**

**No 558-CF-** In exercise of the powers conferred by Section 18, of the Orissa Kendu Leaves (Control of Trade) Act, 1961 (Orissa Act 28 of 1961) the State Government do hereby make the following rules, namely:

**1. Short Title and Commencement-**(1) These rules may be called The Orissa Kendu Leaves (Control of Trade) Rules, 1962.

(2) They shall come into force at once.

**2. Definitions** - In these rules unless the context otherwise requires-

- (a) **Act** means the Orissa Kendu Leaves (Control of Trade) Act, 1961 (28 of 1961);
- (b) **Divisional Forest Officer** means the Forest Officer in charge of a Forest Division in which the unit is situated and shall include 'District Forest Officer' as defined in Section 2 of the Madras Forest Act, 1882 (Madras Act 5 of 1882) and shall also include any other Forest Officer specially authorised by the State Government to discharge any or all of the functions under the Act or these Rules;
- (c) **Form** means a form appended to these Rules;
- (d) **Section** means a section of the Act;
- (e) All other words and expressions used but not defined in the Act;

**3. Publication of Prices-**Prices fixed under Sub-section (1) of Section 4 shall be published in the Official Gazette and a copy thereof in the Oriya language shall be published in at least two of the important daily newspapers of the State.

**4. Procedure for holding Enquiry-**(1) On receipt of a reference under Sub-section (2) or (3) of Section 7, the Officer holding the enquiry shall, as soon as may be, intimate the place, date and time fixed for holding the enquiry to the parties concerned by a notice in writing delivered to them personally or sent to them by registered post with acknowledgement due.

(2) On the date as aforesaid or on any subsequent day to which the enquiry may have been adjourned such officer shall, after hearing the parties

who may appear before him either personally or through a duly authorised agent, recording the evidence, if any, adduced by them and- after making such further enquiry in the locality as he deems necessary pass such orders as he deems fit and the orders so passed shall be communicated to the parties concerned in the same manner as is provided for service of notice under Sub-rule ( 1).

(3) Damages or collection charges directed to be paid under Sub- section (2) or, as the case may be, Sub-section (3) of Section 7 shall be paid within one month from the receipt of the order under Sub-rule (2) by the Government or their authorised officer or agent, as the case may be.

**5. Registration of Grower of Kendu Leaves-**<sup>1</sup>An application for registration under Section 9 shall be in Form A, accompanied by a treasury chalan showing payment of <sup>2</sup>[rupees ten only in the case of a. grower who has not registered himself in the previous year and rupees three only in the case of a grower who has registered himself in the previous year and filed before the Divisional Forest Officer within whose jurisdiction the land on which Kendu Plants grow is situated. If land is situated in more than one Division, then application may be to the Divisional Forest Officer in whose jurisdiction the greater area is situated. The Divisional Forest Officer may after enquiry if necessary shall grant a certificate in Form B, or shall reject the application after recording reason therefore. In case of registered grower having land in the jurisdictions of other Divisional Forest Officer, the Divisional Forest Officer issuing; registration certificate shall inform the other Divisional Forest Officers about the fact of registration.]

<sup>3</sup>[5- A. (a) Every registered grower shall maintain a register of daily accounts of Kendu leaves showing correctly-

- (a) the opening stock on each day
- (b) the quantity collected on each day
- (c) total of (a) and (b)
- (d) the quantity disposed of
- (e) manner of disposal
- (f) balance
- (g) places where the balance stock has been stored with quantities thereof
- (h) remarks

(b) He shall submit before the Divisional Forest Officer granting -the registration certificate not later than fifteenth day of each month a return showing correctly –

(a) the opening stock on the 1st of the month

(b) the quantity collected during the month

(c) total of (a) and (b)

(d) the quantity disposed of

(e) manner of disposal

(f) balance.

**<sup>1</sup>[5-B. Disposal of Kendu leaves-** (1) Kendu leaves collected by purchaser or otherwise by the Government direct or through their officers or agents, shall ordinarily be sold by entering into a contract in advance for which tenders shall be invited:

Provided that the Government may without inviting tender sell the leaves of one or more units directly to the Orissa Forest Corporation Limited on such terms and conditions as may be decided by Government.

(2) The tender notice shall be published in the Official Gazette and advertised in newspaper and in such other manner as the Government may deem fit inviting sealed tenders from persons or parties desirous of purchasing Kendu leaves from the Government or from its officers or agents on the terms and conditions specified in the aforesaid tender notice.

(3) The tender form shall be available from the office of the Divisional Forest Officer on payment of Rs. 25/ (Rupees twenty-five) for each form. The payment shall be made by sending a Crossed Postal Order for the amount marked, payable to the Divisional Forest Officer at the post office of the place the headquarters of the Divisional Forest Officer, is located.

(4) Unless otherwise specified there shall be separate tender for each unit and every tender must be submitted to such authority and in such manner and on such date, as may be specified in the tender notice.

(5) Every tender shall be accompanied by a treasury chalan showing cash deposit under the head "Earnest Money-Revenue Deposit" equal to an amount specified in the tender, notice to be deposited as, earnest money in favour of the Divisional Forest Officer.

(6) At the time of opening of the tenders the tenderers shall produce a certificate of solvency for at least one-fourth of the total annual purchase price according to the rate quoted by him, granted by Revenue Officer not below the rank of a Subdivisional Officer if the tenderer has landed property at a place wherein the Orissa Public Demands Recovery Act, 1962 is in force or a Bank Guarantee for an equal amount.

(7) Government may accept or reject all or any of the tenders so received for any unit without assigning any reason therefor. The earnest money deposit shall, in case of an unsuccessful tenderer, be refunded to him and in case of an unsuccessful tenderer, it shall, subject to the provisions under Sub-rule (1), be adjusted towards payment of security deposit required by Sub-rule (12): Provided that in rejecting a tender Government shall take into consideration the following among other grounds-

- (1) Inadequacy of price offered
- (2) Speculative offers
- (3) Past conduct of parties in the trade
- (4) Transport facilities at the command of the offerer
- (5) Solvency of the offerer
- (6) Experience in the trade

(8) If the tenders received for a unit are not considered acceptable the Government may select as purchaser or purchasers for such unit or units any person or party of the persons or parties on such terms and conditions as may be mutually agreed upon and such selection need not be limited to persons who have submitted tenders for such unit or units. All the rules applicable to a successful tenderer shall apply mutatis mutandis to persons or parties selected as purchasers under this sub-rule.

(9) Notwithstanding anything contained in the foregoing provisions Government may sell or otherwise dispose of Kendu leaves collected by purchase or otherwise by Government or by their officers or agents in such manner as Government may deem proper.

(10) Any person or party who is selected as purchaser for the particular unit shall purchase the entire Quantity of Kendu leaves procured or likely to be procured from such unit or such lesser quantity out of it as may be offered to him by the Government, their officers or agents in such unit on such terms and condition; as may be specified in the agreement to be executed by such purchaser under Sub-rule (11).

(11) The purchaser shall execute an agreement in Form H, within fifteen days from the date of receipt of an order relating to his selection as purchaser, failing which the said order of selection shall be liable to be cancelled and on such cancellation the amount deposited as earnest money shall be forfeited. On such cancellation Government may dispose of the Kendu leaves of the unit under Sub-rule (9) of this Rule. In addition the purchaser, whose selection as such has been cancelled bear the loss, if any, suffered by Government in the disposal of Kendu leaves of the unit and this loss shall be recoverable from him as arrears of land revenue.

(12) (a) the purchaser or purchasers selected for a particular unit shall immediately, on or before signing the agreement deposit as security by way of guarantee for proper compliance of the terms and conditions or the agreement and provisions of the Act and these Rules, a sum to be calculated as under-

X-Purchase rate per standard bag accepted by the Government for the unit.

Y-Cost of collection per standard bag fixed for the unit.

R-Number of standard bags of Kendu leaves mentioned against the unit in the notice for tender under Sub-rule (1).

A- Security deposits.

$$A = 5Z(X - Y) / 100$$

**i.e.** five per cent of the difference between aforesaid purchase rate per bag and the aforesaid cost of collection per bag, multiplied by the aforesaid number of bags.

(b) The security deposit either wholly or in part, as the case may be, shall be adjusted by the Divisional Forest Officer towards any amount, if any, recoverable from the purchaser under the provisions of the agreement, the Act and these Rules and all such deductions shall have to be made good by the purchaser by deposit of an equivalent amount within fifteen days of the receipt of the notice to that effect.

(c) If the dues to be recovered from the purchaser exceed the amount of security deposit, the amount in excess shall, unless made good within fifteen days from the date of the Divisional Forest Officer's notice to that effect, be recoverable as arrears of land revenue.

(d) The security deposit or the balance shall, as the case may be refunded to the purchaser after the expiry of the agreement.

(13) The purchaser shall take delivery of Kendu leaves from such depots or the Divisional Forest Officer in writing intimates stores as from time to time during the currency of the purchaser's agreement.

(14) If the purchaser during the currency of the agreement establishes a bidi factory in order to provide employment to the residents of the State of Orissa and pays minimum excise duty of rupees three thousand per annum on the bidis manufactured by him he shall be entitled to a rebate of two per cent of the annual purchase price paid by him during the corresponding year:

Provided that if such purchaser has been appointed as purchaser for more than one unit, the rebate in purchase price will be granted to him only in respect of one unit of his choice for establishment of each such factory:

Provided further that the question whether the bidi factory established by him, provide employment or not the residents of the State shall be decided by the Divisional Forest Officer and his decision shall be final.

(15) 1[\*\*\*]

(16) Notwithstanding anything contained in the foregoing provisions the purchaser who selected to purchase the Kendu leaves procured through the additional agent of any unit by the, Government shall on selection as such, execute an agreement in Form J.

**6. Transport Permit-** (1) An application for the issue of a permit under Clause (b) Sub-section (2) of Section 3 shall be in Form C and shall be made to the Divisional Forest Officer <sup>1</sup>[or such other authority as may be specially authorised by Government in that behalf] who shall be the authority competent to grant the permit :

Provided that the said officer, if he has reason to believe that the leaves in respect of which the application has been made have not been purchased from Government or their officer agent may be after giving the applicant an opportunity of being heard, by an order recording the reasons in that behalf reject such application:

<sup>2</sup>[Provided further that in respect of Kendu leaves purchased from Orissa Forest Corporation Limited transport permit for transport of Kendu leaves from the Central Godowns to such purchaser, may be issued by Assistant Conservator of Forests (Kendu Leaves) within their respective jurisdiction.]

<sup>3</sup>[Provided also that in respect of Kendu leaves stored at Cuttack and Sambalpur by private traders and bidi manufacturers after the sarfie were purchased from Orissa Forest Corporation Limited, transport permit Or transport of such Kendu leaves from the depot of private traders and bidi manufacturers

may be issued by the Assistant Conservator of Forests (Kendu Leaves) attached to the office of the Conservator of Forests (Kendu Leaves), Cuttack and Assistant Conservator of Forests, attached to the Sambalpur (Kendu Leaves) Division with headquarters at Sambalpur in respect of the leaves stored at Cuttack and Sambalpur respectively.]

(2) A permit shall be in Form D and shall be subject to the following conditions, namely:

(a) the leaves shall be transported only by the routes specified in the permit and shall be produced at such place or places as may be specified therein for check :

(b) except with the permission in writing of the Divisional Forest Officer the leaves shall not be removed outside the unit at any time after sunset and before sunrise; and

(c) the permit shall be valid for such period as may be specified therein<sup>4</sup>[and in exceptional circumstances the duration of validity may be extended.]

<sup>5</sup>[(3) A registered grower who wishes to transport his leaves outside the unit in which he is registered for sale to an additional agent, if any, of the said unit appointed under the provision to Section 8 (1) shall on application be granted a transport permit in form D, by the Divisional Forest Officer for the purpose of transporting the leaves to the depot of the additional agent.]

<sup>1</sup>**[7. Appointment of Agents-** (1) To appoint agent or agents for a unit or units under Sub-section (1) of Section 8, the Government shall publish a notice in the Official Gazette and in such other manner as they may think fit, giving terms and conditions or agency and inviting applications for such appointments: Provided that no applications need be invited for appointment of the additional agent referred to under the proviso to Sub-section (1) of Section 8 and such additional agent may be appointed directly by Government subject to such terms and conditions as may be decided by Government, and such additional agent on appointment shall execute an agreement in Form 1.

(2) The application for agency shall be in form E, and shall be submitted to such authority by such date and in such manner as may be specified in the aforesaid notice.

(3) Every such application shall be accompanied by a treasury chalan showing cash deposit of Rs. 500 (Five hundred) by the applicant under the head "Earnest Money-Revenue Deposit" in the name of Divisional Forest Officer as advance security deposit. The applicant shall also simultaneously furnish a certificate of solvency for a sum calculate lit at the rate of 10 (ten) per bag for the stipulated number of bags for the respective unit granted by a Revenue Officer

not below the rank of a Sub divisional Officer if the agent has landed property at a place wherein the Orissa Public Demands Recovery Act, 1962 is in force, or a Bank Guarantee for equivalent amount.

(4) The Government may accept or reject any application assigning any reason therefor. The advance security deposit shall be refunded to the applicants whose applications are rejected. The subject to provision under sub-rule (6) be adjusted against the deposit required under Sub-rule (7).

If in the opinion of the Government it is not possible to Suitable agents for the purpose out of the persons who have applied for the appointment as agents, the Government may call for fresh applications at any time at their disposal is not sufficient, they may appoint a person or party as agent who in their opinion is suitable for the work.

(6) On appointment as agent, the person or party so appointed 'Shall execute an agreement in Form G, within fifteen days of the re .the order of appointment failing which the appointment shall b to be cancelled and on such cancellation either whole or part advance security deposit, as the State Government may deem fit s -forfeited.

(7) (a) The agent so appointed for a particular unit shall, signing the agreement, deposit as security for the proper execute performance of agency in accordance with the terms and condition agreement and the provisions of the Act and these Rules a sum to be calculated as under-

X-Purchase rate per standard bag accepted by the Government the unit.

Y-Cost of collection per standard bag fixed for the unit.

Z-Number of standard bags of Kendu leaves mentioned the unit in notice under Sub-rule (1).

A-Security deposit. –

$5Z(X-Y)/100$

**i.e.** five per cent of the difference between the purchase rate per bag and the aforesaid cost collection per bag, multiplied by the aforesaid number of bags.

The security shall, either wholly or in part, as the case may be, be adjusted by the Divisional Forest Officer towards the recovery of the penalty, if any, for short collection of leaves compensation; damages or any other dues which may be recoverable under the pro- visions or the agreement, Rule and the Act and shall such deductions shall have to be made good by the agent by the



deposit of an equivalent amount within fifteen days of the receipt of the notice to that effect.

(c) If the dues to be recovered exceed the amount of the security deposit, the amount from, in excess shall, unless made good within fifteen days from the date of the Divisional Forest Officer's notice to that effect, be recoverable as arrear of land revenue.

(d) The security or the balance, as the case may be, shall be refunded to the agent after the expiry of the agency.

(8) The agent shall maintain such registers and accounts as may from time to time be directed by Government. He shall also submit to the Divisional Forest Officer such returns and such intervals as may from time to time be directed by Government.

(9) The agent shall furnish a list of persons employed by him within the unit immediately as and when employment is made and as such persons as are objected to by the Divisional Forest Officer shall be, forthwith, removed from employment by the agent.

(10) 1[\*\*\*].

**8. Appeal-**(1) Any person aggrieved by an order of rejection under Rule 5 may within fifteen days from the date of receipt of the copy of such order prefer an appeal to the Conservator of Forests, within whose jurisdiction the unit is situated.

(2) On receipt of an appeal under Sub-rule (1) the Conservator shall, after giving notice to the parties concerned in the same manner as is provided under Sub-rule (1) or Rule 5 and after hearing them, pass such orders as he deems fit.

**9. Certificate of Sale-**The Government or their officer or agent while selling Kendu leaves to any person shall grant to such person a certificate of sale in Form F.

**10. Conditions for utilisation of sums Allotted to the Samitis and Grama Panchayats-** (1) Sums paid to any Samitis or Grama Panchayats in pursuance of Sec, 11 shall be credited to the funds belonging to the said local authorities respectively and the utilisation thereof shall be subject to the conditions herein provided.

(2) The sums allotted to a Samiti shall be utilised on works, schemes, roads, buildings and institutions, which have been transferred to the control and management of the Samiti and any such other schemes and works which are likely to augment the resources of the Samiti:

Provided that the Samiti may, with the previous approval of Government, utilise the whole or any part of the sums so allotted on any, other purpose.

(3) Out of sums allotted to a Grama Panchayat, twenty per, centum shall, with the previous approval of the Collector, be utilised for execution of such development works as may be decided by the Grama Panchayat and the remaining eighty per centum shall be utilised for such purpose and in such proportion as Government may, from time to time, direct.

<sup>2</sup>[(4) Notwithstanding anything contained in Sub-rules (2) and (3) the Grama Panchayats and Samitis shall be competent to utilise twenty per cent urn of the sums so allotted to them for the purpose of plantation on Panchayat lands and other waste lands situated within the village boundaries".]