

.....(NAME OF THE STATE/UNION TERRITORY) ACT

No. OF 2005

**THESTATE/UT MINOR FOREST PRODUCE (OWNERSHIP RIGHTS OF
FOREST DEPENDENT COMMUNITY) ACT, 2005**

A

Bill

to endow the ownership rights of Minor Forest Produce to the Forest Dependent Communities.

Preamble – WHEREAS around Twenty-Eight percent population of the country, including Scheduled Tribe population, living in about Sixty-One Thousand villages in and around Forests depend for their subsistence and livelihood on forests;

AND WHEREAS there is a large population of tribal and non tribal landless and economically backward communities in the state who derive their livelihood security from the forests of the state;

AND WHEREAS the minor forest produce is the main source of livelihood of communities dependent on forests and there is need for the sustainable utilization and long-term conservation of the minor forest produce found in the forests of the state;

AND WHEREAS it has been recognised at the national level that the collection, processing and trade in minor forest produce should be endowed with the forest dependent communities on the principle of ‘share and care’

BE it enacted by the State/ UT legislature in the Fifty-fifth year of the Republic of India as follows: -

1.Short title, extent, and commencement:

- (1) This Act may be called the State/Union Territory Minor Forest Produce (Ownership of Forest Dependent Community) Act, 2005.
- (2) It extends to the Government forest lands in the whole of the State/Union Territory, subject to the provisions under the Wildlife (Protection) Act, 1972, Biological Diversity Act, 2002 and other State Forest Acts, as notified by the State/Union Territory Government,
- (3) It shall come into force on such date or dates as the State/Union Territory Government may, by notification, specify in this behalf.

Explanation: Under sub section (2) . State Government may exclude National Parks and Sanctuaries because of Supreme Court order banning commercial harvesting of forest produce and other lands depending on state specific situation which may vary from state to state.

2.Definitions:-

In this Act, unless the context otherwise requires,

- (a) “Forest Dependent Community” means a group of individuals constituted into a Joint Forest Management Committee, and / or any other group of individuals, including Gram Sabha, Village council, Eco Development Committee, dependent on forests notified by the State/Union Territory Government as “Forest Dependent Community” for the purposes of this Act.
- (b) “Forest Offence” means the forest offence as defined in clause (3) of Section 2 of the Indian Forest Act, 1927 (No. XVI of 1927) (or concerned State Forest Act).
- (c) “Joint Forest Management Committee” means a committee constituted as such in accordance with the provisions of the Joint Forest Management resolution of the State/Union Territory, and recognised by the State/Union Territory Forest Department. The words Joint Forest Management Committee shall be synonymous with terms - Van Samrakshan Samiti, Village Forest Committee, Forest Protection Committee or any other such committee as notified by the State/Union Territory Government.
- (d) “Minor Forest Produce” means all non-timber forest produce of plant origin as notified by the State/Union Territory as Minor Forest Produce, and will include honey, lac, wax and tusser, in the official gazette, from time to time, for the purposes of this Act.

- (e) “Ownership” means right to collect and process the Minor Forest Produce in a manner prescribed by the State/Union Territory Government and its consumption, or sale to others, by the holder of the right.
- (f) “Right Holder” means a person who has been given any right over forest produce at the time of forest settlement proceeding as published in the Government Gazette.
- (g) “Working Plan” is a silvicultural management plan of the forest division, prepared on the basis of Working Plan Code, prescribed by the Central Government.
- (h) “Sustained yield” is the quantity of minor forest produce , which can be harvested on a sustained basis from any forest land (s) without impairing the long-term productivity.
- (i) “Non-destructive harvesting” means the harvesting methodology and technique on the basis of sustained yield principle, as prescribed in the working plan, that does not cause irreversible damage to the plants and the forest.
- (j) “Carrying capacity” means the maximum quantity of the minor forest produce that can be harvested from any forest land (s).
- (k) “Net income” means the income derived after deducting all expenses on collection, trade, value addition and any other cost from the total income from the trade in minor forest produce, in a given area.
- (l) “Authorised officer” means an officer as notified by the State/ UT Government for the purpose of this Act.

Explanation: Under clause (a) Forest Dependent Community has been defined as Joint Forest Management Committee because under State JFM resolutions these have been given the responsibility of protection, development and benefit sharing. State Governments have been empowered to identify other groups also as Forest Dependent Community such as Forest Panchayat, Gram Sabha, Village Council, Eco-development committee and cooperative societies etc. Under clause (e) the minor forest produce will not include forest produce of animal origin except lac, wax, honey, tusser because of the provisions of Wildlife (Protection) Act. Bamboos and canes have also been excluded till an amendment is brought in the Indian Forest Act to exclude these from the category “Tree”. However State/Union Territory Government are encouraged to give ownership rights to Bamboos & Canes also in areas adjoining the villages, through an executive order, till an amendment in Indian Forest Act, 1927 is brought about.

3. Declaration of Forest Dependent Community

The State/Union Territory Government shall notify in the official gazette, from time to time, different categories of group of individuals dependent on forests as a “Forest Dependent Community” for the purposes of this Act.

Explanation: This has been left to the State/Union Territory Government because of State/Union Territory specific situation, which may vary, from State/Union Territory to State/Union Territory as explained under section 3 above.

4. Declaration of Minor Forest Produce

(a) The State/Union Territory Government shall notify in the official gazette, a list of “Minor Forest Produce” which shall be considered as “Minor Forest Produce” for the purposes of this Act.

(b) The State/Union Territory Government may, from time to time, by notification, direct that from a date specified therein, a Minor forest produce specified therein, shall cease to be a minor forest produce in relation to the area or areas as may be specified in the said notification

(c) The State/Union Territory Government may, from time to time, by a like notification, direct that from a date specified therein the specified minor forest produce which ceased to be so under sub section (a) above, shall be minor forest produce in relation to the area or areas as may be specified in the said notification

Explanation: This has been left to the State/Union Territory Government because of State/Union Territory specific situation which may vary from State/Union Territory to State/ Union Territory . The reason could be the status of any minor forest produce at a given point of time such as rare, endangered, critically endangered etc.

5. Endowment of ownership of minor forest produce through assignment of areas:

The Forest Dependent Communities are endowed with the ownership of minor forest produce found on Government forest land(s) for which, the State/Union Territory Government shall, by notification, entrust a specified forest area to a Forest Dependent Community, and that different Forest Dependent Communities are entrusted different areas.

Explanation: State/Union Territory Governments have been empowered to assign different areas to different Forest Dependent Communities to avoid any confusion, duplication and

also in consideration of other possible practical difficulties which may be State/Union Territory specific.

6. Collection of Minor Forest Produce

Once endowed with ownership of minor forest produce, the Forest Dependent Community may collect the specified minor forest produces from the area entrusted to it in a manner prescribed by the State/Union Territory Government.

Provided that the harvesting of minor forest produce shall be on a non-destructive and sustainable basis, based on the carrying capacity of the area and provisions of the working plans.

Provided further that meeting the needs of domestic requirements of Forest Dependent Communities/Right Holders of the area shall be the first charge on the minor forest produce of the forest area entrusted to the Forest Dependent Community.

Explanation: *The section provides for undertaking collection, extraction and harvesting on a sustainable and non destructive basis. It also provides for safeguarding the interests of meeting the domestic requirement and the privileges of the right holders.*

7. Trade in Minor Forest Produce:

- (a) The trade in respect of such minor forest produce, for which any law has been enacted by the State/Union Territory Government, will be in accordance with the provisions of the said law, so long as the said law is in force.
- (b) The trade in respect of such minor forest produce for which no specific law has been made, shall be in accordance with the procedure, as prescribed by the Forest Dependant Community.

Explanation: *Though the intention is to endow ownership of all minor forest produce to the Forest Dependent Community but taking into account the fact that in many states the trade in certain minor forest produce has been nationalised and it may not be possible to switch over to new system at once, the provision has been made to continue with the existing system till new arrangement is made and issues related to revenue to the state and the fate of the staff engaged in the management of existing system are properly addressed. The efforts should begin in the direction of repealing the existing laws and extend the provisions of this law to all minor forest produce as early as possible.*

8. Sharing of net income from the trade in Minor Forest Produce

The net income from the trade in minor forest produce shall be deposited in the account of the Forest Dependent Community and shall be utilised, for the purposes mentioned as under, on the basis of an action plan approved by the Forest Dependent Community.

(a) Not less than twenty five per cent on regeneration and development of forest area entrusted.

(b) Not more than seventy five percent for distribution among the members of the Forest Dependent Community as may be decided by the Forest Dependant Community.

Provided that the Forest Dependent Community shall have the power to reappropriate any amount of income available under clause (b) for the purposes of clause (a) .

Explanation: Provision has been made for the conservation and development of assigned forest also.

9. Duties and responsibilities of the Forest Dependent Community

(a) It shall be the duty of the Forest Dependant Community, to identify themselves with the protection and development of the forest areas specified under this Act in the manner notified by the State/Union Territory Government

(b) The State Govt may by notification authorise Forest Dependent Community to take cognisance of a forest offence committed by any person in the forest area entrusted to the Forest Dependent Community.

Explanation: Provision has been made to ensure the protection of forests assigned to the Forest Dependant Community.

10. Other Matters

The matters related to administration, planning, accounts, audit, inspections, committees and functioning of the Forest Dependent Community shall be dealt in a manner prescribed by the State/Union Territory Government.

Explanation: This section has been provided to empower the Government to prescribe procedures for the guidance of the Forest dependent Community

11. Attempts and abetment:

Any person who attempts to contravene or abets the contravention of any of provisions of this Act or the rules made there under shall be deemed to have contravened such provisions.

Explanation: This is a standard clause.

12. Protection of action taken in good faith: -

- (a) No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be so done in pursuance of this Act or the rules made there under.
- (b) No suit, prosecution or other legal proceedings shall lie against the State Government 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 Act, or by anything which is done in good faith or intended to be so done in pursuance of this Act or the rules made there under.

Explanation: This is a standard clause.

13. Power to make rules: -

- (1) The State/Union Territory Government may, by notification, make rules for carrying out all or any of the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing provisions such rules may provide for all or any of the following matters, namely;
 - (a) Identification and listing of group of individuals who will be considered to be the Forest Dependent Community
 - (b) Identification and listing of the forest produce which will be considered as Minor forest Produce
 - (c) Endowment of ownership of Minor Forest Produce and assignment of areas of the Forest Dependent Community
 - (d) Sustainable collection, extraction and transport of Minor forest Produce by Forest Dependent Community from the areas assigned to it
 - (e) Trade in respect of such Minor Forest Produce whose trade is not nationalised
 - (f) Duties and responsibilities of Forest Dependent Community
 - (g) Powers and functions of the Forest Dependent Community

(h) Administration, Planning, Budget, Accounts, Audit, Inspections, and Committees related to the functioning of the Forest Dependent Community.

(i) Any other matter which is either expressly or implied required to be prescribed under this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature, while it is under session.

Explanation: It has been left to State/Union Territory Governments to make rules for various matters as the situation may vary from state to state

14. (a) Violation under the Act: Any violation under this act, shall be dealt in accordance with the provisions under Indian Forest Act, 1927 and/or concerned State Forest Act (s).

Explanation: This section has been provided to deal with the forest offences.

(b) Notwithstanding anything contained in any other Act to the contrary, the authorized officer will have the power to suitably restrain the activities of any forest dependent community if the provisions of this Act are wilfully violated by the forest dependent community to the detriment and irreparable damage to the natural resource base of the entrusted area .

Explantion: This provision is added to ensure that the communities enjoying the rights do not undermine the resource base under the influence of forces.

15. Removal of difficulties:-

If any difficulty arises in giving effect, to the provisions of this Act the State Government may, by order, do anything not inconsistent with such provisions, which appear to it to be necessary or expedient for the purposes of removing the difficulty.

Explanation: This is a standard clause.

16. Saving: -

It is hereby declared that any thing done or any action taken (including any notification, order, notice etc.) under the provisions of existing Acts relating to minor forest produce, be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force at the time of

such thing was done or action was taken and shall continue to be in force, unless and until superseded by any thing done or any action taken under this Act.

Explanation: This is a standard clause.
