

The Rajasthan Tendu Leaves (Regulation of Trade) Act, 1974

RAJASTHAN

India

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Act 5 of 1974

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The Rajasthan Tendu Leaves (Regulation of Trade) Act, 1974 Act No. 5 of 1974 [Published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 11th April, 1974.] [Received the assent of the Governor on the 11th day of April 1974] An Act to make provision for regulating in the public interest the trade of Tendu Leaves by creation of State monopoly in such trade. Be it enacted by the Rajasthan State Legislature in the Twenty-fifth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Rajasthan Tendu Leaves (Regulation of Trade) Act, 1974. (2) It extends to the whole of the State of Rajasthan. (3) It shall come into force in such area or areas and on such date or dates as the State Government may, by notification in the Official Gazette, specify.

2. Definitions.

- In this Act unless the context otherwise requires,-(a) "agent" means an agent appointed under section 4; (b) "Committee" means an Advisory Committee constituted for one or more forest divisions under sub-section (1) of section 6; (c) "Grower of tendu leaves" means,-(i) in respect of tendu plants grown in areas as may, from time to time, be constituted as reserved or protected forests under the Rajasthan Forest Act, 1953 (Rajasthan Act XIII of 1953), the State Government; (ii) in aspect of tendu plants grown in Panchayat areas as defined in clause (7) of section 2 and clause (i) of sub-section (1) of section 88 of the Rajasthan Panchayat Act, 1953 (Rajasthan Act XXI of 1953), State Government; and (A) the State Government, where the tendu plant is grown on unoccupied land as defined in clause (27) of section 5 of the Rajasthan Tenancy Act, 1955 or on pasture land as defined in clause (28) of section 5 of the said Act; (B) the landholder or the tenant, as the case may be, in a unit on which the tendu plants grow and includes every person who, from time to time, claims title to such tendu plants through him; (C) the

Bhoodan-holder under the Rajasthan Bhoodan Yagna Act, 1954 (Rajasthan Act XVI of 1954) and Gramdan Kisan under the Rajasthan Gramdan Act, 1971 (Rajasthan Act XII of 1971), as the case may be, in a unit on which the tendu plants grow and includes every person who, from time to time, claims title to such tendu plants through him;(iii)in respect of tendu plants grown in areas not covered by sub-clauses (i) and (ii):- (d)"licensed vendor" in relation to tendu leaves means a person to whom licence is granted under section 13 for retail sale of such leaves;(e)"retail sale" means a sale of tendu leaves not exceeding such quantity as the State Government may, by notification in the Official Gazette, specify in respect of such leaves;(f)"specified area" means the area specified in the notification under sub-section (3) of section 1;(g)"tenant" shall have the same meaning as is assigned to this expression by clause (43) of section 5 of the Rajasthan Tenancy Act, 1955;(h)"unit" means a sub-division of a specified area constituted into a unit under section 3;(i)Words and expressions used but not defined in this Act and defined in the Rajasthan Forest Act, 1953 (Rajasthan Act XIII of 1953) shall have the same meaning respectively for the purpose of this Act, as assigned to them in that Act.

3. Constitution of units.

- The State Government may divide every specified area into such number of units as it may deem fit.

4. Appointment of agents.

(1)The State Government may, for the purpose of purchase of, and trade in tendu leaves on its behalf, appoint one or more agents in respect of different units and any such agent may be appointed in respect of more than one unit.(2)The terms, conditions and the procedure of appointment of agents shall be such as may be prescribed.

5. Restriction on purchase or transport of tendu leaves.

(1)On the issue of a notification under sub-section (3) of section 1 in any area, no person other than;(a)the State Government;(b)an officer of the State Government authorised in writing in that behalf; or(c)an agent in respect of the unit in which the tendu leaves have grown; shall purchase or transport; tendu leaves.Explanation I. -Purchase shall include purchase by barter.Explanation II.-Purchase of tendu leave from the State Government or the aforesaid Government Officer of agent or a licensed vendor shall not be deemed to be a purchase in contravention of the provisions of this Act;Explanation III. -A person having no interest in the holding who has acquired a right to collect tendu leaves grown on such holding shall be deemed to have purchased such leaves in contravention of the provisions of this Act;(2)Notwithstanding anything contained in sub-section (1):- (a) a grower of tendu leaves may transport his leaves from any place within the unit wherein such leaves have grown to any other place in that unit; and(b)tendu leave purchased from the State Government or any officer or agent specified in the said sub-section by any person for manufacture of bidis within the State or by any person for sale outside the State or by the licensed vendor may be transported by such person or such vendor outside the unit in accordance with the terms and conditions of a permit to be issued in that behalf by such authority and in such manner as may be prescribed.(3)Any

person desiring to sell tendu leaves may sell them to the aforesaid Government Officer or agent at any depot situated within the said unit: Provided that the State Government, the Government Officer or agent shall not be bound to re-purchase tendu leaves once sold to it.

6. Constitution of Advisory Committee.

(1) The State Government shall, for each year commencing on the 1st day of July and ending on the 30th day of June next following constitute an Advisory Committee for one or more forest divisions in the State consisting on not more than five members as may be notified by the State Government from time to time for the purpose of advising the State Government in the matter of fixation, from time to time, of a fair and reasonable price of tendu leaves at which tendu leaves may be purchased by the State Government or its authorised officer or agent as are offered for sale in such division or divisions in accordance with the provisions of this Act: Provided that one of the members shall be from amongst the traders of tendu leaves or manufacturers of bidis and one member shall be from amongst the members of the Vidhan Sabha representing the area. (2) It shall also be the duty of the Committee to advise the State Government on such other matters as may be referred to it by the State Government. (3) The business of the Committee shall be conducted in such manner as may be prescribed. (4) The members of the Committee shall be entitled to such allowances as may be prescribed. (5) The Committee shall tender its advice to the State Government within such period as the State Government may, for each Committee, specify in this behalf.

7. State Government to fix price in consultation with Committee.

- The State Government shall, after consultation with the Committee constituted under section 6, fix the price at which tendu leaves shall be purchased by it or by any of its authorised officer or agent, from growers of tendu leaves during the year for which the Committee is constituted under sub-section (i) of section 6 and shall publish the same in the Official Gazette and in such other manner as may be prescribed and the so fixed shall not be altered during the year to which the price relates: Provided that, if the Committee fails to tender advice within the period specified under sub-section (5) of section 6 or such further period not exceeding fifteen days as the State Government may allow, the State Government may proceed to fix the price without consultation with the Committee: Provided further that different prices may be fixed for different units, and in so doing regard shall be had amongst other things to:-(a) prices of tendu leaves obtained or fixed under this Act or any other enactment during the preceding three years in respect of the area comprised in the unit; (b) the quality of the tendu leaves grown in the unit; (c) transport facilities available in the unit; (d) the cost of transport; and (e) the general level of wages for unskilled labour prevalent in the unit.

8. Opening of depots and publication of price lists, etc. at the depot.

- There shall be set up in each unit such number of depots, and at such places, as the State Government may, taking into consideration the convenience of the growers of tendu leaves, direct and a price list of tendu leave fixed by the State Government under section 7 and the hours of business shall be prominently displayed on a notice board kept for the purpose at every such depot.

9. State Government or agent to purchase tendu leaves.

(1)The State Government or their authorised officer or agent shall be bound to purchase at the price fixed under section 7, tendu leaves offered for sale at the depot during the hours of business:Provided that it shall be open to the State Government or the authorised officer or the agent to refuse to purchase any leaves which in their opening are not fit for the purpose of manufacture of bidis. Such refusal shall be communicated in writing duly signed, dated and sealed by that authority.(2)Any person aggrieved by refusal to purchase his leaves by an authorised officer or agent under the proviso to sub-section (1) may, within fifteen days therefrom, refer the matter to the Divisional Forest Officer, or such other officer, who may be empowered by the State Government in this behalf, having jurisdiction over the unit in which the leaves have grown.(3)On receipt of a complaint under sub-section (2), the Divisional Forest Officer or such other officer, as the case may be, shall hold an enquiry on the spot or at the headquarters in the prescribed manner and after hearing the parties concerned or their authorised agent shall pass such orders as he may deem fit and in case he finds the refusal to purchase the leaves to be improper, he may,-(a)if he considers the leaves in question still suitable for the manufacture of bidis, direct the authorised officer or agent, as the case may be, to purchase the same and may also award to the person aggrieved, such further compensation not exceeding twenty per cent of the price of the leaves payable to him, as the he may deem fit;(b)if he considers that the leaves in question have since then become unsuitable for the manufacture of bidis, direct the payment to the person aggrieved, of any amount not less than the price of such leaves payable to him under sub-section (1) and such further compensation not exceeding twenty per cent of such price as he may deem fit, by way of damages for the loss, suffered by such person.(4)Nothing in this section shall be construed so as to debar the appropriation of leaves offered for sale, if the State Government or its authorised officer or the agent has reason to believe that the leaves appertain to forests or land belonging to the State Government and paying only such collection charges, if any, as the State Government may from time to time determine:Provided that in the case of any dispute, the Divisional Forest Officer or such other officer who may be specifically empowered in this behalf as specified in sub-section (2), shall hear and dispose of the same in the manner provided therein.

10. Registration.

- Every grower of tendu leaves other than the State Government, shall, if the quantity of leaves grown by him during a year is likely to exceed such quantity as may be prescribed, get 'himself registered in the prescribed manner.

11. Registration of manufacturer of bidis and exporters of tendu leaves.

(1)Every manufacturer of bidis and every exporter of tendu leaves shall get himself registered within such period, on payment of such fee and in such manner as may be prescribed.(2)Every manufacturer of bidis and every exporter of tendu leaves registered under sub-section (1) shall furnish such declarations, accounts and returns in such forms and to such officer and at such intervals as may be prescribed.

12. Disposal of Tendu leaves.

- Tendu leaves purchased by the State Government or by its officer or agent under this Act shall be sold or otherwise disposed of in such manner as the State Government may direct.

13. Retail sale of tendu leaves.

(1) No person shall engage himself in retail sale of tendu leaves except under a licence granted under this section. (2) The State Government may, for the purpose of facilitating retail sale of tendu leaves within the State grant licences to as many persons as it may deem fit. (3) Any person who desires to engage himself in retail sale of tendu leaves shall make an application in such form, to such authority and in such manner as may be prescribed.

14. Delegation of powers.

- The State Government may, by order, delegate any of its powers or functions under this Act or the rules made thereunder to any officer or authority not below the rank of an Assistant Conservator of Forests who shall exercise or perform the same, subject to such conditions and restrictions as the State Government may specify in the order.

15. Power of entry, search, seizure, etc.

(1) Any Forest Officer not below the rank of a Forest or any Police Officer not below the rank of an Assistant Sub-Inspector or any other person authorised by the State Government 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 or vehicle intended to be used for the transport of tendu leaves; (ii) enter and search any place; (iii) seize tendu leaves 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 alongwith the receptacle containing such leaves, or the vehicles or boats used in carrying such leaves. (2) The provisions of section 100 of the Code of Criminal, Procedure 1973 (Central Act 2 of 1974) relating to search and seizure, shall so far as may be, apply to searches and seizures under this section.

16. Penalty.

- If any person contravenes any of the provisions of this Act or the rules made thereunder:-(a) he shall be punishable with imprisonment which may extend to one year or with fine which may extend to five hundred rupees or with both; and (b) the tendu leaves in respect of which such contravention has been made or such part thereof as the court may deem fit shall be forfeited to the Government: Provided that if the Court is of the opinion that it is not necessary to direct forfeiture in respect of the whole, or any part of the leaves, as the case may be, it may, for reasons to be recorded refrain from doing so.

17. Attempts and abetment.

- Any person who attempts to contravene or abets the contravention of any provision of this Act or the rules made thereunder shall be deemed to have contravened such provision.

18. Cognizance of offences.

- 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 Divisional Forest Officer or by any other officer as may be authorised by the State Government in this behalf.

19. Compounding offences.

(1)The State Government may, by notification, empower a Forest Officer to accept from any person against whom a reasonable suspicion exists that he has committed an offence punishable under this Act, a sum of money by way of compensation for the offence which such person is superseded to have committed.(2)On the payment of such sum of money to such officer, the suspected persons shall be discharged, the property, other than tendu leaves, if any, seized shall be released, and no further proceedings shall be taken against such person or property.(3)A Forest Officer shall not be empowered under this Act unless he is a Forest Officer, of a rank not inferior to that of a Divisional Forest Officer, and the sum of money accepted as compensation under sub-section (1) shall in no case exceed the sum of one thousand rupees.

20. 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 Act or the rules made thereunder.(2)No suit 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 in good faith done or intended to be so done in pursuance of this Act or the rules made thereunder.

21. Power to make rules.

(1)The State Government, may subject to the condition of previous publication, make rules to carry out all or any of the provisions of this Act.(2)In particular and without prejudice to generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-(a)the terms, conditions and the procedure for appointment of agents under section 4;(b)the terms and conditions of a permit subject to which tendu leaves may be transported, the authority by which and the manner in which such permit shall be issued under clause (b) of sub- section (2) of section 5;(c)(i)the manner of conduct of business of the Committee under sub-section (3) section 6;(ii)the allowances to which the members of the Committee shall be entitled under sub-section (4) of section

6;(d)the publication of the price list of tendu leaves under section 7;(e)the manner of holding enquiry under sub-section (3) of section 9;(f)(i)the prescription of quantity of tendu leaves under section 10;(ii)the manner of registration under section 10;(g)(i)the period within which, the fee on payment of which and the manner in which the registration under sub-section (1) of section 11 shall be made;(ii)declarations, accounts and returns which shall be submitted under sub-section (2) of section 11 and the form in which, the officer to whom and the intervals at which they shall be submitted;(h)the form in which, the authority to whom and the manner in which an application under sub-section (3) of section 13 shall be made;(i)any other matter which is either expressly or impliedly 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 the House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the House agrees in making any modification in the rule or the House agrees that the rules should not be made, and notifies such decision in the Official Gazette, the rules shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22. Rajasthan Forest Act, 1953 and other laws not to apply to tendu leaves for purposes covered under this Act.

(1)Nothing contained in the Rajasthan Forest Act, 1953 (Rajasthan Act XIII of 1953) shall apply to tendu leaves in respect of matters for which provisions are contained in this Act.(2)Nothing contained in any other law, rule, order or in any other thing having a force of law in any part of the State shall apply, to tendu leaves in respect of matters for which provisions are contained in this Act.

23. 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 purpose of removing the difficulty.

24. Repeal of Savings.

(1)The Rajasthan Tendu Leaves (Regulation of Trade) Ordinance, 1973 (Ordinance No. 10 of 1973) is hereby repealed.(2)Notwithstanding the repeal of the said Ordinance, anything done or action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had come into force on the fourth day of December, 1973.