



Kendu Leaf Deregulation Process in Golamunda

The Forest Rights Act, 2006 and Kendu leaf

The Scheduled Tribe & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 defines Minor Forest Produce as all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane tussar, cocoons, honey, wax, lac, **tendu leaves**, medicinal plants and herbs, roots, tubers and the like; ie, all other forest produces.


Section 3(1)C of FRA provides right of ownership, access to collect, use and dispose of MFP which has been traditionally collected within and outside village boundaries. FRA amended Rule 2012 defines disposal of minor forest produce as the right to sale as well as individual or collective processing, storage, value addition, transportation within and outside forest area through appropriate means of transport for use of such produce or sale by gatherers or their cooperatives or associations or federations for livelihoods.

The transit permit regime in relation to transportation of MFPs shall be modified and given by the CFR Management Committee or the person authorised by Gramsabha. The procedural requirement of transit permit in no way shall restrict or abridge the right to disposal of MFPs. The collection of MFPs shall be free from all royalties, fees or any other charges.

This ownership right over MFPs supersedes the provisions of the state laws such as the KL (Control of Trade) Act.

In 2012, the Central Government observed that most state governments either delayed this recognition process or did not allow the actual exercise of this ownership right despite the recognition. It then issued guidelines to ensure the process becomes more community-friendly, and amendments in the FR Rules of 2008 followed these guidelines to legalize the same.





The centrally-constituted Haque Committee, which recommended for minimum support price for several minor forest products, also considered KL in the list though the condition is that a State must withdraw its monopoly (nationalization) in order to make the MSP applicable to a recommended MFP. It however also advised for a State role (without monopoly) in the whole business since KL trade is basically a regional/national affair and the dynamics of which are unknown to the village communities and there is a risk of the traders taking advantage of this ignorance. Moreover, sustaining the regional trade despite the vulnerabilities (like bumper production or substantial decline in the demand of bidi, etc.) requires a centralized coordination in the pluckers' interest.

KL Scenario in Odisha after FRA Rule Amendment 2012 :


On 10th of April 2013, the Forest and Environment Department, GoO, vide letter no -7/2013, 7552 / F & E, Bhubaneswar directed the PCCF (Forest & Kendu Leaves) & MD, Odisha Forest Development Corporation (OFDC) on deregulation of kendu leaves in Nabarangpur district in 2013 crop year. The letter also directed kendu leaves department to purchase kendu leaves from anyone willing to sell. Transit permits for transportation of kendu leaves will be issued by the Gram Sabha. In reference to this letter another letter no 13904/SSD issued by SC & ST Development Department on 11th April 2013 to the Collector & D.M. Nabarangpur. This letter stated that the deregulation of kendu leaves operation in the district has been done in view of the provisions under the Forest Rights Act, 2006 and instructed the district collector to familiarize the Gram Sabhas with the FRA and simultaneously facilitate issuance of transit permits by the Gram Sabha for transportation.

The deregulation was subsequently extended to the Malkangiri district under the jurisdiction of the Jeypore KL Division. Under this deregulation, the trader proposes before the Gramsabha (not in the sense of the FRA) to be an authorized purchaser of KL in the area, and if the Gramsabha approves this then the trader's name is recommended by the District Panchayat Officer to the DFO(KL) which in turn fixes the limit of procurement for this trader and issues permits accordingly. In this system, practically the panchayatiraj system and the DFO(KL) assume the key role, and not the actual Gramsabha. It is also understood that while this deregulation has been helpful to the pluckers particularly because they can now get immediate cash payment from the private trader in their village itself, and in case the trader doesn't appear credible they can also sell their leaves to the government in the local phadi; but neither it benefits much the pluckers nor the Gramsabha because the trader hardly pays a price higher than that paid by the state government, that too often without other benefits. Since the DFO is to take the ultimate decision, hence this deregulation is not exactly the power to the Gramsabha.

Moreover, the Govt. of Odisha is yet to amend its old laws to recognize KL as a minor forest produce, as per the definition of FRA. So, all said and done, the actual implementation of FRA by letter & spirit is at the mercy of the state government despite all the instructions issued from the Centre and all the local protests & campaigns. The Golamunda area bears a testimony of this huge contradiction and government apathy, as we have seen recently.

The Golamunda incident:

Golamunda block of Kalahandi district in Odisha is inhabited largely by Gondas, Kondhas and Other Traditional Forest Dwellers. The Grampanchayats like Dhamanpur, Khaliapali, Pharang, Rengsapalli and Borguda are around Churapahad Reserve Forest. Lands are not much productive due to lack of irrigation facilities. So, dependency on forest produce is obvious in the forest-fringe villages. The Community Forest Management Activities like Thengapali and Chulichanda was introduced by Regional Centre for Development Cooperation (RCDC) 10 villages of Dhamanpur and Khaliapali which then extended to



whole block through networking process. The villagers claimed under FRA for IFR and CFR. The six villages like Jamjharan, Jamgudabahali, Khasiguda, Kanakpur, Kasturapadar and Kalipur got the Community Rights recognised in 2011. However, the same management process continued and the communities also undertook some forest development activities with the support from RCDC and Oxfam India.

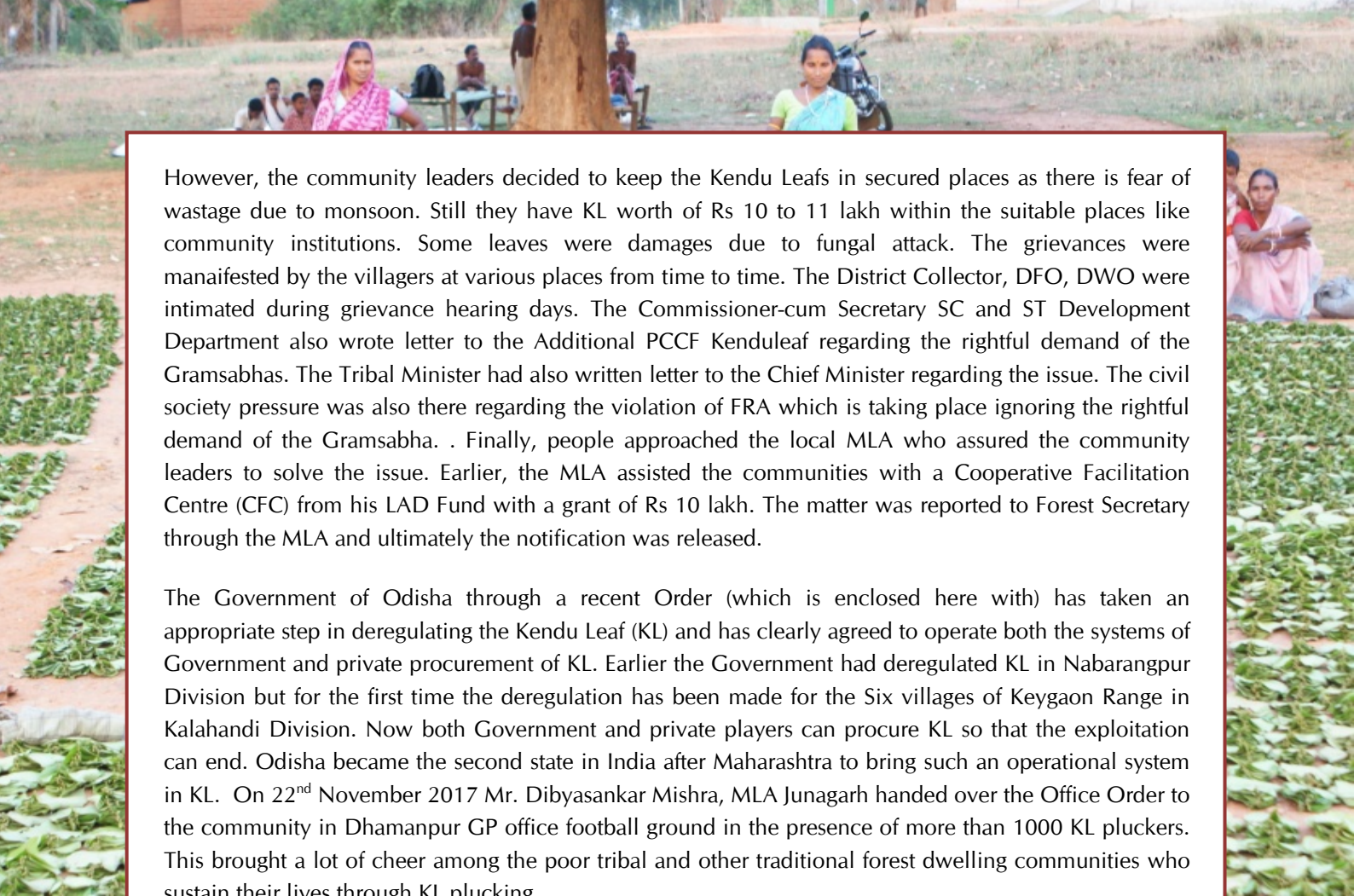
In the title of the above said six villages, the ownership rights of Gramsabha over the MFP in general and KL in particular has been clearly mentioned. This title, dating back to 2010-11, has been signed by the District Collector, the DFO, and the District Welfare Officer. Most of the people in these villages are KL pluckers, and have not been satisfied with the governmental system of KL procurement. In April this year (2017) they came to know about the encouraging story of Gramsabhas selling KL in Maharashtra as per the provisions of FRA, and decided to make a similar endeavour here. They formed a federation of the Gramsabhas of these six villages, and negotiated with a Maharashtra trader who agreed to pay as high as Rs.7.50 per a bundle of 60 leaves.

It may be mentioned here that the price assured by the Odisha government for 60 leaves is Rs.2.40 @Rs.0.80 per ker of 20 leaves. To add the uncertain amounts such as bonus and other benefits it may come to a maximum of Rs.5 or so per 60 leaves, whereas what the Maharashtra trader was to pay an immediate cash of Rs.7.50 against this without any uncertain components or delay caused in bank transfer. Moreover, this negotiation envisaged to procure from all the pluckers irrespective of their age, that too in their own village itself. Agreements were accordingly signed with each of these Gramsabhas so as to start the procurement from May 2017. It may be mentioned here that the trader was to pay the price to the Gramsabha which in turn had to pay each plucker its due @Rs.7 for 60 leaves. That means, the Gramsabha fund was to get Re.0.50 for 60 leaves in this arrangement.

The Phadi located in village Jamjharan employs the local people as Checker, Munsif, Chaparasi. This year the Phadi has made a business of about Rs 2 lakh. But it was closed down as soon as the community made agreement with the trader at a higher price. According to the agreement, the villagers opened account in Farang State Bank and the trader deposited 1.5 lakh each in Jamjharan and Khasiguda Gramsabha account. Besides, the trader also purchased directly leaves worth of Rs 4lakh from other four villages. Accordingly, the 1st phase of the collection took place and the trader too received the leaves. The villagers were quite excited to receive such a high price.

But before the 2nd phase procurement could start, the local forest staff of the KL wing captured the trader on 5th May, and first took him to the local police station and then to the DFO(KL), Bhawanipatna. They accused him of illegal procurement, and threatened of action. Finally, he was released after furnishing an undertaking that he would stop the procurement.

This embarrassing incident discouraged the trader on one hand but agitated the villagers. The trader was their guest, and the procurement he made was completely as per the provisions of the law(FRA). They gheraoed the Collector's office on 8th May and after about 8 hours the District Collector called them for discussion followed by an assurance of necessary support. He could understand that it was a case of conflict of provisions between the FRA and the state KL laws, and said he would write to the government to resolve this issue. However, by the time this monograph is published the state authorities have not resolved the issue, creating a lot of uncertainties for the six Gramsabhas who are in a fix as to start the next phase collection or not. Although the trader is supposed to complete the procurement as per the agreement, and should not have furnished any undertaking against their commitment without consulting the Gramsabhas, the people do understand the situation and are quite sympathetic about the trader who has since then left for his home state.



However, the community leaders decided to keep the Kendu Leafs in secured places as there is fear of wastage due to monsoon. Still they have KL worth of Rs 10 to 11 lakh within the suitable places like community institutions. Some leaves were damaged due to fungal attack. The grievances were manifested by the villagers at various places from time to time. The District Collector, DFO, DWO were intimated during grievance hearing days. The Commissioner-cum Secretary SC and ST Development Department also wrote letter to the Additional PCCF Kenduleaf regarding the rightful demand of the Gramsabhas. The Tribal Minister had also written letter to the Chief Minister regarding the issue. The civil society pressure was also there regarding the violation of FRA which is taking place ignoring the rightful demand of the Gramsabha. . Finally, people approached the local MLA who assured the community leaders to solve the issue. Earlier, the MLA assisted the communities with a Cooperative Facilitation Centre (CFC) from his LAD Fund with a grant of Rs 10 lakh. The matter was reported to Forest Secretary through the MLA and ultimately the notification was released.

The Government of Odisha through a recent Order (which is enclosed here with) has taken an appropriate step in deregulating the Kendu Leaf (KL) and has clearly agreed to operate both the systems of Government and private procurement of KL. Earlier the Government had deregulated KL in Nabarangpur Division but for the first time the deregulation has been made for the Six villages of Keygaon Range in Kalahandi Division. Now both Government and private players can procure KL so that the exploitation can end. Odisha became the second state in India after Maharashtra to bring such an operational system in KL. On 22nd November 2017 Mr. Dibyasankar Mishra, MLA Junagarh handed over the Office Order to the community in Dhamanpur GP office football ground in the presence of more than 1000 KL pluckers. This brought a lot of cheer among the poor tribal and other traditional forest dwelling communities who sustain their lives through KL plucking.

On 22nd November, 2017, six villages of Dhamanpur and Khaliapali GP under Golamunda block received their ownership right over Kendu Leaf after a struggle for six months. Since 2011, the villages like Jamjharan, Jamgudabahali, Khasiguda, Kanakpur, Kasturapadar and Kalipur have their community rights recognised under Forest Rights Act 2006. Kendu leaf is an NTFP as per the Act and the community rights over KL is recognised. As per the law the Gramsabha has the authority to dispose the minor forest produce (MFP). The Gramsabha has the right to sell, process, store, add value, and transport the MFP for livelihoods with appropriate means of transport. As per the Act, the transit permit regime in relation to transport of MFP shall be modified and given by either the committee constituted under clause (e) of sub-rule (1) of rule 4 or the person authorised by Gramsabha. The procedural requirement of transit permit in no way shall restrict or abridge the right to disposal of MFP.

About 600 Kendu Leaf pluckers belong to Gond and Kandha tribes and other traditional forest dwellers of six Gramsabhas followed the legal procedure and tried to sell the KL to outside agency as well as in the "Phadi" established and operated by KL Department. The reason being to earn higher price as there is about Rs. 90 price difference per Keri (20 good quality leaf). Though the Government is claiming credit regarding extra facilities for the pluckers but these are not reaching the unorganised KL pluckers. Even adequate insurance coverage is not there as most of the pluckers have no KL card. In one KL card, five to six persons are collecting KL and often encounter accidents but are not compensated under insurance. The KL Department being aware of all the above facts and issues remained unresponsive and did not reciprocate proactively in spite of implementation of FRA in state from 2008. When the Gramsabha exercised the rights to sale KL outside Phadi, the Forest Department resisted all such moves and threatened the Gramsabha. The procurement agent from Maharashtra was also threatened and was ordered out of the State. The incidence was brought to the notice of Tribal Minister of State and Centre and even to the CM's office. However, in the end the law and Gramsabha won. The whole episode is a clear example of the orthodox mindset of the government authorities, particularly the Forest Department,

thanks to which the old laws related to KL procurement and trading have not been suitably amended as per the FRA, and hence the trouble.

Regional Centre for Development Cooperation (RCDC) with the support of Oxfam India facilitates the Forest Rights process in both the Grampanchayats of Golamunda Block. Dillip Naik of RCDC organised the KL pluckers and has been instrumental for the process.

Future Plan:

The KL pluckers are in contact with a trader from Raipur to sale their Kendu leaves and for that purpose the process is going on. RCDC is also planning to replicate this process in Bolangir and Rayagada where the Gram Sabhas have got their community rights recognised.



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