

Office of the  
Chief Conservator of Forests  
Trivandrum dt.7-3-88

**CIRCULAR NO. 10/88**

No. C4-4654/83

Sub:- Conditions for sale/tender notification –reg.  
Ref:- this Office ltr. No.P5-45766/82 dt. 10-1-83

In the conference of the senior Forest Officers held on 29-11-1982, it was resolved to modify the sale/tender notice conditions in view of the observation of the High Court in the Judgment in OP.No. 1877/80 Shri.K.A. Ponnappan Vs. Government of Kerala.

In this Judgment the High Court has held that there had been no concluded contract between the bidder and the Government.

Also in C.P. 4892/80 Sri.V.A. Antony Vs. State of Kerala in the High Court of Kerala observed that the signing of the bid sheet and sale notification does not amount to a contract between the bidder and the Government specified in Article 299 of the constitution.

Revenue Recovery Proceedings for recovery of loss in respect of transactions relating to forest produce fail mainly because the contract is not as per provision of Article 299(1) of Constitution. In order that the contract may not become unenforceable the following instructions are issued for guidance.

1. Auction /tender notice and the subsequent agreements may be expressed to be by and on behalf of the Governor of Kerala. The contract has to be executed (i.e. signed) by an officer authorized by the Government (ie. Government) in that behalf.

2. All pages of the agreements concerned may be signed by both parties.

3. The tender /Auction notifications should contain a condition to the effect that any person intending to participate in the transaction to which the tender/auction relates should execute an agreement to the effect that loss caused to Government and other sums falling due on account of the transaction, owing to the default of such person will be recoverable from him or his property under the R.R.Act.

4. The number and date of tender/ auction should be mentioned in the subsequent agreements so that it may be clear to which tender/auction such subsequent agreements relate.

5. These are vital to safeguard the Government interest because at present if the contract becomes unenforceable for any reason or if a party refuses to execute a contract, recovery of loss will be difficult. Hence the above instructions must be strictly adhered to. A bounden agreement in the enclosed form should be got executed by the bidder/tender intending to take part in the auction/ tender.

Sd/- M.Sivarajan  
PRL.CHEIF CONSERVATOR OF FORESTS

To,

All Conservator of Forests  
Field Director, Kottayam  
Divl. Forest Officers

AGREEMENT executed on this ..... the  
..... one thousand nine hundred and .....  
..... between the Governor of Kerala (hereinafter referred to  
as “the Government”) of the one part and Sri .....  
(hereinafter referred to as “the Bounden” of the other.

Whereas the Bounden has by his letter No..... dt.....  
requested that he may be permitted to participate in the auction to be held on .....  
and covered by Government notification ..... dtd .....  
in respect of the work transaction detailed in the Schedule I hereunder (hereinafter called  
the work /Transaction).

Whereas the Bounden has deposited with the Government .....Rs.....  
by was of EMD for the due fulfillment of the work/ Transaction.

Now therefore, in consideration of the Government’s agreeing to permit him to  
participate in the said auction the Bounden hereby agrees as follows:

1. This agreement causes no obligation on the Government to accept the  
Bounden’s bid/ tender.

2. In case the Bounden’s bid/tender at the said auction/ tender is accepted and  
confirmed in his favour by the ..... on the behalf of the Governor the  
Bounden shall within .....days from the date of receipt of such confirmation

execute an Agreement (hereinafter called the “Agreement”) with the Government for the execution of the work/ transaction.

The Agreement shall contain the stipulations as are specified in schedule II hereunder.

3. The Bounden agrees that the terms and conditions of the tender/ auction notification No..... dt..... the terms and conditions hereby agreed to shall be deemed to be part of the Agreement.

4. In case retender/ reauction is necessitated by any default on the part of the bounden including the no-execution of the Agreement. The EMD and the security if any deposited by the bounded shall be forfeited by the Government.

5. The loss if any caused to the Government shall be recovered from any amount due to the bounden from the Government. If the deposits of the Bounden with the Government are inadequate for such recovery the deficit amount may be recovered from the Bounden or his properties movable or immovable.

6. The amounts referred to in 5 shall be deemed to have fallen due on the date on which ..... and if the amount is not paid on the due date or ..... within such period as may be allowed by the Government interest at..... of ..... shall also be

payable to the Government by the bounden from the due date till the date of realization of the amount.

7. All amounts due from the bounden under clause 5 and the interest, if any, thereon shall be without prejudice to any other mode of recovery available to the Government, recoverable under any law for the time being in force relating to recovery of public revenue as if such amounts were arrears public revenue due on land or land revenue.

8. The ..... of the area concerned shall be the authority to quantify the penalty, the loss and the interest stipulated in clauses 4, 5 and above. The quantification of such amounts by the ..... shall be binding on the bounden.

9. The Bounden agrees that he will not raise any objection to the recovered of the said penalty, loss and interest from him on the ground of delay in the confirmation of the Work/ Transaction in his favour unless the time for confirmation exceeds ..... months.

In witness whereof Sri. Divl. Forest Officer ..... on behalf of the Governor of Kerala and Sri..... the bounden have set their hands hereinto, this ..... day .....

Nineteen Eight.....

In the presence of .....

Witnesses

1.

2.

SCHEDULE -I

(Referred to in the Preamble to the Agreement dt. between the Governor of Kerala and Sri.....)

SCHEDULE II

(Referred to in Clause 2 of the Agreement dt..... between the Governor of Kerala and Sri.....)

.....  
.....  
.....

Signed by Sri.....  
on behalf of the Governor of Kerala

Witness..

1.....

.....

Sri.....

2.....

.....