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IN THE HIGH COURT OF KARNATAKA AT  
BANGALORE

DATED THIS THE 28<sup>TH</sup> DAY OF MARCH, 2008

BEFORE:

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

WRIT PETITION No. 17634 OF 2007 (GM-FOR)

C/w

WRIT PETITION No. 17651 OF 2007 (GM-FOR)

BETWEEN:

W.P. No. 17634/2007

1. The Uttara Kannada Labour  
Institutions Welfare Association  
295/2, Dr. Koppal's Building  
Devekod Road, Sirsi  
Uttara Kannada District  
Represented by its Secretary  
Sri. M. V. Joshi
2. Sirsi Taluk Labour Welfare  
Co-operative Society, Kageri  
Represented by its Secretary  
Sripad Ramachandra Hegde  
3/o Ramachandra Hegde  
51 years, Resident of Kageri  
Baroor Post, Sirsi  
Uttara Kannada District

**3. The Backward Class Labourers  
Contract and Forest Product  
Collection Co-operative  
Society Limited, Bilki  
Yellapur Taluk, U. K. District  
Represented by its Secretary  
Madhav Subraya Naik  
S/o. Subraya Naik, 45 years  
At & PO Machikeri  
Yallapura Taluk  
Uttara Kannada District ... PETITIONERS**

**(By Shri. Madhusudhan Naik for Naik and Naik Law Firm,  
Advocate)**

**AND:**

- 1. State of Karnataka  
By its Principal Secretary  
to the Government  
Department of Forest,  
Ecology and Environment  
Multi Storied Buildings  
Dr. Ambedkar Veedhi  
Bangalore-560 001**
- 2. The Principal Conservator  
of Forests, Aranya Bhavan  
12<sup>th</sup> Cross, Malleshwaram  
Bangalore-560 003**
- 3. The Conservator of Forests  
Canara Circle, Sirsi  
Uttara Kannada District ... RESPONDENTS**

**(Shri. M. B. Prabhakar, Additional Government Advocate  
for Respondents Nos. 1 - 3)**

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This Writ Petition is filed under Articles 226 and 227 of the Constitution of India, praying to quash the impugned corrigendum, notified on 7.7.2007 by the Respondent No.1, as per Annexure-K.

**BETWEEN:**

**W.P. No. 17651/2007**

1. Ramanabaille Aranya Kulikarara Sahakara Sangha Niyamith (Ramanabaille forest labourers' Co-operative Society Limited) A registered society under the Co-operative Societies Act Ramanabaille, Sirsi Taluk 581401, U. K. District Represented by its Secretary Vishveshwar Ganesh Siddeeshwar 54 years, S/o Ganesh Siddeeshwar Resident of Ramanabaille Sirsi Taluk 681401 U. K. District
2. Koolikarara Sahakara Sangha Niyamith, Tattisara (Labourers' Co-operative Society Limited, Tattisara) A registered society under the Co-operative Societies Act Tattisara, Sirsi Taluk, U.K. District Represented by its Secretary Ramanath G Hegde, 49 years S/o Gopalakrishna Hegde

Resident of Bastigalli  
Sirsi-581401, Sirsi Taluk  
U. K. District

... PETITIONERS

(By Shri. Jayakumar S Patil, Senior Advocate)

AND:

1. State of Karnataka  
By its Principal Secretary  
to the Government  
Department of Forest,  
Ecology and Environment  
Multi Storied Buildings  
Dr. Ambedkar Veedhi  
Bangalore-560 001
2. The Principal Conservator  
of Forests, Aranya Bhavan  
18<sup>th</sup> Cross, Malleshwaram  
Bangalore-560 003
3. The Conservator of Forests  
Canara Circle, Sirsi  
Uttera Kannada District
4. The Union of India  
Represented by its Secretary  
to the Government of India  
Ministry of Environment and  
Forests, Paryavaran Bhavan  
CGO Complex, Lodhi Road  
New Delhi - 110003

... RESPONDENTS

(By Shri. M. B. Prabhkar, Additional Government  
Advocate for Respondents Nos. 1 - 3, Shri. Harish Kumar  
M. S. for Shri. C. Shashikanth, Advocate for Respondent  
No.4)

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This Writ Petition is filed under Articles 226 and 227 of the Constitution of India, praying to quash the impugned corrigendum, notified on 7.7.2007 by the Respondent No.1 as per Annexure L.

These petitions having been heard and reserved and coming on for pronouncement of orders this day, the Court made the following:-

### ORDER

Heard the Counsel for the parties and perused the material made available during the course of hearing.

2. These two petitions are heard and disposed of together as they involve common issues.

3. The petitioners in both the petitions are Labour Co-operative Societies whose members are mainly labourers belonging to Scheduled Castes, Scheduled Tribes and other backward classes from different parts of the forest area comprising the "Canara Circle" of Karnataka

State, which consists of Karwar, Honnavar, Sirsi, Haliyal and Yellapur divisions of the forest area. The said divisions are divided into Ranges and each range is further divided into coupes for purposes of "logging". Logging involves removing the dead wood -(dried or fallen trees)- earmarked by the Forest Department, cutting them into logs which are classified either as timber or fire wood and transporting them, to be stacked at the Government depots.

The Central Board of Forestry resolved, in the year 1980, to eliminate the contract system in forestry operations of logging, under a time bound programme and reiterated the same in the year 1984.

The Government of Karnataka by an order dated 1.3.1985 began entrusting logging work to the Karnataka State Forest Industries Corporation.

The Government of India evolved a National Forest Policy in the year 1988, which was a re-statement of its

1952 Forest Policy, in order to address the changing conditions. With regard to the Tribals dependant on forests for their livelihood it was stated as follows:

“Having regard to the symbiotic relationship between the tribal people and forests a primary task of all agencies responsible for forest management including the forest development corporations should be to associate the tribal people closely in the protection, re-generation and development of forests as well as to provide gainful employment to people living in and around the forest.”

“One of the major causes for degradation of forests is illegal cutting and removal by contractors and their labour. In order to put an end to this practice, contractors should be replaced by institutions such as tribal co-operatives, Labour co-operatives, government corporations etc., as early as possible.”

In the light of the above, the Government of India, Ministry of Environment and Forests informed the State Governments, including Karnataka, that :

“ Contract system should be completely eliminated from forest working. Existing contracts, if any, for collection and harvesting of forest produce (other than leases to forest based industries) should not be renewed after their expiry. These should be replaced by Forest Corporations, Labour and Tribal Co-operatives and Forest Departments”

vide communication dated 14.6.1989.

4. The petitioners herein are Labour Co-operative Societies. The members of the Societies are labourers and tribals who have been traditionally engaged in Forestry works, especially logging, over the decades, within Canara Circle. These Societies are peculiar to Uttara Kannada District. In the other parts of Karnataka State, the Forest Department or the Karnataka State Forest Industries



Corporation (hereinafter referred to as the 'KSFIC' for brevity), a Government of Karnataka Undertaking is generally engaged in forestry works.

5. In the year 1990, the Government of Karnataka by an order dated 16.11.1990 resolved that KSFIC will take over all logging and extraction operations commencing from the 1990-91 logging season. On a representation from the Uttara Kannada Labour Institutions Welfare Association, the petitioner herein, the Government of Karnataka passed an order dated 26.12.1990 as follows:

" After considering all aspects of the matter, sanction is accorded to entrust the logging works to the existing Forest Labour Co-operative Societies in U.K.District depending upon their past performance on the following conditions:-

1. The members of the Society should work in the logging compartments allotted to it.

2. The Society should have completed the logging units allotted to it in the previous year satisfactorily and also secured completion report for satisfactory completion of the logging works entrusted to them in the past.

3. The procedure laid down in G.O.No.FFD 6 FPC 84, dated.1-3-85 for arriving at the operational rates will continue to hold good. For arriving at the operational costs on logging the sanctioned schedule of rates worked out at the sanctioned current Public Works Department daily wage rate of the concerned districts will form the basis. The operational rates will include all logging and extraction operations like boundary clearance and pointing the boundary trees, felling, conversion and extraction, chiselling number on the logs, dragging to the road side, road formations including maintenance and formation of drag paths, loading of timber into trucks, transporations and unloading in the depots, dragging and stacking of timber poles and firewood into

lots in the Govt. Timber Depots, all fire protection measures, construction of labour sheds, cost of equipments watch and ward etc.

4. The wages shall be paid to the society as and when they deliver the materials to the prescribed depot and stack as per direction of the depot officer. The payment shall be made by the Deputy Conservator of Forests after the bills were received in his office.

5. The Deputy Conservator of Forests will ensure that the depot receipts are not delayed beyond 15 days of receipts in the divisional office.

6. The Forest Labour Co-operative Societies who have been allotted logging coupes should not sublet the logging work to any other agency for carrying out the logging works. If such evidence is noticed, the logging work entrusted to them will be withdrawn at their risk and cost.

7. The coupes will be allotted by the Chief Conservator of Forests (GI) taking into

consideration the capacity of the members of the Society to complete the work in time as also the conditions of the agreement to be executed by the Society in favour of the Forest Department.

The other terms and conditions applicable to the logging contracts and any other conditions the Chief Conservator of Forests (GI) would like to add shall apply to the Forest Labour Co-operative Societies. In case of any dispute, decision of the CCF (GI) will be final. List of coupes to be entrusted to the Labour Co-operative Societies in U.K. District is annexed to this order. The CCF(GI) may however, review the list and finalise the coupes to be worked by the Societies. This order would be valid up to December 1991."

This position continued till the year 1996. In that year, in the wake of allegations of bias in entrustment of logging units, between KSFIC and the Forest Labour Co-operative Societies and in the fixation of operational rates,

the Government of Karnataka issued a Circular dated 10.9.1996 laying down guidelines including the following:-

“ 1. The KSFIC should be requested first to select the logging units which they could take up for logging up-to the limit of 50% of the logging units notified.

2. All the thinning works should be entrusted to the KSFIC exclusively.

3. All the balance areas should be allotted to the existing Forest Labour Co-op. Societies of the District.

4. Allotment of logging units to Forest Labour Co-op. Societies fixing of the logging rates to Forest Labour Co-op. Society shall be through a process of consultation and negotiations in a meeting convened for the purpose under Chairmanship of Conservator of Forests and in the presence of all the 5 Deputy Conservator of Forests, Deputy Registrar of Co.op. Societies, Karwar, District Social Welfare Officer, Karwar and representatives of all the Forest

Labour Co-op.Societies. Any decision taken without the full quorum will be invalid. A detail proceedings will be drawn up and signed by all the members of the committee. The negotiated rates so arrived at will be approved and sanctioned by the Conservator of Forests, Canara Circle, if these rates are lower than the operational rates worked out in accordance with the earlier Govt.Orders issued for the purpose.

5.The Chairman of the Forest Labour Co-op. Institutions of Uttara Kannada District may be consulted on the matters related to the welfare of the Societies but not on the selection of logging coupes and not on operational rates.

The above procedure shall be strictly followed in Uttara Kannada Circle in respect of entrustment of logging works and thinning of plantations to KSFIC and Forest Labour Co.op.Societies. The above guidelines shall be strictly adhered to, with immediate effect."

6. By a further Government Order dated 23.3.1999, 50% of the logging works of Canara Circle were ordered to

be allotted to KSFIC and the balance to be allotted to Labour Co-operative Societies, subject to conditions prescribed and applied since the year 1990. This order was necessitated on account of a complaint of KSFIC against the Conservator of Forests of allotting a larger portion of work to the Labour Co-operatives. This was challenged by the Societies and others by way of writ petitions before this Court in W.P.Nos.29650 and 30970-30981 of 1999. The same were disposed of by an order dated 24.1.2000. This Court took note of the accepted and consistent position that allotment of 50% work should only be to those Forest Labour Co-operative Societies in Uttara Kannada District, which were existing as on 26.12.1990. And that several petitioners therein having been registered long after the Government Order dated 26.12.1990, they were not entitled to be allotted logging work from out of the 50% area reserved for the Labour Co-operatives and dismissed the petitions insofar as they are concerned, in limine, while disposing the petitions of others with certain directions as

to the actual allotment and payments as regards works executed - while holding that the petitioners could not claim any relief beyond the scope of Government Orders dated 26.12.1990 and 5.9.1991.

7. Pursuant to the above, insofar as the entrustment of logging work from 1.6.2000 was concerned, the Government by order dated 13.7.2000 decided as follows:

“After considering the various aspects of the matter sanction of Government is accorded for the following :-

To entrust 75% of the logging works including firewood and all thinning of plantations in North Canara District from 1/6/2000 to 31/5/2001 to the Karnataka State Forest Industries Corporation Ltd., Bangalore and to entrust the balance of 25% of the logging work including firewood to Forest Labour Co-operative Societies in Uttara Kannada District who had registered their Societies under the Societies Act, 1956 as on 26/12/1990 and it shall be the responsibility of



the Principal Chief Conservator of Forests, to finalise the allotment of the logging coupes to Karnataka State Forest Industries Corporation and the Forest Labour Co-operative Societies in North Canara District and also to supervise the implementation of the allotment of logging coupes to Karnataka State Forest Industries Corporation and Forest Labour Co-operative Societies in North Canara District.

The above arrangement shall continue from 1-5-2000 to 31-5-2001."

This allotment was challenged by the petitioner herein by way of a writ petition in W.P.No.38433/2000. Pursuant to interim orders passed therein, the allotment came to be altered to 50% each to KSFIC and the Labour Co-operatives. However, since by efflux of time, the Government Order under challenge having spent itself out, the petition was disposed of as having become infructuous without being addressed on merits, by an order dated 8.4.2005.

8. In the year 2001, certain Societies were denied logging work by the State as they were registered prior to 1990. The said Societies challenged such denial by way of writ petitions in W.P.No.40936-40938/2001. This Court by order dated 13.3.2007 observed the fact that this Court had applied the restriction by dismissing certain petitions of societies registered prior to 1990 in W.P.no.29650/1999 and connected petitions. But proceeded to observe thus:

"But nothing has been discussed in the writ petition about the irrationality of the Government Order etc. However, according to the petitioners as per the 1986 policy, they have formed a registered co-operative society and they have also been given the work up to 1990 and thereafter also they were allotted work, however, the department has fixed the out-off date i.e. allotting work only to the labourers' societies registered up to 1990 and further allocating only 50% of the work to the society and the remaining 50% to the Forest Corporation. In my view, this might be to avoid the unhealthy competition and give

contract to the labour societies, which are registered earlier to 1990 and not thereafter. It appears there is no irrationality in this decision. However, in my view, the method of calling for tenders and accepting the lowest bidder instead of fixing the cut-off date could be adopted in the alternative in the interest of justice and in view of the fact that even the societies which are registered after 1990 were also given work earlier, but thereafter deprived of the work by restricting the societies which are registered after 1990.

8. In order to maintain the consistency and uniformity in the policy of decision, to provide work to the petitioners uniformly without any discrimination for such logging work, the Government has to change its policy decision by entrusting the work of logging to the persons who quote the lowest bid and to entrust the work to such societies by modifying the Government Order dated 26.12.1990 and 5.9.1991 and the forest corporation has to take decision in entrusting the work of logging to the societies in order to

avoid such dissatisfaction among the societies registered, by drawing a dead line and to adopt a fair method so that all the societies will have opportunity to participate in the bid and whoever quotes the lowest bid will be allotted the work irrespective of whether the society is registered before or after 1990.

9. Accordingly, the petition is allowed. The Government Order dated 26.12.1990 and 5.9.1991 are quashed and it is for the respondent-Department to take a decision in the matter as suggested by this Court to avoid discrimination among the Societies registered and this decision shall be taken by the respondent within three months from the date of communication of this order."

Notwithstanding the above order, the Government of Karnataka assigned the logging work for 2007-08 as per order dated 16.6.2007 in the following terms:

"After considering all aspects of the matter, sanction is accorded to entrust logging works and Acacia plantation thinning/logging works for 2007-08 in the Uttara Kannada

District's Canara Circle including the Backlog work for 2006-07, be assigned in the ratio of 50:50 between Karnataka Forest Industries Corporation Limited and Uttara Kannada District Forest Co-operative Societies on the following conditions:

1. That, the logging works would be entrusted only to such labour co-operative societies of Uttara Kannada District, which have been registered in accordance with Societies' Registration Act 1956 in terms of Government order dated 26.12.1990.

2. Preference will be given for choosing the Units to the Karnataka Forest Industries Corporation Limited.

3. The supervision charges sanctioned, of 10% for the Karnataka Forest Industries Corporation Limited in terms of Government order AHFF 110/FAD 1990 dated 16.11.1990 is continued."

Thereafter, the Government has proceeded to issue a "Corrigendum" dated 7.7.2007 as follows:

**"CORRIGENDUM**

Read the following in place of Condition No.1;  
in Government order No.APG 53 FAD 2006,  
Bangalore dated 16.06.2007:

1. That, the work be entrusted in the aforesaid proportion to the several registered societies in Uttara Kannada District, by the Process of Tender-cum-Auction and be granted to the lowest bidder."

The petitioners are challenging the above said Corrigendum and seek a declaration that it is impermissible for the State to allocate logging works assigning labour work under any contract after the "tender-cum-auction proceedings".

9. Shri Madhusudhan Naik, Senior Advocate appearing for the counsel for the petitioners in W.P.No.17634/2007 after taking this court through the



with running of fire wood depots in Canara Circle. Award of logging work to the lowest bidder would force Societies to outbid each other and would launch a rat race, that the State ought not to create. In evolving the present policy of entrustment of logging work by tender proceedings results in equating logging works to a commercial contract. Whereas over the years the Government has adopted the policy of entrusting the works to the Karnataka State Forest Industries Corporation on the one hand and the Labour Co-operatives on the other which are both treated as agencies of the State, having regard to the peculiar circumstances pertaining to Canara Circle.

11. The present system, it is contended, would wipe out all criteria as regards past satisfactory performance, the capability and representative character of the co-operative society being composed of members who are residents of a particular division, etc. On the other hand, the entrustment of work would be to any society that



would have the capacity to sustain and receive "least rates", denying the livelihood of local labourers who are sought to be protected by the National Forest Policy and by the policy adopted by the State Government for almost three decades. The Corrigendum is apparently not issued by the Executive Government of the State and is a hasty "knee jerk" reaction of an unthinking official of the Government. The tender notification issued pursuant to the Corrigendum is violative of the provisions of the Karnataka Transparency in Procurement of Goods Act, 1999, and further demonstrates the mala fides in the issuance of the Corrigendum.

The grounds urged in the companion writ petition, in W.P.17651/2007, is also to the same effect as above.

12. On the other hand, the Government Advocate seeking to counter the arguments of the petitioners' Counsel would contend that logging work involves collection of converted timber or firewood, as the case may

be, and transportation of the same to the identified Government Depot. Firewood which is supplied to the general public of Uttara Kannada District is linked to logging work. The firewood depots are operated by the Forest Department with the assistance of the logging agencies, which takes the responsibility of supply of firewood for the prices sanctioned by the Forest Department and the logging agency is compensated by the firewood supply work as part of the operational rate mechanism.

13. It is contended that the presently impugned action of the Government does not deal with forest management in any manner. The said orders only deal with the selection of agencies to execute the logging work. The procedure of entrusting the work cannot be said to be opposed to the National Forest Policy. Further it is only intended to invite tenders from among the Forest Labour Co-operative Societies alone and not generally from the open market.

That such a measure would create a healthy competition amongst the Labour Co-operatives and to avoid an unhealthy monopoly. Further, that there should be an opportunity to all Co-operatives without discrimination as between them. It is contended that there are 80 registered Labour Co-operative Societies in Uttara Kannada district and whereas the petitioner Societies are representative of only 25 of them and that the petitioners cannot claim any vested right in the logging work to the exclusion of others. It is contended that this Court has addressed this aspect in W.P.40936/2001 and that it has directed the State Government to re-consider its decision of entrusting the logging work to certain Societies registered by a particular date only and to ensure fair treatment of all Societies as directed by this Court, the Corrigendum dated 7.7.2007 has been issued. That the same is just and proper.

14. It is further contended that as on the date of issuance of the Government Order dated 16.6.2007, the

order passed in W.P.No. 40936/2001 dated 13.3.2007 was not within the knowledge of the authorities. Immediately on coming to know of the same, a decision was taken to accept the order and it was decided to issue the Corrigendum. It is contended that there is no basis or nexus to insist on a cut-off date of registration for Labour Co-operative Societies to be considered for logging work. It is further contended that KSFIC has completed all logging works satisfactorily over the years and it is for that reason that the logging work allotted to KSFIC was increased to 75% during the year 2000. That in accordance with forest policy, KSFIC ought to be conferred with the entire logging work.

15. In any event, it is contended that the tender and auction will not result in any cut-throat competition as, in the opinion of the respondents, no Society will take the risk of quoting rates at which it would be impossible to carry out the work and thereby jeopardize its financial position.

It is even contended that policy formulated in the Government Order dated 16.7.2007 was not preceded by any elaborate discussion in the State Cabinet.

16. It is also pertinent to note that the fourth respondent which was impleaded on its application in that regard in W.P.No.17634/2007, has filed statement of objections seeking to justify the impugned order. It is, inter alia, contended that the State Government having acted in consonance with the order of this Court in W.P.No.40936/2001, the very petitioner herein had sought to stall the action of the State initially by filing a Review Petition in R.P.No.225/2007. The same having been dismissed by an order dated 8.10.2007, the petitioner has filed a writ appeal in W.A.No.2129/2007 and the same is pending consideration. In this view of the matter, it is contended that the present writ petition is not maintainable.

17. In the light of the above contentions and the circumstances that emerge, it is to be examined whether the

impugned Corrigendum is in consonance with the policy that has been consistently followed by the State Government, by virtue of the orders and other documents referred to hereinabove. Particular reference is to be drawn to the Circular dated 10.9.1996 bearing No.FEE 150 FFD 96, a portion of which has been extracted hereinabove, which places the intention of the State Government, and its avowed policy in implementing the recommendations of the Central Board of Forestry Resolution of 1980, in perspective. The following is extracted and reiterated for emphasis.

“4. Allotment of logging units to Forest Labour Co-op.Societies fixing of the logging rates to Forest Labour Co-op. Society shall be through a process of consultation and negotiations in a meeting convened for the purpose under Chairmanship of Conservator of Forests and in the presence of all the 5 Deputy Conservator of Forests, Deputy Registrar of Co.op.Societies, Karwar, District Social Welfare Officer, Karwar and representatives of

all the Forest Labour Co-op.Societies. Any decision taken without the full quorum will be invalid. A detail proceedings will be drawn up and signed by all the members of the committee. The negotiated rates so arrived at will be approved and sanctioned by the Conservator of Forests, Canara Circle, if these rates are lower than the operational rates worked out in accordance with the earlier Govt.Orders issued for the purpose.

3.The Chairman of the Forest Labour Co-op. Institutions of Uttara Kannada District may be consulted on the matters related to the welfare of the Societies but not on the selection of logging coupes and not on operational rates.

The above procedure shall be strictly followed in Uttara Kannada Circle in respect of entrustment of logging works and thinning of plantations to KSPIC and Forest Labour Co.op.Societies. The above guidelines shall be strictly adhered to, with immediate effect."

It is clear from the above that the State Government has taken note of the role of the welfare associations, which

have Co-operative Societies as members, such as the petitioners herein who were to be consulted on matters relating to the welfare of the Societies, but not in the selection of logging coupes or on the operational rates. The allegation that a monopoly was created in favour of the petitioners, is therefore, not apparent from the record.

18. The Corrigendum which seeks to replace Clause-1 of the Government Order dated 16.6.2007 is issued, without indicating the reasons for such correction. It is only in the Statement of Objections, filed on behalf of the State Government, in the present proceedings that a stand is taken to declare that the State Government was unaware of the order passed by this Court in Writ Petition no.40936/2001 as on the date that the order dated 16.6.2007 was passed. The State Government which was a party in the said petition and was duly represented by its Counsel and the order in the said writ petition having been rendered on 13.3.2007, it is difficult to accept that the State





another Single Judge of this Court, was not in the nature of an appeal over the earlier decision. However, while observing that the earlier decision did not discuss about the "irrationality of the Government Order", has proceeded to opine as follows:

"In my view, this might be to avoid the unhealthy competition and give contract to the labour societies, which are registered earlier to 1990 and not thereafter. It appears there is no irrationality in this decision."

20. After having certified that there is no irrationality in the above decision, the learned Single Judge has then proceeded to express his view that the method of calling for tenders and accepting the lowest bidder instead of fixing a cut-off date could be adopted in the alternative so that Societies which are registered after the year 1990, are also involved in the logging work. It is with this opinion in view that the Government Orders dated 26.12.1990 and 5.9.1991 were quashed. In any event, this order of the learned Single Judge in Writ Petition no.40936/2001 dated



of the contract system. The labourers who were actually working in the forest earlier, possibly under contractors, had, in fact, become members of one or the other society and it is those societies whose work was found satisfactory and whose bona fides had been ascertained, that were short-listed for assigning of labour work. With the mushrooming of newer and multiple societies, the State Government had, by its order dated 26.12.1990, provided for a cut-off date. This having been found to be discriminatory by the learned Single Judge of this Court in Writ Petition No.40936/2001 and the learned Single Judge having quashed the said Government Order, including a further order dated 5.9.1991, while suggesting to the State Government to consider the entrustment of logging work to all Labour Co-operative Societies, irrespective of their date of registration and while also suggesting that such entrustment ought to be by recourse to invitation of tenders and auction to the lowest bidder, were suggestions which required the State Government to address the same at length in proceeding to

entrust such logging work to any Labour Co-operative Society and who was also the lowest bidder. The State Government ought to have reformulated its policy while reconciling the order of this Court with the declared National Forest Policy and the policy that was followed by the State Government over a period of time. There is no material produced on record to indicate that there was any such contemplation. On the other hand, it is plain that the order dated 16.6.2007 is passed in purported ignorance of the order of this Court on the one hand and the Corrigendum dated 7.7.2007 is said to be issued to purportedly bring the Government Order dated 16.6.2007 in line with the suggestions expressed by this Court in its order dated 13.3.2007, on the other. On the face it, the State Government has proceeded with utter want of circumspection and has completely ~~cast aside~~ <sup>jettisoned</sup> the norms and guidelines that were painstakingly evolved in the face of competing interests, over the past decades in mechanically proceeding to implement what were clearly

alternative suggestions that the State was required to bear in mind, while re-formulating its policy to accommodate societies which may have been registered subsequent to 1990, but, were yet competent and deserving as Societies possibly, truly representing tribals and other locals who were required to be protected and provided with a source of livelihood by providing work to such Labour Co-operative Societies. The State also was duty-bound to examine the alternative suggestion of this Court insofar as creating competition amongst the Labour Co-operative Societies to identify the lowest bidder and whether this could have been reconciled with the policy, that it had adopted and consistently followed for the last several decades. In the event that on such consideration it was felt that there was a dichotomy, it was for the State to have approached the very learned Single Judge of this Court seeking appropriate directions in that regard. The State Government admittedly having accepted the suggestions made by this Court, in toto, had even resisted a review petition, filed by the petitioner



22. It is apparent that one basic objective of entrusting such logging to the labour co-operatives was to provide livelihood to its members who are expected to be persons traditionally surviving on forestry works within Canara Circle – the newer societies may or may not consist of such members – this is to be ensured. Insofar as the suggestion of this Court for the entrustment of the work to the lowest bidder is concerned, the State Government indicating in its Statement of Objections that it is an acceptable criteria is not supported by any material to indicate that this decision has been preceded by an in-depth consideration to reverse the widely accepted mode of arriving at the operational rates for the said works – it would be appropriate that any change in policy be spelt out. In the result, the Corrigendum dated 7.7.2007 cannot be sustained and ought to be set at naught.



The petitions are allowed. Annexure-L in Writ  
Petition No.17634/2007 and Annexure-K in Writ Petition  
No.17651/2007 are quashed.

Sd/-  
Judge

iv