

(1992) 08 BOM CK 0059

In the Bombay High Court

Case No : Writ Petition No. 2306 of 1991

Ramchandra Vishnu Tendulkar and Others

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 27-08-1992

Acts Referred:

Constitution of India, 1950 — Article 14, 19(1), 254(2), 46
Maharashtra Sale of Trees by Occupants belonging to Scheduled Tribe (Regulation) (Amendment) Act, 1991 — Section 4(2)
Maharashtra Sale of Trees by Occupants Belonging to Scheduled Tribes (Regulation) Act, 1969 — Section 2, 4

Citation : (1993) 1 BomCR 7 : (1993) MhLj 892

Hon'ble Judges : M.L. Pendse, J; A.A. Desai, J

Bench : Division Bench

Advocate : B.P. Apte, Aspi Chinoi, K.N. Kore and S.P. Kanuga, for the Appellant; N.H. Gurusahani and M.M. Zambre, for the Respondent

Judgement

M.L. Pendse, J.—By this petition filed under Article 226 of the Constitution of India, the petitioners are challenging constitutional validity of the Maharashtra Sale of Trees by Occupants belonging to Scheduled Tribes (Regulation) (Amendment) Act, 1991. The petitioners Nos. 2 to 4 are Adivasis and are holders of lands situated at Village Khand, Khoste and Vikramgad of Jawhar Taluka in Thane District. The petitioner No. 1 is the contractor who has entered into agreement for purchase of trees from petitioners Nos. 2 to 4. Petitioners Nos. 2 to 4 are tribals and were in occupation of agricultural lands under cultivation and which lands were granted to them, under various land tenures, as occupants or holders and the lands are not of the ownership or proprietorship of the tribals. The tribals had no right to the trees standing on the lands and the trees vested in the State Government under provisions of the Bombay Land Revenue Code, 1897. On August 15, 1967 the right to all the tree growth standing on the holdings was conceded by the Government in favour of the tribals u/s 25(1) of Maharashtra Land Revenue Code, 1966.

2. The Government of Maharashtra enacted Maharashtra Felling of Trees (Regulations) Act, 1964. The legislation was passed to make better provisions for regulating the felling of certain trees in the State of Maharashtra and for the purposes of preservation of trees. The expression "tree" was defined u/s 2(f) and means any tree specified in the Schedule to the Act. Section 3 prescribes that notwithstanding any custom, usage or law or the decree or order of a Court, no person shall fell any tree or cause such tree to be felled in any land unless duly empowered by the State Government to do so. Section 4 prescribes penalty for felling trees in contravention of provisions of section 3. The State Government became aware that after conferment of right to the standing trees in favour of the tribals the contractors started exploiting the poor tribals by securing agreements for purchasing and felling of trees on the lands. After securing the agreements the contractors used to secure permission from the Collector and remove the valuable trees and make huge profits. The price paid to the tribals was negligible and the agreements were one sided and conferred benefit on the contractors and to the detriment of the tribals. The Governor of Maharashtra thereupon issued an ordinance on March 3, 1969 and which was subsequently repealed and replaced by the Maharashtra Sale of Trees by Occupants belonging to Scheduled Tribes (Regulation) Act, 1969. The legislation was enacted to regulated the disposal of trees standing in the holdings of persons belonging to the Scheduled Tribes in the State of Maharashtra. The expression "occupant" as defined u/s 2(e) means an occupant belonging to a Scheduled Tribe. Section 3 prescribes that no occupant shall after the appointed day, sell any trees in his holding except with the permission or assistance of the Collector. The appointed day means March 3, 1969. Section 4 of the Act protected the contracts which were entered into prior to the appointed day provided such contracts were subsisting on the appointed day. The section provides that the occupant or the purchaser or either of them shall apply to the Collector for approval of the contract and the approval can be granted after hearing the parties and making enquiry and on recording findings in respect of certain issues, like

- (a) Whether the occupant has voluntarily agreed to the sale of trees,
- (b) Whether the consideration paid, or agreed to be paid, is reasonably adequate,
- (c) Whether the amount of consideration is actually recovered by the occupant from the purchaser,
- (d) the value of the trees removed by the purchaser under the contract, and
- (e) expenses incurred by the purchaser in felling and cutting trees which he has been prevented from removing by reason of the proceedings under the Acts.

Section 5 sets out the procedure for sale of trees after the appointed day. The section prescribes that any occupant who after the appointed day intends to sell any trees shall apply to the Collector for grant of permission, and the Collector should make such enquiries as he deems necessary and on satisfaction that the purchaser is paying amount of consideration which is reasonable and the seller

has voluntarily agreed to the sale of trees grant the permission provided the purchaser pays the amount of consideration to the occupant in the presence of the Collector. Section 6 of the Act provides that in cases where any occupant seeks assistance of the Collector for the sale of trees, the Collector shall arrange for the sale through the Forest Officer so as to secure the maximum price for such trees.

3. The Schedule to the Maharashtra Felling of Trees (Regulation) Act, 1964 setting out the variety of trees which attracted the prohibition under the Act was amended and some more variety of trees were brought within its ambit. On July 16, 1974 the Maharashtra Sale of Trees by Occupants belonging to Scheduled Tribes (Regulation) Act, 1969 was further amended by Maharashtra Act No. XXXI of 1974 and section 5 was deleted. The result of the deletion of section 5 was that the occupant could not enter into agreement for sale of trees after the appointed day, and the occupant can sell the trees only in accordance with section 6, that is through the intervention of the Forest Officer. The power to grant permission was initially conferred on the Collector, but subsequently it was transferred in favour of the Divisional Forest Officer to enable expeditions disposal of the applications filed by the purchasers or the occupants for sale of trees. The amending Act providing for deletion of section 5 of the 1969 Act was challenged by some of the purchasers by filing petition under Article 226 of the Constitution of India in this Court and the petition was numbered as Special Civil Application No. 1553 of 1974. Several contentions were raised in that petition, including that the amending Act No. XXXI of 1974 not having received the assent of the President could not override the provisions of the Indian Contract Act, which is the Central Act and consequently the amending Act is required to be struck down. The petition was heard by Division Bench consisting of Mr. Justice Vimadalal and Justice Sapre. Mr. Justice Vimadalal held that the amending Act of 1974 which deleted section 5 of the 1969 Act required assent of the President under Article 254(2) of the Constitution of India and in absence thereof the amending Act XXXI of 1974 was invalid. Mr. Justice Vimadalal further held that the amending Act XXXI of 1974 effects changes which are repugnant to the Indian Contract Act and therefore void under Article 254(1) of the constitution. Mr. Justice Vimadalal accordingly made the petition absolute. Mr. Justice Sapre delivered differing judgment and dismissed the petition, through the learned Judge did not differ with Justice Vimadalal on the question of requirement of Article 254 of the Constitution. The petition was then placed before a third Judge, Mr. Justice Deshmukh, as he then was, and the learned Judge substantially agreed with the view of Justice Vimadalal. The petition was then placed before the Division Bench of Justice Vimadalal and Justice Sapre and in accordance with the majority opinion the reliefs sought in the petition were granted. While the petition was being argued before Mr. Justice Deshmukh, it was contended that the reliefs in the petition should be moulded by taking into consideration the provisions of the amending Act No. XXXII which amended Act No. 29 of 1975, that is the Maharashtra Private Forests (Acquisition) Act, 1975. Mr. Justice

Deshmukh declined to accede to the request as the reference was only in respect of difference of views between justice Vimadalal and Justice Sapre. After the opinion of Mr. Justice Deshmukh was available, it was again contended before the Bench consisting Mr. Justice Vimadalal and Mr. Justice Sapre that the reliefs should be moulded by taking into consideration the provisions of amending Act No. LXXII of 1975 amending Maharashtra Private Forests (Acquisition) Act, 1975. The Division Bench declined to accede to the request and delivered the final order on March 8, 1976 in accordance with the opinion of the majority.

The decision of the Division Bench dated March 8, 1976 was challenged by the State Government by filing appeal before the Supreme Court and Civil Appeal No. 343 of 1976 was allowed by the Supreme Court on November 1, 1976 by consent of the parties and the judgment of the Division Bench dated March 8, 1976 was set aside and the proceedings were remitted back to this Court to hear the parties in respect of validity of Maharashtra Private Forests (Acquisition) Amendment Act LXXII of 1975. It is not necessary to refer to what happened to the proceedings thereafter save and except pointing out that a five Judge Bench of this Court disposed of the matter by judgment reported in 1979 Bom. L.R. 499, Juhu Chandra Waghmare v. The State of Maharashtra.

4. The Maharashtra Sale of Trees by Occupants belonging to Scheduled Tribes Act, 1969 had prescribed by section 4 that contracts subsisting on the appointed day, that is March 3, 1969 are required to be approved by the Collector before enforcement. The Legislature expected that the contracts subsisting on the appointed day would be submitted for approval within the reasonable time, but the experience was different. Instances came to the notice of the Government that even after lapse of over 20 years the occupants and the purchasers were still applying for approval of contract executed prior to March 3, 1969. Agreements in such cases contained very low price and do not bear even the remotest relation with the existing market price of the trees. The Government realised that the provisions of section 4 of the 1969 Act were misused by creating antedated agreements for sale of trees by the illiterate and poor tribals. The Government of Maharashtra thereupon felt that it is necessary to take immediate action to further amend the 1969 Act and accordingly issued an ordinance on February 14, 1991. The statement to the Ordinance sets out that section 4 was meant to be only a transitory provision to provide for saving of the contracts executed before the appointed day and subsisting on that day. The provision has become redundant after more than 20 years from the appointed day and more so when it is found that it was being misused to the detriment of the tribal occupants. The statement recites that it was therefore, decided to take immediate action and delete the provisions of section 4. At the same time the cases in which the Collector has accorded approval but the parties are not informed or has made order requiring the purchaser to pay adequate price should be processed with and disposed of. The Ordinance became an Act after both the Houses approved the amendment and the Governor gave assent on March 27, 1991. The amending Act is deemed to have come into force on

February 14, 1991. Section 2 and section 4 of the amending Act which are relevant read as follows:

"2 Section 4 of the Maharashtra Sale of Trees by Occupants belonging to Scheduled Tribes (Regulation) Act, 1969 (hereinafter referred to as "the principal Act") shall be deleted.

4.(1) Notwithstanding anything contained in the Bombay General Clauses Act, 1904, but subject to the provisions of sub-section (2), on the commencement of this Act, all applications for the approval of any contract, pending before the Collector shall be dismissed.

(2) Notwithstanding anything contained in this Act, all applications wherein an approval under sub-section (4) is accorded, or an order requiring the purchaser to pay adequate price has been made under the proviso to sub-section (5), of section 4 of the principal Act on any date before the date of commencement of this Act and such applications are still pending on the date of commencement of this Act, then they shall be proceeded with and disposed of by the Collector, as if the provisions of this Act had not come into force."

The Constitutional validity of the amending Act is under challenge.

5. The petitioners had entered into agreements in respect of lands situated at village Khand on October 17 and October 18, 1968, while in respect of land at village Khoste on November 17, 1968 and in respect of land in Vikramgad on April 25, 1968. The tribals have executed the agreements by putting their thumb impressions and all the agreements are identical. The agreements did not see the light of the day till applications were filed on May 23, September 20 and July 14, 1988. The applications were processed by the Divisional Forest Officer and the petitioners were called upon to comply with certain requirements. While these applications were pending for approval, the Act of 1969 was amended from February 14, 1991 and provisions of section 4 were deleted, with the result that the applications filed by the petitioners could not be processed further. The petitioners thereupon approached this Court and sought declaration that the provisions of the amending Act are invalid and should be struck down.

In answer to the petition Syed Wasif Hussain Mawvi, Deputy Conservator of Forests has filed return and disputed the claim of the petitioners that the amending Act suffers from any constitutional infirmity. An affidavit is also filed by M.B. Mankare, Joint Secretary, Revenue and Forests Department, adopting the claim made by the Deputy Conservator of Forests.

6. Shri Apte and Shri Chinoy, learned Counsel appearing for the various petitioners in the group of petitions placed before us, submitted that the amending Act of 1991 is ultra vires the Constitution as the amending Act has not received assent of the President under Article 254 of the Constitution, and such assent was essential because the provisions of the Act are inconsistent with the provisions of the Contract Act, which is a Central Statute. It was also contended

that the amending Act of 1991 is violative of the fundamental rights guaranteed under Article 14 of the Constitution as the provisions result into unjustified and hostile discrimination. It was further claimed that the Act extinguishes the vested rights and the rights of only those applicants who had secured conferment before the cut-off date are saved. While those applicants whose applications were pending process are wiped out without any rational. It was further contended that the amending Act is violative of the rights guaranteed under Article 19(1)(g) of the Constitution as the Act places unreasonable restriction on the right of the petitioners to carry on their trade or business. Shri Gurusahani, learned Counsel appearing on behalf of the respondents, on the other hand submitted that the amending Act is not repugnant to the Central Act and the claim that the provisions of the amending Act are inconsistent with the Central Act is incorrect. Shri Gurusahani submitted that the state Legislature was perfectly entitled to enact the amending Act and the contention of the petitioners that the subject covered by the amending Act fell in the Concurrent List is incorrect. Shri Gurusahani submitted that even assuming that there is repugnancy between the amending Act and the Central Act, still the assent of the President for the amending Act was uncalled for as the parent Act, being Act of 1969 had received the assent. The deletion of section 4, claims Shri Gurusahani, does not require fresh assent of the President. The learned Counsel also submitted that the challenge to the amending Act as being violative of Article 14 is without any substance and the amending Act, which was enacted to remove the mischief, is not required to be struck down. The claim that the amending Act violates Article 19, submits Shri Gurusahani, is without any merit and the contractors cannot take advantage of using antedated agreements to the detriment of the poor tribals.

7. In view of these rival submissions, the first contention which requires to be examined is whether the amending Act requires assent of the President under Article 254(2) of the Constitution. Article 254(2) reads as follows :

"(2) Where a law made by the legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the legislature of such State shall. If it has been reserved for the consideration of the President and has received his assent, prevail in that State :

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending varying or repealing the law so made by the legislature of the State."

It was contended on behalf of the petitioners that the parent Act, that is Act of 1969 and the Amending Act of 1991 squarely fall within Entry 7 in List III in the Seventh Schedule to the Constitution. Entry 7 in the Concurrent List reads as follows :

"7. Contracts including partnership, agency, contracts of carriage, and other special forms of contracts but not including contracts relating to agricultural land."

The plain reading of the Entry makes it clear that contracts relating to agricultural lands are excluded from the ambit of Entry 7. Entry No. 18 in List II---State List, reads as under :

"18. Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans, colonization."

Article 254(2) of the Constitution provides that where a law which is made by the legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of the Central Act, then the law so made by the legislature requires assent of the President of India. Article 254(1) of the Constitution provides that if such assent is not secured, then the Central Act shall prevail and the law made by the legislature of the State shall to the extent of the repugnancy be void. Relying on the provisions, it was contended that the parent Act as well as the amending Act cover subjects which fall under Entry No. 7 in the Concurrent List and therefore as the impugned Act encroaches upon the subject of Central Act, it required prior assent of the President. It is not possible to accede to the submission of the learned Counsel for more than one reason. In the first instance, the submission that the amending Act is repugnant to the provisions of the Contract Act is not correct. Shri Chinoy, submitted that the Contract Act provides for these cases (i) entering into contract, (ii) performance and (iii) breach and its consequences. It was urged that the amending Act by deletion of section 4 of 1969 Act prescribes for non-enforcement of the subsisting contract and consequently trenches upon the matter which falls within an Entry in the Concurrent List. The submission overlooks that the parent Act by section 3 had prescribed that no occupant shall after March 3, 1969 sell any trees except with the permission and assistance of the Collector. The parent Act took away the right of the occupant, that is the person belonging to the Scheduled Tribe, to enter into contract for sale of the trees without prior permission or assistance of the Collector. To this total prohibition an exception is carved out by section 4 and subsisting contracts on March 3, 1969 were protected provided the Collector approves of such contract. The approval was to be granted on condition that the contracts were voluntary and the consideration was adequate. The performance of the contracts which were subsisting on March 3, 1969 were expected to be fulfilled or carried out within the reasonable time and section 4 was clearly a transitory provision. Indeed section 3 had trenched upon the right of the tribal to enter into contract in respect of sale of the trees and performance of the contracts prior to the appointed day were permitted subject to the approval of the Collector. The contention that withdrawal or deletion of section 4 after the period of 20 years amounts to trenching upon the provisions of the Contract Act is not correct.

Entry 18 in List II enables the State Legislature to enact legislation on the subject of the land, that is rights in or over the land. It is now well settled by catena of decisions of the Supreme Court that the entries in the Schedule should be interpreted liberally and if the State Legislature has right to legislate on a particular subject, then such right includes right to legislate on the incidental or subsidiary subject. In our judgment, as the State Legislature is competent to legislate on the subject of land, including rights in or over the land, the parent Act as well as the amending Act did not override or trench upon the provisions of the Contract Act. While regulating the subject of land and the rights in or over the land, it was open for the State Legislature to provide that certain contracts should not be enforced or enforcement should be regulated. Such incidental or subsidiary exercise of power cannot be termed as "imposition and restriction on freedom of contract" provided by the Contract Act. It is now well settled that a legislation is valid even though it might incidentally trench upon a matter which falls within an entry in another list. The pith and substance test has been applied by the Supreme Court in numerous cases and the pith and substance of the parent Act as well as the amending Act, in our judgment, does not impose restriction on freedom of contract as provided by the Contract Act, but merely regulates the right to entry into contract and enforcement thereof in respect of trees on the land held by a tribal. It is therefore, futile to suggest that the Parent Act or the Amending Act are repugnant to the Indian Contract Act and are therefore, void under Article 254(1) of the Constitution.

The second aspect of the matter is that even assuming that there is repugnancy and the parent Act and the amending Act has imposed restrictions on the freedom of contract, still it is not possible to accede to the submission that the amending Act in absence of assent from the President of India cannot have force of law. It was not disputed on behalf of the petitioners that the parent Act of the year 1969 had received the assent of the President. The question which then falls for determination is whether the deletion of section in the parent Act requires further assent of the President. Counsel for the petitioners did not dispute that if the parent Act was repealed in its entirety, then such repeal does not demand prior assent of the President. It was contended that the President had given assent to the parent Act on the basis that provisions of the parent Act were repugnant to the Contract Act. It is not possible to make any such assumption. It is not unknown that the assent of the President is secured as a precautionary step and the mere fact that the assent is given by the President does not lead to the conclusion that the provisions of the State Act were repugnant or cover a subject which was included in the Concurrent List. Shri Chinoy submitted that the fact that the parent Act received the assent from the President does not enable the State legislature to delete a section which had serious consequences and which deletion leads to imposition of restriction on the freedom of contract without obtaining assent to such deletion. Shri Chinoy submitted that the parent Act by section 3 had imposed restriction and the rigour of the restriction was narrowed down by provisions of section 4 of the Act. The deletion of section 4 of

the amending Act resulted into imposing a blanket ban even in respect of the subsisting contracts on the appointed day, and therefore, deletion of the amending Act requires prior assent. We are afraid we cannot accede to the submission of the learned Counsel. Once an assent is secured from the President for the parent Act, then deletion of a particular provision under the Act does not per se require fresh assent from the President. In the present case it must be borne in mind that section 4 was included in the parent Act with a view to protect subsisting agreement for sale of trees on the appointed day. The legislature never contemplated that the subsisting agreements of the year 1969 would be attempted to be enforced after passage of 20 years. Indeed the legislature realised that taking advantage to provisions of section 4 the contractors are acting to the detriment of the tribals by antedating the agreements. It is impossible to imagine that a contractor interested in felling trees and selling it in market prior to year 1969 would sleep over the agreement and file application for permission only in the year 1988. Taking into consideration the unique and unprecedented situation with which the legislature was faced, it was incumbent to provide for deletion of section 4 of the parent Act and this deletion, in our judgment, does not create any further restriction imposing fresh disability on the contracting parties. In these circumstances it is futile to claim that deletion of section 4 of the Act requires prior assent.

8. Shri Apte and Shri Chinoy referred to the decision of Justice Vimadalal in Special Civil Application No. 1553 of 1974, where the amending Act of 1974 by which section 5 of the parent Act was deleted was challenged. The challenge to the deletion of section 5, which provided for regulating the contracts entered after the appointed day, was upheld by Justice Vimadalal by holding that the amending Act XXXI of 1974 was repugnant to the Indian Contract Act and therefore void under Article 254(1) of the Constitution. The learned Judge further held that in the absence of prior assent of the President of India under Article 254(2) of the Constitution, the amending Act cannot survive as the subject covered is one under the entries in the Concurrent List. It is not possible to accede to the submission that the decision of Justice Vimadalal is binding. As mentioned herein above there was difference of opinion between Justice Vimadalal and Justice Sapre and after it was resolved by the third Judge, an order was delivered on March 8, 1976. The order of the Division Bench of March 8, 1976 was passed on the judgment delivered by Justice Vimadalal and that judgment and order was set aside by the Supreme Court by consent of parties on November 1, 1976. Once the judgment of the Division Bench was set aside, then it is futile to suggest that either the observations or the conclusion in that judgment has a binding force. In any event we are unable to share the view of Justice Vimadalal that provisions of the parent Act or the amending Act of 1991 are repugnant to the provisions of the Contract Act or that the subject covered by the parent Act and the amending Act falls within the entry in the Concurrent List. Consequently, in our judgment, the challenge to the amending act of 1991 on the ground of repugnancy and lack of President's assent are required to be

turned down.

9. Shri Apte and Shri Chinoy then submitted that the provisions of the amending Act are violative of Article 14 of the Constitution. The submission is that the amending Act deleted section 4 of the parent Act, with the result that all subsisting contracts on the appointed day could no longer be enforced. It was contended that section 4 of the amending Act deals with the consequences of deletion of section 4, and then provides that all application for approval of contract pending before the Collector shall be dismissed. Sub-section (2) of section 4 of the amending Act carves out an exception and all the applications where (a) approval under sub-section (4) is accorded or (b) order requiring the purchaser to pay adequate price has been made, then in such cases the applications are to be processed with and disposed of by the Collector. It was urged on behalf of the petitioners that there is no difference whatsoever between the applicants whose applications had yet to be processed and the applicants in whose cases approval has been accorded or order has been passed to pay adequate price to the trial. It was urged that the respondents did not examine the applications filed in its chronological order but picket and chose some of the applications and granted approval while kept the prior applications pending without any reason. The Counsel urged that sub-section (2) of section 3 of the amending Act is arbitrary and leads to hostile discrimination. It is impossible to accede to the submission. As mentioned hereinabove the legislative intervention was called for on realisation that the contractors were taking advantage of the poor and illiterate tribals and creating antedated agreements to seek relief u/s 4 of the parent Act, by claiming that the agreements were subsisting on March 3, 1969. It was impossible to believe that any agreement entered prior to March 3, 1969 would not be tendered to the collector for grant of approval till the year 1988. In the entire group of petition placed before us, there is not a single agreement which has been tendered to the Collector prior to 1976. It is obvious that after section 5 of the parent Act was deleted, the contractors are manufacturing antedated agreements to reap harvest of the transitory provisions. Realising the mischief practised by the contractors, the Legislature had to step in and fix a cur-off date. On which the applications were still waiting for approval. The legislature did not want to be extremely harsh and reject even applications where the Collector has accorded approval or an order was issued for payment of adequate purchase price to the tribal. The legislature was desirous of eliminating the mischief and ever, assuming that some negligible applications for approval had escaped the net, that would not entitle the petitioners to claim, that the amending Act violates Article 14 of the Constitution. Shri Gurusahani submitted that out of various pending applications on the date of enactment of the amending Act, prior approval was granted only in handful of cases. In our judgment, the challenge under Article 14 of the Constitution cannot be accepted.

10. Shri Chinoy then submitted that the amending Act is violative of Article 19(1) (g) of the Constitution as unreasonable restrictions are placed on the right to

carry on trade and business. This contention is obviously at the behest of the contractors and not the tribals. We are unable to appreciate how deletion of section 4, which protected subsisting agreements on March 3, 1969, can affect the right of the contractors to purchase the trees on the land held by the tribals. In our judgment, even assuming that there are some restrictions on the right of the contractors to purchase the trees, such restrictions are perfectly reasonable and necessary to protect the interest of the illiterate and poor tribals. It is not a secret that members of the scheduled tribes are poor and unlettered consistently exploited by the forest contractors. It is incumbent upon the legislature to enact provisions to protect the weaker sections who are socially and economically exploited by the powerful lobby of the forest contractors. Article 46 of Part IV of the Constitution demands that State should promote economic interest of the scheduled tribes and protect them from social injustice and all forms of exploitation. In our judgment, the complaint of the contractors that the amending Act places unreasonable restrictions on the right to carry on trade and business is without any substance. The challenge to the amending Act therefore must fail.

11. Accordingly, petition fails and rule is discharged with costs. The costs should be paid only by petitioner No. 1, Contractor.