

BRIEF NOTE ON LEGAL PROCEEDINGS
PERTAINING TO SMALL TEA GROWERS OF NILIGIRIS

Date	Description
Earlier to the year 1998	Price for green tea leaf was fixed at the dictation of few factories, who were considered to be benevolent to the community. Therefore, STG's with a trust accepted the price offered by them without any question. There was no formula for Price Sharing.
1998-99	Downfall in the tea industry world over, preferably because of globalization.
	However, over the years but for STGs, all other stake holders like Manufacturer, Brokers, Buyers started making profit.
	Agitations by the STGs could not bring any positive results.
2002	Since the public agitation was failure and there was no political support for the cause, having left with no other option it was decided to approach the Hon'ble High Court to invoke certain provisions in the Tea Act
	W.P No. 39192 of 2002 was filed in the name of Small Tea Growers Protection Centre, a forum registered by me along with few interested individuals from Kotagiri
	That Forum could not be sustained for longer period because few of its members like K.B.Bojan, an Advocate from Kotagiri, started collecting money from STGs as well from the Factory owners.
	Because of difference of opinion among themselves that forum had disintegrated even while the case was pending. Me being an Advocate on Record had continued to conduct the case.
	A major achievement obtained from of the said case was that, The Government of India came forward and appointed ICWAI to work out the economics and costing involved in cultivating & harvesting green Tea Leaf and in manufacturing 'Made Tea' as well.

October 2007	That ICWAI submitted its preliminary report holding that the price sharing between Growers and Factory Owners was not scientific. Accordingly by amending the Tea Marketing Control Order , a Price Sharing Formula was introduced
	For conducting the case all these years, I have not charged even a single rupee towards my professional fee. Further the entire expenses were incurred by me, personally.
	Introduction of Price Sharing Formula did not bring greater results because of Growers (STGs) are not ready to demand for their due share.
2008	Since there was no substainal result, and the condition of the STGs continued to be pathetic a subsequent writ petition, W.P No, 8780 of 2008 was filed in the name of Thiru.R.Dharuman, the Managing Trustee of Nelikolu Trust.
	Even for the said case I have not charged any fees and on the other hand I had incurred the entire expenses on my own.
	On coming to know that the W.P No. 8780 of 2008 was filed, Mr.K.B.Bojan Advocate made repeated request that a similar case may be also filed in his name also, since he had already collected amounts from Growers and Factory owners at Kotagiri area.
	The mistake committed by me was in entertaining that unjust request of K.B.Bojan and filling yet another case in W.P No.10091 of 2008 in his name.
	But for subscribing his signature he has not contributed professionally, financially, or at least morally to conduct the said case.
	As usual both the above writ petitions were also conducted by myself, at my own expense.

October 2012	<p>After elaborate hearing final order was passed in W.P No.s 8780 & 10090 of 2008. The operative portion of the said order is extracted below</p> <p><i>“Under the said circumstances, the first respondent Union of India is directed to exercise its power under Section 30 of the Tea Act, 1953 by calling for a realistic report on the problem faced by the small tea growers in Nilgiris District and thereafter, arrive at a scientific sharing formula between the growers and the manufacturers. Since the monopoly power is vested on the Government of India, in this regard, it requires a scientific human approach and should not be dictated by the artificial market forces. The endeavour of Government of India must be to provide a realistic price in respect of the green leaf produced by the small tea growers and must based upon the ground reality regarding the cost of production of such green leaf. The Union of India will also take note of the ICWAI Committee report dated 05.05.2008 and may even call for any other study in this regard and arrive at a just and reasonable conclusion and price to be paid for the green leaf produced by small growers. This exercise shall be undertaken by the Union of India within a period of six months from the date of receipt of a copy of this order.”</i></p>
	<p>To the fortune of STGs the then Tea Board officers decided to implement the order of the Hon’ble High Court without going on appeal against the said order.</p>
	<p>Pursuant to the above judgment the Government of India appointed the IIPM, Bangalore to conduct a field survey to assess the Socioeconomic life of the STGs</p>
	<p>It is very pertinent to state that many of the findings of ICWAI & IIPM were in favor of STGs</p>
	<p>I am of the strong opinion that our brethrens STGs must be made more sensitive to the findings of these Committees. As stated by the committee report the Gowens are not at all sensitive regarding our own rights.</p>

2013	To achieve the above objective i.e to organize the STGs and to sensitize them it was thought fit to create a separate Association.
	Accordingly the Niligiri Nelikolu Small Tea Growers Association, a registered society was formed
	Unfortunately, the said Association was not able to live upto our expectation.
	The path breaking judgment obtained in favor of STGs has not reached the attention of the Growers even till date.
August 2013	As a first step in implicating the High Court order, the Government of India and the Tea Board announced the formation of District Price Monitoring Committee(DPMC) under the Chairman ship of the District Collector.
	Further directions were issued that The Tea Board will announce the Average Price for the tea sold through auction centers in the Nilgiris District and it will be published in their official website at the beginning of every month.
	This is to facilitate the DPMC to consider the same and announce the Bench Mark Price, which is the District average.
	Every BLF shall pay that Bench Mark Price as and when the green leaf was bought to their factory site.
	They should not withhold the payment for a month, as it is in practice today.
	Further the BLFs shall declare rates fetched by them by sales at auction center as well as by way of private sale.
	Considering both, the prices realized by them and by applying the 65:35 formula, individual factories shall declare the price payable by them to their supplier Grower.

	<p>If the rate declared by the BLF is less than the Bench Mark Price, the factories must pay the Bench Mark Price as announced by the DPMC.</p>
	<p>At any cost the rate to be declared, if it honestly done by the factories, should not be less than Bench Mark Price because 50% of their Made Tea were sold by private sale by which they are earning more profit.</p>
	<p>The net result is that the individual factories shall pay the Bench Mark Price as and when the green leaf was supplied. Further by the end of the month after declaring their sale proceeds shall pay the remaining amount to the Growers.</p>
April,2015	<p>Appropriate amendments were brought to the Tea Marketing Control Order to incorporate the above directions. Therefore, as on date the directives issued by Tea Board are considered to be 'The Rule' on the subject and it is binding upon the individual factories.</p>
	<p>Ever since its formation the DPMC is announcing the Bench Mark Price.</p>
	<p>But the factories are protesting to pay even the said Bench Mark Price. It should be understood that the obligation on the part of the Factories is not just to the Bench Mark Price alone but to share the additional profit they earn through the Private sale</p>
	<p>Whereas, we the Growers are not even aware to demand at least the Bench Mark Price as fixed by the DPMC.</p>
	<p>The DPMC, on our persistent demand, announced that Rs.33 crores is the differential amount to be paid by the factories. Once again understand that it is the differential amount between the Bench Mark Price and the actual rate received by the Grower, leave alone the actual profit sharing, which the factories are expected to do.</p>
	<p>Out of said 32 crores, 20 crores are pertaining to the 14 INDCOSERVE factories</p>

	<p>The demand of the INDCOSERVE factories, that they should not be categorised as BLFs was considered and rejected by the Tea Board in the month of June, 2018</p>
	<p>In result every tea factory in The Nilgiris is legally bound to pay the Bench Mark Price as announced by the DPMC as and when the green leaf is brought to their site. Further the factories by following the honest trade practice shall declare their earning through private sale also and must come forward to share that profit with the Growers also, since the Growers are the suppliers of the raw material, namely the Green Leaf.</p>
	<p>Understand that even today they are not purchasing our green leaf. They are only sharing the price only after a month.</p>
	<p>The Bought leaf factories Association have filed a case in W.P No. 29448 of 2017 challenging the very constitution of the DPMC. Number of individual factories had also filed number of writ petitions.</p>
	<p>Though the said writ petitions were admitted, the Hon'ble High Court has not granted any interim order as it was requested by them. Therefore, the pendency of the writ petition is not a bar against the Growers for demanding the price to which they are legally entitle.</p>
	<p>Therefore, the individual Growers must be sensitized to demand their due share.</p>
	<p>Without the participation of the Grower members contesting a cases will not see the light of the day.</p>