

**CHAPTER – IV
MINOR FOREST
PRODUCE**



CHAPTER IV MINOR FOREST PRODUCE

Apart from timber and bamboo, the other minor forest produce generating forest revenues are sand, stone, boulders, *agaru*, honey, *elaichi* etc. Of these, sand, stone and boulders are the items generating major revenue for GOA. Further, sand, stone and boulders are sold through tender as well as permit system. Sale of minor forest produce in Assam is regulated as per AMMCR, 1994 and administered by the E&F Department, GOA.

Audit scrutiny of sale of minor forest produce (sand, stone and boulders) revealed the following issues.

4.1 Fixation of royalty rates

The E&F Department, GOA has revised (April 2005) the rates of royalty applicable on sand, stone, boulder as below:

Item	Existing rate	Revised rate
	(in ₹/cum)	
Sand	50	70
Stone/boulders/gravel	70	100
Shingle	60	75
Clay and earth	8	15

Audit scrutiny revealed that the E&F Department has, while proposing the revision in royalty rates, carried out (2003) a detailed study²⁵ of the National Price Index, the then market prices. It was found that the market price of one truck load (five cum) of sand was ₹ 1,800 to ₹ 2,200 in retail. Keeping all the aspects of expenditure to be incurred by common people/contractors like cost of collection, loading/unloading, transportation and all other unforeseen expenditure alongwith the reasonable profit margin allowed, the rate of royalty was proposed to be fixed as ₹ 350 per truck (*i.e.* ₹ 70 per cum). Similar study was carried out for other items as well and revised rate of royalty was worked out at 17.5 *per cent* of the prevalent market rates of these items. **The study report further stated that such fixation would have no adverse impact on the interest of common people and developmental activities as there would be no impact on the prices of these commodities.**

²⁵ Study conducted by Shri V K Vishnoi, *IFS*, then Chief Conservator of Forests (Territorial) who is the present Principal Chief Conservator of Forests of Assam.

It was, however, noticed that the GOA instead of notifying the above methodology of the study as a 'model' for working out the royalty rates on a scientific manner after detailed analysis of market rates and other relevant inputs at periodic interval, only notified (April 2005) the rates worked out by the E&F Department, that too after a lapse of about two years. Consequently, the variation in the market rates during the intervening two years *i.e.* the date of study (2003) and the issue of notification (2005) were not taken into consideration, thus fixing the royalty at lesser rates.

Further, the GOA ordered (through another notification dated 30 September 2005 and June 2007) that rates of royalty so fixed in April 2005 would be revised at the rate of 15 *per cent* after every two years. Analysis of the GOA's decision to revise the rates of royalty of minor forest produces at 15 *per cent* every two years keeping in view the results of study carried out by the E&F Department as discussed above revealed the following as shown in Table 8. For this, market rates of minor forest produce have been independently collected by Audit from the Directorate of Economics and Statistics, Assam.

Table 8
Analysis of market rate and rates of royalty

Year	Name of forest produce	Royalty rate (in ₹)	Market rate/cum of particular forest produce during the year (average ²⁶)	17.5 <i>per cent</i> of market rate	Difference/cum
(1)	(2)	(3)	(4)	(5)	(6)
2006-07	Sand	70	353	62	(-) 8
	Stone, boulder	100	714	125	25
2007-08	Sand	70	439	77	7
	Stone, boulder	100	947	166	66
2008-09	Sand	70	456	80	10
	Stone, boulder	100	1,125	197	97
2009-10	Sand	70/90	501	88	18/--
	Stone, boulder	100/130	1,255	220	120/90
2010-11	Sand	90	629	110	20
	Stone, boulder	130	1,447	253	123

Note: Rate of royalty revised in September 2009.

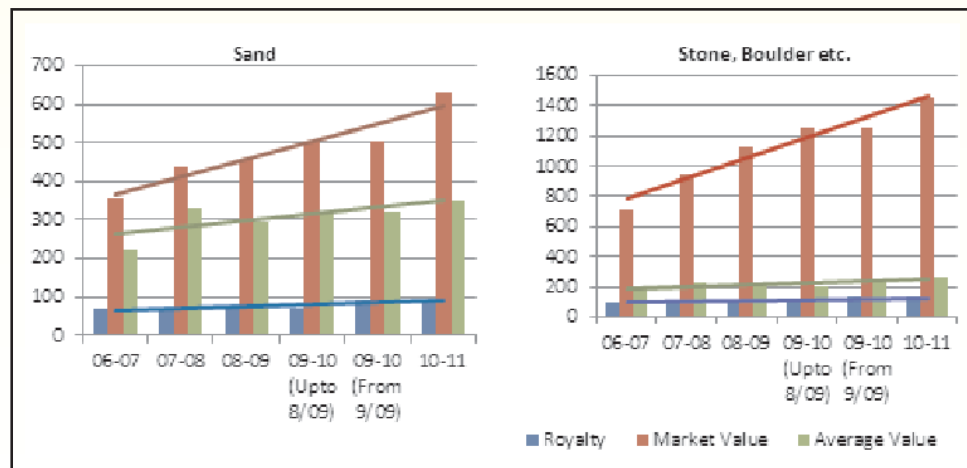
Audit scrutiny further revealed that pursuant to the provisions of the AMMCR, 1994, the GOA has ordered (September 2000) that permits for extraction of forest produce to be issued on payment of a price at the nearest *mahal* rate. An analysis of the rates of royalty, average price based on nearest *mahal* rates and market rates of minor forest produce revealed the following as shown in Table 9 and graphs thereunder.

²⁶ As worked by the Directorate of Economics and Statistics, Assam. The minimum market rate applicable to various types of same forest produce has been considered.

Table 9
Royalty, average value (nearest *mahal* rates) and market value of sand, stone boulders etc

Year	Item	Royalty	Market Value	Average Value	Percentage of royalty vis-à-vis Market Value	Percentage of royalty vis-à-vis Average Value
2006-07	Sand	70	353	224	5	3
	Stone, Boulder etc.	100	714	183	7	2
2007-08	Sand	70	439	328	6	5
	Stone, Boulder etc.	100	947	230	9	2
2008-09	Sand	70	456	293	7	4
	Stone, Boulder etc.	100	1,125	209	11	2
2009-10 (Upto 8/09)	Sand	70	501	321	7	5
	Stone, Boulder etc.	100	1,255	206	13	2
2009-10 (From 9/09)	Sand	90	501	321	6	4
	Stone, Boulder etc.	130	1,255	249	10	2
2010-11	Sand	90	629	348	7	4
	Stone, Boulder etc.	130	1,447	267	11	2

Graphs showing growth of market rates, average value (nearest *mahal* rates) and rates of royalty in respect of sand, stone and boulders during 2006-07 to 2010-11



Thus, the market value of the forest produce registered an increasing trend during the above five-year period. Though the average value of forest produce calculated at nearest *mahal* rates were higher than the royalty rates prevailing from time to time, yet these remained close to the rates of royalty (in case of stone, boulders etc)/much lower than 17.5 per cent of the market rates (in case of sand as well as stone, boulders etc). Had the GOA ordered for implementing the methodology as recommended by the study conducted by the E&F Department, the rates of royalty could have been fixed on more scientific basis and aligned with the market rates which would have benefitted the State exchequer and also ensured that there is no undue benefit to the contractors dealing in forest produce. Considering the minor forest produce extracted from seven selected Divisions during 2006-07 to 2010-11 and applying the differential rates

(between 17.5 *per cent* of the prevalent market rates and the royalty rates), the GOA was deprived of generating additional revenue of ₹ 76.13 crore and simultaneously the contractors dealing in forest produce were extended undue benefits to that extent.

Further, the *mahal* operation has been temporarily suspended since 2010-11 in view of the orders of Hon'ble High Court of Gauhati. In the absence of *mahal* operations, there is no benchmark to work out the rate of royalty to be levied while issuing permits by the forest Divisions, if the orders of the GOA (September 2000) for levying royalty at nearest *mahal* rates is to be continued, post 2011-12.

The Department stated (November 2012) that stone and sand are basic raw materials which are used in public works and also by a wide section of the people for construction purposes. Revision of royalty rates will have a cascading effect on the cost of various projects of the State and Central Government and thus, a balanced view needs to be taken considering other conflicting interests of the State. The reply is not convincing as the formula worked out by the then CCF (T) has clearly stated that royalty can be fixed as 17.5 *per cent* of the market value keeping all aspects in mind and it was emphatically stated that such fixation would have no adverse impact on the interest of common people. Further, the undue benefit extended to the contractors and consequent loss to the Government because of wide variation between the royalty rates and the prevalent market value has already been identified by the GOA *{notes of the Principal Secretary (E&F) discussed in the table under paragraph 4.4 refers}*.

Recommendation 10:

GOA may consider revisiting the orders for revising the rates of royalty by 15 per cent every two years and also the orders for application of nearest mahal rates while issuing permits. They may instead consider implementing the methodology for fixation of royalty at periodical interval calculated on prescribed percentage of the market rates.

4.2 Non-revision of rates of royalty on minor forest produce

As mentioned in paragraph 4.1, the GOA, while revising the rates of royalty on minor forest produce in April 2005, has ordered (September 2005) for revision of rates of royalty after every two years.

Audit scrutiny revealed that despite the stipulation of the GOA, the E&F Department did not revise the rates of royalty on minor forest produce which fell due in September 2007. It was further noticed that while giving effect to the notification of GOA of 2005 on 15 *per cent* revision every

two years, the E&F Department revised (**September 2009**) the rates of royalty on minor forest produce by enhancing the existing rates fixed in April 2005 by 30 *per cent* (*i.e.* 15 *per cent* due in 2007 and 2009). Thus, though the revision so made in September 2009 brought the rates of royalty in compliance of the

GOA orders of 2005, yet non-revision of the rates in 2007 by 15 per cent over the rates fixed in 2005 has resulted in loss of revenue of ₹ 9.31 crore in respect of only seven selected Divisions.

The Department stated (November 2012) that the AMMCR are under consideration for review by GOA. The reply did not touch upon the issue raised by Audit as to why the E&F Department did not revise the rates of royalty by 15 per cent in 2007 though the same was ordered by the GOA in 2005.

4.3 Non-application of nearest *mahal* rate while issuing permits

In pursuance of the provisions of the AMMCR, 1994, the GOA in its order of September 2000 delegated the authority for granting permits to the CsF concerned to be issued for a period of one year and on payment of a price at the nearest *mahal* rate.

Audit scrutiny revealed that though the orders of the GOA (September 2000) changed the erstwhile system of granting permits (to be issued on realisation of simple royalty), neither the GOA nor the E&F Department installed a system of monitoring the compliance of the above orders

by the concerned CsF and the Divisions. It was noticed in seven selected Divisions that while issuing permits for extraction of sand, boulder, stone etc. of 80.44 lakh cum during 2006-07 to 2010-11, the Divisions applied the rates of royalty instead of the nearest *mahal* rates leading to short application of rates. This resulted in loss of revenue of ₹ 84.57 crore.

Audit scrutiny also revealed that none of the Divisions have instituted a system of notifying the rates (of nearest *mahal*) applicable for the respective areas from where permits for extraction of minor forest produce are issued. This would have enabled the Divisions to use these rates as ready reckoner while issuing permits.

The Department stated (November 2012) that the CsF who are empowered to grant permits for collection of stone, sand etc. grant permits to applicant after due verification. It was further stated that the nearest average *mahal* rate is charged for grant of permit taking into account the quality of the materials and the distance from the market. The argument of the Department that permits were being issued after due verification of various factors is not consonant with the order of GOA. Further, no such orders of the CsF was found on records during test check in the concerned Divisions neither were these submitted alongwith the replies of the Department. This clearly indicates that the reply furnished by them is an afterthought not supported by facts.

Recommendation 11:

E&F Department may issue instruction to the Divisions for strict compliance of the orders dated September 2000. They may also instruct the concerned Divisions to install a system of notifying the applicable rate (at nearest mahal rates) from time to time for using these rates as ready reckoner while issuing permits.

4.4 Extraction of minor forest produce by National Highway Authority of India

Audit scrutiny of the files on allotment of sand, stone, boulders to the contractors of National Highway Authority of India (NHAI) maintained²⁷ in the GOA indicated that the then Chief Conservator of Forests (Territorial) {CCF (T)} on behalf of the E&F Department submitted a proposal to GOA for enlistment of NHAI in the royalty schedule (which would mean that the contractors working for NHAI would be allotted sand, stone, boulders etc. at royalty rates). It was also mentioned therein that inclusion of NHAI in the royalty schedule would have no financial implication to the State exchequer.

Audit scrutiny of the above file revealed the following sequence of events:

Date	Events on allotment of sand, stone, boulders to the NHAI contractors
22-12-2003	The Principal Secretary (PS), E&F in the GOA in his note to the Chief Secretary (CS) wrote that “On first reaction, I find the proposal for including any department in the schedule (for allowing extraction of produce at simple royalty rates) is not in the interest of our revenue..... CS is aware that such materials are sold in market at a rate much higher than the royalty rates charged by us on permit. Such double pricing is naturally prone to misuse. Secondly, <i>we are not sure that the estimates sanctioned for Central Government Departments are based on market rates or royalty rates.</i> If the estimates are based on market rates and we allow contractors to get permits, the <i>benefit of difference in price would go to them and State would miss the revenue.</i> <i>I suggest that unless the Central Government Departments inform us the rates relied upon by them in their estimates along with the quantity required for the project as per estimates we should not issue permits. We may issue them permits on the rates taken by them into account in their estimates instead of royalty rate, if the two are not same”.</i>
-do-	On the basis of above note, the CS wrote in his note that “Minister (E&F) may like to approve the proposal of PS”.
24-12-2003	In response the Minister (E&F) stated that “I broadly agree with the view of PS...however, cross checking the rates etc. should not delay issuance of permits as it would hamper some important public projects being implemented”
21-5-2005	The Secretary (E&F) wrote “I have attended the last State Level Coordination Committee on implementation of road project by NHAI...The meeting in a resolution requested the Forest Department to enlist NHAI in the forest royalty schedule.....”
26-5-2005	The Commissioner & Secretary (E&F) responded stating that “I remember the subject being processed earlier....what is the outcome?”
30-5-2005	On the basis of a note from the E&F Department, the Secretary (E&F) wrote that “it is stated by the Department though the matter was processed, no notification or order was issued in this regard. As such, we may take action on the present request. Additional CS II is also repeatedly pursuing the matter...”
6-6-2005	While endorsing the above note to the Minister (E&F) the Commissioner and Secretary (E&F) wrote “Government may notify NHAI as one of the scheduled beneficiaries”.
17-6-2005	The Minister directed the Commissioner and Secretary (E&F) that “please ascertain if their (NHAI) road estimates reflect market rates”

²⁷ Page No.1-3 of file No. FRM-232/2003.

14-7-2005	The CCF(T) , E&F Department issues a letter to the NHAI asking the latter “to intimate whether your estimates for four laning of National Highway works in different segments have been prepared taking market price of boulder, stone, sand and earth. Please mention per cum rates of these materials on the basis of which the NHAI has prepared the estimates and also send copies of the same on the basis of which the tenders have been invited for all the segments of National Highways....”
21-7-2005	The file is again moved. The initial note mentioned “no reply to our letter has been received (from NHAI).....submitted <i>as desired</i>” The Joint Secretary (E&F) endorsed the note to Commissioner and Secretary (E&F) stating “The reply of the report called from CCF (T) is still awaited”
-do-	The Commissioner and Secretary (E&F) wrote “CCF (T) was requested to examine the royalty rates incorporated in the estimates...The report is still awaited. The report is essential to enable Government to come to a decision in this regard. Minister may also kindly recall that a Committee was formed under the Chairmanship of CCF (T) to determine rates of royalty which could be implemented throughout the State and which would be uniform and at par (reasonably) with prevailing market rates. The recommendation of the Committee is also awaited. In the above circumstances, we may allow at permit system and <i>on existing prescribed rates provided NHAI gives an undertaking that they are agreeable to pay whatever royalty assessed by the Government in due course, prospectively</i> ”.
22-8-2005	The Minister (E&F) returned the file stating that “ <i>NHAI have already submitted details. Pl put up with details for enabling us to give permission</i> ”.
29-8-2005	The Secretary (E&F) while re-submitting the file to Minister (E&F) wrote “.... As discussed , the file is submitted. We may indicate our approval against the quarry ²⁸ listed by the authority”
23-11-2005	The Minister (E&F) while disposing of the file submitted on 29-8-2005 mentioned “Project Director, NHAI has forwarded applications offor issue of permits for stone, sand, GSB material etc. <i>on payment of simple royalty and VAT</i> . The CCF (T) has forwarded their applications..... <i>His proposal is approved.....</i> ”

Keeping the above decision as precedence, all subsequent requests of NHAI were dealt with and extraction of forest produce allowed on payment of **simple royalty**.

In the above perspective the following audit observations emerge:

- In response to the letter of CCF (T) the NHAI responded on 18-8-2005 (the letter referred to by the Minister in his note dated 22-8-2005) wherein the NHAI stated that “it is to mention here that except a few packages..... almost all the stretches have been awarded to the civil contractor as per the list enclosed herewith. So, you are hereby requested to issue permit to our contractor as per the requirement on phased manner to enable them to extract the materials urgently” (***Copy of the letter enclosed as Annexure ‘A’***). From the above letter it is seen that the NHAI had allotted civil works contracts in respect of 28 chainages in which the ***rates of forest produce at source were fixed at an average of ₹ 520/cum (stone/boulders) and ₹ 275/cum (sand)***. Scrutiny of the above rates

²⁸ Quarry is pre-defined area wherefrom the forest produce are allowed to be extracted.

revealed that these rates are higher by ₹ 420/390 per cum in respect of stone/boulders and by ₹ 205/185 per cum in respect of sand when compared to the royalty rates *i.e.* ₹ 100/130 per cum²⁹ of stone, boulders and ₹ 70/90 per cum³⁰ of sand.

It is evident that had the file been submitted as sought by the Minister in his note dated 22 August 2005 with due analysis of the relevant inputs available in the letter of NHAI dated 18 August 2005, the variation between the rates of royalty and rates at which work orders have been issued by NHAI as discussed in the preceding paragraph could have been brought to his notice. This would have enabled the Minister to take appropriate decision on the matter. Instead, the file was re-submitted to the Minister with the proposal for allowing the contractors of NHAI to get the benefit of royalty rates on extraction of forest produce. This was despite the fact that the rates at which work orders have been issued by the NHAI were available on file.

- Secondly, in the initial notes (December 2003) it was decided that *permits would be issued to the contractors of NHAI on realisation of the rates taken by them in their estimates instead of royalty rate, if the two are not same which was approved by the Minister (E&F).*
- Thirdly, the Commissioner and Secretary (E&F) proposed (July 2005) for *obtaining undertaking from the NHAI that they would pay the balance royalty* if Government decided higher rates of royalty prospectively.

It is evident from the above that the contractors of NHAI were allowed extraction of sand, stone, boulders etc. at ‘**simple royalty**’ bypassing and overlooking (i) clear notings at various levels against the same, (ii) the proposal of Commissioner and Secretary (E&F) to obtain undertaking from NHAI about payment of balance royalty if higher rates are determined at later date and most importantly (iii) the facts disclosed in the letter of NHAI which clearly mentioned allotment of works to contractors allowing price of sand, stone, boulders at much higher rates than the royalty rates. Further, in view of the above Government decision, it was noticed in four test checked Divisions³¹ that they had already allowed extraction of 3.31 lakh cum sand and 20.84 lakh cum stone between 2006-07 and 2010-11 through issue of permits on recovery of simple Government royalty as applicable.

Irregular and unjust decision of the Government on extraction of sand, stone, boulders on payment of royalty ignoring the facts as highlighted above would not only cause loss of revenue to the tune of ₹ 844.94 crore to the Government exchequer, it would also extend undue gain to the private parties (contractors) of the same amount as shown in the following table.

²⁹ ₹ 100/cum upto 31 August 2009 and ₹ 130/cum thereafter.

³⁰ ₹ 70/cum upto 31 August 2009 and ₹ 90/cum thereafter.

³¹ Cachar, Kamrup East, Nagaon and North Kamrup.

Item	Requirement ³² of forest produce as reported by NHAI (in lakh cum)	Average rate of forest produce at source at which work order issued (in ₹)	Rate of simple royalty (in ₹)	Difference (in ₹)	Loss of revenue/ undue gain to contractors ³³ (₹ in lakh)
Stone/ boulder	171.21	520	100/130	420/390	69,340.05
Sand	77.71	275	70/90	205/185	15,153.45
Total					84,493.50

Recommendation 12:

The GOA may investigate the matter as to how the NHAI contractors were allowed extraction of sand, stone, boulders etc. at ‘simple royalty’ despite the availability of the details of the rates at which work orders were issued by the NHAI to its contractors.

Secondly, GOA may explore the possibility of recovering the differential royalty from the contractors of NHAI in the interest of State revenue.

Thirdly, GOA may issue necessary orders to the forest Divisions for collecting royalty at par with those at which NHAI has issued work orders to the contractors to arrest further loss of Governments revenue.

4.5 Loss of working period of sand, stone and boulder mahals

Accumulation and depletion of sand/ stone in the riverine mahal due to river current is a constant process and failure to extract these within the stipulated timeframe results in washing away of these materials, thus leading to loss of revenue. Further, forest produce in the riverine mahals are put up for sale every alternative year for a cycle of two years.

Audit scrutiny revealed that the E&F Department has neither prescribed specific timelines for guiding various processes involved in settlement of mahals nor put in place a mechanism for monitoring the same. Resultantly, the higher authorities in the E&F Department remained unaware of delayed settlement of mahals/ mahals remaining unsettled for considerable period of time which deprived the State exchequer of revenue. Also, there were cases of mahals pending in the Court of law and in absence of monitoring mechanism, the E&F Department could not take suitable steps to approach the concerned Court for vacating the stay orders.

³² Requirement in respect of the stretches where work order has been issued, as reported by the NHAI.

³³ Calculated at average of difference as ₹ 405 for stone/boulders $\{(\text{₹}420 + \text{₹} 390)/2\}$ and ₹ 195 for sand $\{(\text{₹} 205 + \text{₹} 185) /2\}$.

An analysis of the settlement process in the seven selected Divisions revealed that in three out of seven Divisions³⁴ there were delays ranging between 1-39 months in settlement of 43 *mahals*. For *mahals* remaining inoperative in the above cases in three Divisions there was loss of ₹ 2.21 crore to the State exchequer.

Recommendation 13:

E&F Department may install (i) a control mechanism for monitoring the settlement/re-settlement of mahals so as to arrest cases of delay in settlement of mahals; (ii) a mechanism to watch the progress of the mahals remaining inoperative due to Court cases so that time-bound action can be taken for getting the cases vacated from the Courts in the interest of revenue of the State.

³⁴ Dhemaji, Lakhimpur and Nagaon.