There was persistent public criticism and criticism in the State Legislative Assembly with regard to the orders of the Government of Orissa granting rebate and concession to the kendu leaves purchasers and Agents during the period from 1, April, 1970 to 31, March, 1972 and the orders issued in 1971 renewing the agreements in favour of existing kendu leaves Agents and purchasers. The State Government with a view to assuage public suspicion and to elicit the true state of affairs, in exercise of the powers under section 3 of the Commission of Inquiry Act, 1952, appointed a Commission of Inquiry consisting of Sri G.K. Mitter, a retired Judge of the Supreme Court of India to enquire into and report about the propriety, legality and bonafides of the aforesaid orders. The Commission was specifically required to enquire into and report about the orders passed by Sri Rajendra Narayan Singh Deo the then Chief Minister and Shri Hra Prasad Mahapatra, the then Minister of Forest regarding grant of rebate and concessions to the Agents and purchasers and also, to report on the validity and propriety of the orders passed by Shri Ainthu Sahu as Minister Forest regarding the renewal of agreements and grant of concessions to the Agents of the kendu leaves. The Commission was further required to enquire into and report on the conduct of the officers involved in the aforesaid matters.
Hon'ble Sri G.K. Mitter, retired Judge of the Supreme Court of India commenced the inquiry on 6, May, 1973. After giving opportunity to the State Government as well as the Respondents to file their statements on affidavits and documents and after hearing both sides, Justice Mitter has submitted his report to the State Government on 30, August, 1974.

In view of public importance involved, the State Government considers it necessary to apprise the public of the broad conclusions reached by Sri G.K. Mitter, retired Judge of the Supreme Court of India in course of the enquiry conducted by him.

With regard to Sri Rajendra Narayan Singh Deo, former Chief Minister of Orissa, the Commission has reported that the orders passed by Sri Singh Deo for granting concessions to the Agents and rebate to the Kendu leaves purchasers are unlawful, improper, malafide, arbitrary and unjustified and Sri Singh Deo has abused his powers as Chief Minister. The Commission has recorded the following findings against Sri Singh Deo.

(1) All orders passed by Sri Singh Deo on the 19, November, 1970 granting rebate and concessions to some of the Kendu leaves Agents and purchasers are unlawful.

(2) Undoubtedly the orders passed by Sri Singh Deo affected the revenues of the State detrimentally causing a loss of over Rs. 40 lakhs to the State of Orissa as shown in the calculation contained in the affidavit of the State. The rebate shown therein comes to Rs. 36,84,321.63 and the concession given to
(6) No attempt was made to get the legal aspect of

*he matter

consultation with the Finance Department.

under the Rules of Business of Orissa Government.

the purchase price and concession by watered

on the Cabinet, as the Grant of reduction in

or himself and his consent

though the Swatantra Party comprising inter alia

obstruction even though the other Minister did not

consultation with the Finance Department

(8) It was necessary to consult the Finance Department

began to be collected in Unit No. 55-A of Bolangir.

extent of Rs. 79,088/- by reduction of the number of

above, the Government suffered a loss to the

the amount comes to Rs. 3,16,495.20. Besides the

agreement executed by the purchasers and agents.

The said orders are not in accordance with the

the Grant of rebate and concessions is not provided

the Kendu Leaves Control Act of Orissa Government.

... the Government suffered to the extent of Rs. 79,088/- by reduction of the number of bags to be collected in Unit No. 55-A of Bolangir.

(3) It was necessary to consult the Finance Department under the Business of Orissa Government. Consultation with the Finance Department was obligatory even though the Chief Minister Sri R.N. Bhanja held the portfolio of Finance and even though the Swatantra Party comprising inter alia himself and Sri Mohapatra was majority party in the Cabinet. As the grant of reduction in the purchase price and concession were covered by Second Schedule to the Kendu Leaves Control of Trade Act, proposals relating thereto should have been brought before the Cabinet by the Chief Minister Sri Singh Deo or in his consent by the Minister or Forest and Tribes.
(7) The said orders were neither proper nor justified in the circumstances of the case. They were also not made bonafide in as much as they were made without any jurisdiction. Being ultra vires, they were made malafide.

(8) The said orders resulted in substantial loss of revenue to the Government. Sri Singh Deo passed an order on 31, December, 1970 to keep the orders of 19, November, 1970 in abeyance and Sri Mohapatra proposed revocation of the grant to the purchasers on 6, January, 1971 which was agreed to by the Chief Minister. No order was however made by them directing the restitution of the benefits received by the purchasers. No order was ever made revoking the concession given to the Agents. Merely be revocation of the orders, the loss already suffered was not made up. But most of the loss was made good by a subsequent order of the Chief Minister Sri Biswanath Das in May, 1971.

(9) The procedure followed for granting the rebate and concession was not lawful, correct and proper.

(10) Sri Singh Deo abused his powers in making the orders dated 19, November, 1970.

(11) Sri Singh Deo played a very minor roll in the matter of renewal of agreements in September, 1971. Besides being mainly responsible for Sundararajan's calling for reports from Agents and purchasers long before the expiry of the period, he does not appear to have taken any active part.
(12) Sri Singh Deo's dictum dated 25, August, 1971 as
Minister, Political & Services Department regarding
disposal of the applications of the Agents without
consultation with the Finance Department was
patently unlawful and arbitrary.

The Commission has found Sri Hara Prasad
Mohapatra guilty of all the charges levelled against him. His
recommendations for grant of rebate and concession dated
6 & 7, November, 1970 and order dated 6, April, 1970 reducing
the stipulated number of bags to be collected by the Agent of
Unit No. 104 have been found to be unlawful, improper, malafide
and not justified on the basis of past precedents. The orders
were without jurisdiction and in violation of the Rules of
Business. The procedure followed was not legal, correct and
proper. The recommendations made by Sri Hara Prasad Mohapatra
resulted in loss of revenues to the State causing a loss of
over Rs. 40 lakhs and he alone is responsible for the loss of
Rs. 16,008/- in respect of Unit No. 104. Sri Hara Prasad Mohapatra
abused his powers in making the orders of 6, November, 1970 and
7, November, 1970 recommending the grant of rebate and
concession to kendo leaves Agents and purchasers.

With regard to the conduct of the former
Minister of Forest Shri Ainhthu Sahya, the Commission has recorded
the following conclusions:

(1) The procedure followed in renewing the agreements
for the year 1972 was neither legal nor proper,
(2) The Minister did not look into the opinion of the Law Department before he ordered renewal and before the renewals of 23 & 24, September, 1971 were granted.

(3) It was necessary to consult the Finance Department in regard to renewal of the agreements. The renewal of agreements were made even though the D.F.Os. had not reported the satisfactory performances in some cases. Government was not obliged to renew where defaults have been committed by the Agents and purchasers in the past. Orders for renewal of agreements were made on existing terms and conditions without fresh tender and without giving any opportunity to intending traders. It was the duty of the Government to call for fresh tenders and give an opportunity to all intending traders to bid as was laid down by the Supreme Court in Rasbehari Panda's case. The avidity with which the Agents and purchasers secured the order of renewals leads to the inference that there was considerable margin of profit to them.

(4) The manner in which the renewal of agreements were made could only lead to an inference that they were not made bonafide. The Minister Shri Sahg never considered for a moment whether the interest of the Government would be best served by the renewals. Whatever be his motive, his aim throughout was to make a present of the renewals in favour of the existing agents and purchasers on existing terms and conditions.
(5) Shri Sahu abused his official power and position in the matter of renewal of the agreements. He should not have ordered any renewal until after the close of 1971 season. The furtive manner in which the renewals were ordered by itself condemns the Forest Minister.

(6) The order of Shri Sahy granting concession and exemptions in favour of the Agents between August, 1971 and February, 1972 was neither lawful nor proper. The orders caused substantial loss to public revenue as quantified in the State's affidavit. They were neither made bonafide nor in public interest. The procedure followed in granting such concession was neither legal nor proper.

On the conduct of Shri Sundararajan, I.A.S., the Commission has held that he was not directly or primarily responsible for the renewal of agreements in 1971 but he omitted to point out to the Minister the proper procedure to be followed. All along he followed the guidance given by his Under Secretary Shri Satpathy and in all the various notings made by Sri Sundararajan, he never expressed a view contrary to that of Shri Satpathy. He relegated himself to such a backward position that the Minister bypassed him when giving his order of 23, September, 1971 and Shri Sundararajan was acting as a conduit pipe.
Shri Sundararajan has not been able to give any satisfactory explanation as to why he did not take up with the Minister, the question of partial nationalisation of kendu leaves trade from 1972. The procedure followed by him recommending the renewal and grant of concession were not legal nor proper. He should not have made recommendation for renewal before getting legal opinion of the point. In making such recommendation, he was only following the guide lines laid by his Under Secretary and do not appear to have given any independent conclusion. The recommendations were neither lawful nor in public interest. Throughout he showed a lack of initiative and courage to express his views independently.

The Commission felt constrained to remark that the attitude of Shri Sundararajan and his conduct were throughout not such as are to be expected from a Secretary of a Department. Shri Sundararajan's conduct falls far below the standard. He appears throughout to have ignored the interest of the State and to have adopted a policy which was likely to be favoured by the Minister.

On the conduct of Shri Arjun Satpathy the then Under Secretary of the Forest Department the Commission has held that in forming the policy decisions, Shri Satpathy appears to have played a more important role than the Secretary Shri Sundararajan. Shri Satpathy's position did not entitle him to make any recommendations on policy matters but throughout he gave his own opinion including on questions of law which were totally beyond his jurisdiction. In suggesting that
agreements should be renewed in 1972, he was acting as an interloper assuming a position which was not his.

In making the recommendations Shri Satpathy usurped the jurisdiction when he had none and the procedure followed by him was neither legal nor correct. It cannot be said that he abused his position although his action was improper. Shri Satpathy did not directly cause any loss to the State and it was the orders of the Minister which were responsible therefore.

Government of Orissa,  
Home Department,  
Bhubaneswar, September 1, 1974.  
No. 112.