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# New Farm Legislations in India: An Insight

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## ABSTRACT

*In order to curb the exploitation of the farmers at the hands of scrupulous market players acting as middlemen and agents for trade of agricultural produce, the new farm legislations were enacted with the sole object of providing the farmers the opportunity to choose the seller and enter into contract farming and thereby receiving remunerative prices for the agricultural yield. The new farm legislations had removed the trade barriers for sale and purchase of agricultural produce and provided platform to the farmers to sell their produce through electronic mode. In this way, the farmers have been given greater autonomy and freedom in selling their produce by opening up the agrarian economy for healthy competition.*

**Keywords:** *Farmer, Sponsor, Agricultural produce market, Transparency, Reforms, Essential Commodity, Farm Agreement.*

## I. INTRODUCTION

Ever since India gained independence, agriculture has contributed greatly in the development of the nation. Hence, time and again need was felt for agrarian reforms. Of late, the increasing dominance of the middlemen and the consequent exploitation of the farmers was the immediate malaise which needed an urgent cure. In order to curb the said menace, agrarian reforms towards greater autonomy, transparency and freedom to the farmer were felt. Hence the Parliament had passed the farm legislations so as to make the farmers self sufficient and at the same time removing the trade barriers for sale of agricultural produce, which would help to abolish the monopolistic tendencies of Agricultural Produce Markets (Mandi) established under the various State Agricultural Market Committee Legislations and providing the farmers alternative platform to trade his agricultural produce in addition to selling his agricultural produce at the Agricultural Produce Markets (Mandi). This would result in healthy competition by providing a level playing field and increased remunerative prices of agricultural yield to the farmer.

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## II. THE FARMERS PRODUCE TRADE AND COMMERCE (PROMOTION AND FACILITATION) ACT, 2020<sup>2</sup>

This Act has been enacted primarily to provide level playing field to the farmers and traders by giving them ample opportunity and freedom to sell and purchase the agricultural produce through competitive alternative trading channel. The Act further provides for a transparent and efficient mechanism of trade and commerce of farmers produce outside physical premises of the markets provided under different state agricultural produce market legislations by providing inter-state and intra-state trade and commerce of farmers' produce.

**Freedom of Trade and Commerce:** The Act provides that the farmer or trader would have freedom to carry on inter-state<sup>3</sup> and intra-state<sup>4</sup> trade and commerce in farmers' produce in a trade area.<sup>5</sup> By virtue of the present enactment, the restriction in the freedom of trade and commerce of farmers' produce within the particular trade area/market has been removed and in order to promote healthy trade practices and allowing the farmers and traders to sell and purchase their agricultural produce outside the trade area. The existing state agricultural produce market legislations did not allow the farmers to sell their agricultural produce outside the notified markets, which has been done away with by the present legislation, giving the farmers to get competitive prices for their produce.

The Act further provides that any trader may engage in the inter-state trade or intra-state trade of scheduled farmers' produce with a farmer or another trader in a trade area, provided that such trader has been allotted permanent account number under the Income Tax Act, 1961 or any other Act notified by the Central Government.<sup>6</sup> Scheduled farmers' produce has been defined to mean the agricultural produce specified under the existing State Agricultural Produce Market Legislations.<sup>7</sup>

The payment to the farmer shall be made by the trader either on the same day or within a maximum period of three days subject to the delivery of the receipt mentioning therein the due

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<sup>2</sup> The Farmers Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 No. 21 of 2020.

<sup>3</sup> *Id.* s 2(e) defines Inter-state trade to mean the act of buying or selling of farmers' produce wherein a trader of one State buys the farmers' produce from the farmer or a trader of another State and such farmer produce is transported to a State other than the State in which the trader purchased such farmers' produce or where such farmers' produce originated.

<sup>4</sup> *Id.* s 2(f) defines intra-state trade to mean the act of buying or selling of farmers' produce wherein a trader of one State buys the farmers' produce from a farmer or trader of same State in which the trader purchased such farmers' produce or where such farmers' produce originated.

<sup>5</sup> *Id.* s 3.

<sup>6</sup> *Id.* s 4.

<sup>7</sup> *Id.* s 2(j).

payment amount being given to the farmer on the same day.<sup>8</sup>

**Electronic trading platform-** The Act provides for the mechanism to establish and operate an electronic trading and transaction platform by any farmer produce organization or agricultural co-operative society, in order to facilitate inter-state and intra-state trade and commerce of scheduled farmers produce, subject to the condition of implementation and preparation of guidelines relating to fair trade practices such as mode of trading, fees, technical parameters, quality assessment, logistic arrangements, timely payment and dissemination of guidelines in local language.<sup>9</sup> The Central Government has been empowered to regulate the mechanism relating to electronic trading platform by framing rules and regulations in public interest. As such, the legislation provides an opportunity for facilitating direct and online buying and selling of agricultural produce through electronic modes.

**Abolition of market fee or cess-** The market fee, cess or levy imposed under the existing agricultural produce market legislations or any other State law levied for the purpose of trade and commerce in scheduled farmer produce have been completely abolished.<sup>10</sup> This provision would be beneficial to the farmer and trader as they would not be imposed additional cost in the form of market fee, cess or levy for sale and purchase of agricultural produce which would further ensure healthy competitive prices of agricultural produce.

**Price information and market intelligence system-** The Central Government has been empowered to develop a price information and market intelligence system for farmers' produce and laying down the basic framework for dissemination of information relating to the same.<sup>11</sup>

**Dispute resolution mechanism-** Alternative dispute mechanism has been provided under the legislation for amicable settlement of dispute arising between the farmer and the trader through Conciliation procedure.<sup>12</sup> The aggrieved party may move an application to the Sub-Division Magistrate regarding settlement of the dispute who shall refer the dispute to the Conciliation Board consisting of a Chairman and other members which shall not be less than two and not more than four. During the course of Conciliation proceedings, if the parties arrive at a settlement, then the Board shall prepare a memorandum of settlement which shall be signed by the parties. The said settlement would be binding upon the parties.<sup>13</sup> In case the parties are unable to settle the dispute then the same may be resolved by Sub-Divisional Authority who

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<sup>8</sup> *Id.* s 4(3).

<sup>9</sup> *Id.* s 5.

<sup>10</sup> *Id.* s 6.

<sup>11</sup> *Id.* s 7.

<sup>12</sup> *Id.* s 8.

<sup>13</sup> *Id.* s 8(4).

shall decide the dispute in a summary manner within a period of thirty days from the date of filing and after giving the parties adequate opportunity of being heard. The Sub-Divisional Authority may pass the order for recovery of amount under dispute; impose penalty which shall not be less than twenty five thousand rupees and may extend to five lakh rupees in case of contravention of section 4 of the Act;<sup>14</sup> pass an order for restraining the trader from undertaking any trade or commerce of scheduled farmers' produce directly or indirectly for a particular period.<sup>15</sup>

The aggrieved party has been given a right to prefer appeal against the order of Sub-Divisional Authority, before the Appellate Authority within a period of 30 days from the date of order.<sup>16</sup>

The orders passed by Sub-Divisional Authority or Appellate Authority shall be treated as deemed decree of Civil Court any decretal amount will be recovered as arrears of land revenue.<sup>17</sup>

### **Suspension and cancellation of operation of electronic trading and transaction platform-**

The authorized officers either suo- motu or upon the petition or reference from any governmental agency may take cognizance of any violation or breach of procedural requirements of registration, code of conduct and fair trade practices of electronic trading and transaction platform and impose penalty upon the operator after giving him opportunity of being heard. The authorized officers have been empowered to pass orders regarding recovery of amount payable to the farmers and traders; impose penalty which shall not be less than fifty thousand rupees and extending upto ten lakh rupees in case of contravention of provisions of section 5 and 7 of the Act and to suspend or cancel the right to operate as an electronic trading and transaction platform.<sup>18</sup> The order passed by the authorized officer will be treated as deemed decree.

The operator has been given the right to prefer appeal before the Appellate Authority within stipulated period of 60 days from the date of order.<sup>19</sup>

**Ousting the jurisdiction of the Civil Court:** The Act explicitly bars the jurisdiction of the Civil Court to try and entertain any suit or proceedings with respect to which cognizance can be taken by the Authority empowered under the Act.<sup>20</sup> The Act provides adequate mechanism

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<sup>14</sup> *Id.* s 11.

<sup>15</sup> *Id.* s 8(7).

<sup>16</sup> *Id.* s 8(8).

<sup>17</sup> *Id.* s 8(9).

<sup>18</sup> *Id.* s 9.

<sup>19</sup> *Id.* s 10.

<sup>20</sup> *Id.* s 15.

for the settlement of disputes arising under the Act in a speedy manner and the bar of the jurisdiction of Civil Court is primarily done with the object of avoiding delay in resolving the disputes between farmers and traders so as to ensure better implementation of the provisions of the Act. More so, the orders passed by the Authorities empowered under the Act are treated to be decrees of the Civil Court having the same effect as if the orders have been passed by a Civil Court.

### **III. THE FARMERS (EMPOWERMENT AND PROTECTION) AGREEMENT ON PRICE ASSURANCE AND FARM SERVICES ACT, 2020<sup>21</sup>**

This legislation provides for a national platform to the farmers to connect with the national market players such as firms, wholesalers, exporters for farm services for sale of his prospective produce at a mutually agreed price in a fair and transparent manner. It lays down the basic framework relating to farming agreement executed between the farmers and sponsors. Farming agreement is a written agreement entered between a farmer and a sponsor or a farmer, sponsor and any third party relating to the purchase of farming produce of pre-determined quality at a mutually agreed price.<sup>22</sup> There are three kinds of farming agreements. *Firstly*, the trade and commerce agreement in which the ownership of produce remains with the farmer during production and he receives the sale proceeds upon delivery of the produce to the sponsor. *Secondly*, production agreement is an agreement whereby the sponsor agrees to provide farm services, which includes supply of seeds, feed, fodder, machinery and technology and other inputs for farming and further agrees to bear the risk of the output by making payment to the farmer for services rendered by such farmer. The *third* agreement can be a combination of either of the aforementioned agreements.

The farming agreement stipulates the terms and conditions for supply of agricultural produce, quality, quantity, price and other incidental matters including the supply of any farm service by the sponsor.<sup>23</sup>

The Act lays down the minimum period relating to farm agreement to be at least one crop season and maximum period to be five years.<sup>24</sup>

The farming agreement may contain conditions regarding the quality, grade and standards of a

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<sup>21</sup> The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Service Act, 2020, No. 20 of 2020.

<sup>22</sup> *Id.* s 2(g).

<sup>23</sup> *Id.* s 3.

<sup>24</sup> *Id.* s 3(3).

farming produce mutually agreed between the parties.<sup>25</sup> The price required to be paid to the farmer is to be incorporated in the agreement and in case the said price is subject to any variation, a guaranteed minimum price regarding the purchase of agricultural produce is to be mentioned in the agreement.<sup>26</sup> The terms and conditions of the agreement would also highlight the delivery of farming produce by the sponsor.<sup>27</sup>

The Act gives immunity to the parties relating to the farm agreement by providing that application of any other law would be exempted and will not be applicable to the farming agreement<sup>28</sup> meaning thereby that the farming agreement has been given precedence over any other legislation. This would further help the parties to arrive at mutually agreed terms and conditions regarding the sale and purchase of farm produce.

Further, the Act provides that the agreement would not affect any right of a share cropper nor the sponsor is permitted to acquire any ownership rights over the property of the farmer or to make any permanent modifications over the land belonging to the farmers.<sup>29</sup> The object behind enactment of the said provision is to avoid any exploitation of farmers at the hands of sponsors and giving more autonomy and freedom to the farmer. Even the Act provides for linking the agreement with insurance and credit scheme in order to mitigate any risks.<sup>30</sup>

In case of any dispute arising under the agreement, the agreement should incorporate the provision relating to amicable settlement of dispute through conciliatory process agreed between the parties. However, in case the parties fails to stipulate any such process then in case of any dispute, either of the parties could approach the Sub-Divisional Magistrate for resolving the dispute who shall adopt conciliation process in settlement of the dispute amicably between the parties. The settlement would be binding and is to be treated as a deemed decree of Civil Court.<sup>31</sup> Any party which is aggrieved by the orders may prefer an appeal before the Collector who is the Appellate Authority within the prescribed period.

#### **IV. ANALYSIS AND CONCLUSION OF THE NEW FARM LEGISLATIONS**

Both the legislations aim at the much awaited agricultural reforms for the benefit of the farmers who were exploited at the hand of the middlemen. The various State Agricultural Produce Market Committee Legislations provided for selling of agricultural produce by the farmers at

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<sup>25</sup> *Id.* s 4.

<sup>26</sup> *Id.* s 5.

<sup>27</sup> *Id.* s 6.

<sup>28</sup> *Id.* s 7.

<sup>29</sup> *Id.* s 8.

<sup>30</sup> *Id.* s 9.

<sup>31</sup> *Id.* s 14.

the agricultural market and simultaneously the traders were required to purchase the agricultural produce through the said market. The present system gave rise to the institution of commission agents or middlemen who acted as mediator between the farmers and the traders regarding the sale and purchase of agricultural produce, upon receiving certain amount of commission. In this process the farmers were forced to sell their agricultural produce only at a given place without any autonomy and fair-play. Even the price of the agricultural produce was dependent upon the demand and supply principle. The aforesaid legislations aims to scuttle down the drawbacks of the various State Agricultural Produce Market Committee Legislations, by giving greater autonomy and freedom to the farmers relating to the sale of the agricultural produce. By virtue of the aforesaid legislations, the barrier created under the various state marketing legislations have been abolished as the farmer can sell his agricultural produce to any one and every one he feels like and can negotiate the prices of his agricultural produce. This would further enable the farmer to become self-reliant and the ultimate beneficiary of the agricultural produce i.e. the consumers would greatly benefit from this process as the commission, fees, levy or taxes which were earlier paid or imposed upon the agricultural produce have been abolished.

As per the Constitution, there is division of power between the Centre and the State with respect to which the Central Government and State Government could make enactments. This provision is explicitly contained under Article 246 of the Constitution. The Seventh Schedule of the Constitution provides for three lists. The Union List, State List and the Concurrent List. The Central Government may make laws relating to the subjects mentioned in the Union List and the State Government can make laws with respect to the subjects mentioned in the State List. However, with respect to the items mentioned in the Concurrent List, both the Central Government and State Government may make Legislations on the subject. Entry 14 of the State List relates to agriculture, meaning thereby that the matters relating to drafting of agricultural legislations vest with State Government. But, entry 33 of the Concurrent List deals with the trade and commerce including food-stuffs, cattle fodder and other agricultural produce. More so, by virtue of Article 249, the Parliament is empowered to make legislations in respect of matters contained in the State List which are expedient in national interest. As such, in view of the aforesaid provisions and keeping in view the national interest involved therein the Parliament had enacted the present legislations. However, besides the aforesaid legislations, the Parliament had also made amendments in the Essential Commodities Act, 1955<sup>32</sup> by removing various food grain items from the list of essential commodities such as potato, onion,

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<sup>32</sup> The Essential Commodities (Amendment) Act, 2020, No. 22 of 2020.

pulses, edible oils etc.<sup>33</sup> The Essential Commodities Act, 1955 was enacted to prevent hoarding of items listed as 'essential items' under the Act. By virtue of the amendment in the said Act, there is likelihood of hoarding of essential items which have now been kept outside the purview of the Essential Commodities Act, 1955 which would result in escalation of prices of items which were earlier treated as 'essential commodities' and thereby increasing the inflation of prices in the economy. Therefore, active supervisory role of Government is required to prevent the traders from diluting the very object of agrarian reforms introduced by the present enactments. Besides this, the farming community is skeptical regarding the dilution of Minimum Support Price of agricultural produce and pursuant to the new farm legislations there is every apprehension of corporate houses taking undue advantage of the situation being in a dominant position to exploit the marginalized producers so as to avoid getting remunerative prices. The way ahead would be to adopt a policy laying down Minimum Support Price Scheme to protect the farmers against exploitation by traders and corporate houses.

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<sup>33</sup> Section 3 (1A) has been inserted to provide that the supply of such food stuffs, including cereals, pulses, potato, onions, edible oil seeds and oils, as the Central Government may, by notification in the Official Gazette, specify, maybe regulated only under extra-ordinary circumstances which may include war, famine, extra-ordinary price rise and natural calamity of grave nature.

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