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FARM LAWS 2020: A PRAGMATIC ANALYSIS

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ABSTRACT

05 June 2020, saw an unprecedented event in the history of India. On this day President of India promulgated two ordinances which converted into acts, along with the Essential Commodities (Amendment) Act, 2020. The prime aim of these ordinances, as expatiated by the GOI, is to boost economic activity of the rural India and to improve the economical conditions of the farmers in particular. This exercise was a part of the reforms announced under 'Aatmanirbhar Bharat Abhiyan'. However ever since they have been enacted, it has led to lot of hue and cry among the farmers especially where the Minimum Support Prices implementation has been strong. This strong opposition and the resulting deadlock thereof is the probable outcome of the inadequate understanding and misinterpretations of provisions of the acts. It is therefore, but required that there should be healthy, unbiased discussion regarding its clauses among the all sections of society in general and among the farmers as stakeholders in particular. Through this article it has been our endeavour to put forth an impartial analysis of these acts and to spread succinct awareness to the community at large and enrich their views on the issue.

Keywords: Farm Laws, Minimum Support Prices, Condition, Mandies, Produce, Commodities

INTRODUCTION

The recent political scenario of the India has been too heated up, owing to the enactment of three legislative pieces concerning the farm activities in India. Agriculture

in India concerns everyone, occupation wise more than half of the Indian population of India is connected with agriculture directly or indirectly and it has approximate 17 % share in GDP of India. It is naturally expected that any major reform in such a hectic economic activity is sure to bring strong reactions from the stockholders. The traditional society of our country is generally less adaptable to reforms. It is not that they are totally averse to any change but it only means that their views about the change of any established norms are, “skeptical”. As the discourse is to be zeroed-in about the recent farm laws enacted in 2020 i.e. 1. The Farmer’s Produce Trade and Commerce (Promotion and Facilitation) Act, 2. The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Service Act, and 3. The Essential Commodities (Amendment) Act, in the upcoming paragraphs, we shall be presenting a neutral analysis of the pros and cons of the acts. We shall also be forwarding our view points as to what minimum amendment should be made in order to make them viable and acceptable to the masses at large.

THE THREE LAWS

1. The Farmer’s Produce Trade and Commerce (Promotion and Facilitation) Act, 2020.

The act was promulgated in the form of ordinance and came into effect on 05th June, 2020. The act is primarily aimed at giving freedom to the farmers to sell their product outside the present *Mandis* as established under the respective States APMC (Agricultural produce marketing committee). This is aimed at liberalizing and expanding the farmers’ capacities and is intended to provide them benefits of free trade. A brief projected pros and cons along with the suggested measures are given below:

Pros

- 1- The farmer shall be free to sell their product anywhere in India, where he is getting the best price for their produce. This will also give a boost to previously implemented *eNAM* (National Agriculture Market) by Government of India, (GoI), which is an online platform for agricultural commodity price discovery.
- 2- Removal of intermediary is the most impressive outcome, as it is well known fact that these intermediaries used to get the profit just by trade at the cost of the producer, without engaging in any kind of agricultural activity. Thus the direct link will be created between the producer and buyer and thus, the profits of former will increase and the purchasing cost for the latter will decrease.
- 3- To some extent, it will remove the corruption and the time delay which the earlier inter-state trade used to do, although, GST act of 2017, has already addressed the issue of time laps in inter- state trade.
- 4- The farmers are free to continue to sell their produce to the prevailing structure of APMCs and there is no denying the fact that the scope and the freedom to the farmers actually has been widened and for some farmers an arena of floodgate of opportunities has been opened.

- 5- The resultant reduced price of agri-commodities for agro-processing units will further strengthen the consumer welfare through reduced costs delivery to consumer at large. It will also enhance the competitive position of the processing industrial units due factors like short period delivery, widened scope to choose produce from and cost effectiveness.
- 6- Last but not the least being that the farmers will not be levied any charge or market fees for selling their produce and they shall not be required to pay for transportation as well.

Cons

So far so good but the critics have their own views. The law is ideologically perfect but is strange when we explore the ground realities of the Indian agriculture scenario. India is a country where more than 80 percent of the farmers are small and marginal. They have land holding which are not even economical and are insufficient to even rare their own facilities not to talk about the residual produce to provide for the market.

There is a fear in the mind of public at large that in the long run the *mandis* established under State APMC will be closed through a well thought plan of the traders' community and once this happens the system of the guaranteed MSP shall be automatically eradicated and in a few years the whole of the agricultural output will be managed and sold at the mercy of the trader's community, who can play havoc without the intervention of the government.

The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Service Act, 2020:

The act is aimed at giving legitimate status to a farm contract to be entered between the farmers and sponsors. The purpose of the act is to make the farming an assured profit-making occupation as it is conceived that the sponsors shall contract with the farmers in advance for producing the crop and the price of which shall be agreed upon before the cropping process initiates. This way the farmers shall be able to have assured income and the risk of market which in general parlance called, "Poverty midst adequacy", shall be mitigated.

Pros

- 1- As the provisions entail an exhaustive contract which shall be covering most of the foreseen condition in advance, so there shall be surety of the income to the farmer. It is also expected and as learned from the past experience that when the sponsors (companies) contract for the farm produce they additionally adopt the mentoring roll along with aiding the farmers with expert supervision, provisioning quality seeds and other ancillary inputs like pesticides, and also aid by such additive measures like advance credit, training and procurement of farming equipments.
- 2- The farmers shall be buffered from the fluctuation as caused by the free play of the market forces and additionally be compensated from the unforeseen events like natural disasters or destruction of the crop due "*Force Majeure*", due

provision of the insurance in the contract. Thus, this is a win-win situation to both the farmer and sponsors, as the farmers' income is protected and at the same time the sponsors shall be able to get the desired quality, grade and standard farm produce which shall suit to his further process.

- 3- The government has endeavored to protect the interest of the farmers by way of denying any kind of contract terms jeopardizing the ownership or the chances of partial treatment with the farmers by proposing of third-party grade certification for ensuring transparency.
- 4- The interest of the farmers has further been protected in the dispute redressal mechanism where the maximum amount to be recovered has clearly been mentioned, further stating that no order for recovery due default from the farmer shall be passed if the default is due to *Force Majeure* (natural calamities or any factor out of control of farmer). This provision of the act clearly gives a tilt in favor of the farmers.
- 5- Other important provision is that the dispute redressing power is provided to Sub divisional officer having all the powers of civil court. There is also provision for appeal for both the parties (farmer and sponsor) and same is to be resolved within a period of 30 days. This will definitely remove the fear of future uncertainties and undue delay caused by sluggish justice delivery system in India. There is a clear provision that no recovery of dues should tantamount to selling the land of farmers in any of its forms besides farming activity.

Cons

The drawbacks of this act seem to be both for farmers as well as sponsor. The major issue with the farmers is with their lower literacy levels. Their vulnerability multiplies with the status of land holding as more than 80 per cent of these are marginal in nature. In such scenario, it is to be assured that farmers may get the immediate legal help in case of dispute. There are various infrastructures available with the Government e.g. District Legal Service Authority which can be among helping hands in getting more awareness with acts and resultant rights.

The drawback for the sponsor is when it has to deal with large number of small holders which seems to be infeasible. The apparent solution seems to be given in the FPO concept. It is worth noting that in a society like India, had such concept like the accepting the group terms been successful idea, then the menace of small holding and all the associated problem could have been eradicated long back by adopting to the co-operative farming. It is explicitly clear that in India where cooperative farming is unacceptable, the concept like FPO is also doomed to meet the utter failure in medium to long term. Thus, in the present ground realities if this act is to be applicable then it is applicable only in relation to the handful prosperous farmers. FPOs need to be made more popular and feasible.

Further, the capability and the capacity of the contracting parties also raise a serious concern. Though equality before law is part of Right to Equality and is explicitly mentioned as fundamental right (Article 14) in the constitution, but delivery of

justice also demand certain resources and competencies, thus, the sponsor will be in comparative stronger position in case of dispute redressal. It is but obvious that the sponsor is likely to have the greater say in contract performance. This vulnerability should be sensitized to the officers dealing in dispute redressal from time to time.

The Essential Commodities (Amendment) Act 2020

This piece of legislation has been enacted in order to amend the original Essential Commodities Act 1955 and came into force from 05th Jun 2020.

Pros

As contrary to the prevailing misconception of the public at large, this act has not taken out all the powers of the government intervention in case of any of the foul play of the forces of the market. In case of severe price rise, the act explicitly puts the cap on the storage limits barring a few exceptions. Further in case of any unusual price rise of the commodities mentioned in the act i.e., cereals, pulses, oil seeds, edible oils, onion, potatoes etc. a clear-cut formula for holding capacities has been devised, thus, while on one had it gives free play to the market forces and boosts business by removing unnecessary government intervention on the other hand it keeps space for the intervention if the stock holding cause the artificial price uprising by creating deficiency of the commodity in the market.

Due the amendment the sponsors shall be promoted to have contracts with the farmers to their full capacity and the roadblocks for effusive flow of the business activity have been removed without jeopardizing the interest of the farmers.

Cons

The legislation is not beyond all criticism and it needs to be criticized on the ground that the present legislation is reactive in nature. Firstly, it allows those conditions which can lead to an ailment then it suggests the measure to cure the menace. One serious question keeps on haunting is that why the unlimited stocks have been allowed to be kept. What an entity will do with the stocks of farm products which are beyond their processing / exporting capacity. Besides profiteering, what shall be the motive of holding such extra stocks. Thus, every such entity will try to artificially create market supply shortfall in order to boost the market price. This will eventually exploit the Indian consumers and the government will intervene only when the cost of the horticulture products raises two times the average price and that of non-perishable agricultural food stuff 1.50 times, thus in every case consumer is allowed to be exploited to the extent of 1.99 times and the 1.49 times the average price respectively.

Remedy

A legislation should be created to avoid the disorders and not to create the stimulus for it initially and to swing into action to streamline the things at the later stage. It is what the present amendment seems to be doing. So being proactive it should put a cap on the maximum stockpiling capacity to the certain extent. It may be two times or catering to the eventuality of repeated crop failure three times of the processing capacity / expected export possibility of the year. If the government aims at promoting

warehousing and cold storage chain in order to avoid the waste of the food produce then it may take up the venture in the PPP (Public private partnership) model separately and should not merge the two different things. The PPP venture in storage capacity building itself likely to be a mega success story as India has witnessed in other departments of India.

CONCLUSIONS

We are all aware of the economic reforms of 1991. These liberalization measures had not only increased the growth rate on economy but also supplemented then prevailing public sector. Similarly, these reforms should be seen as the path breaking initiatives in the field of agriculture. There is lot of hue and cry over MSP and misconception that it may be abolished in future. However, it should be noted that MSP covers only around 6 per cent of farmers. It is announced only to assure the price stability in market and procure the crops from PDS. To assure price stability the specific measure will be required in the initial years till the act becomes regular. Anyway, Government need to procure the food grains for the PDS for times to come. It is beyond doubt that freeing the farmer for selling the produce will definitely put the large number of middlemen/intermediary in jeopardy.

In present times diversification of farming is need for social, economic and ecological sustainability. Also, the dietary demands of Indian society are witnessing a reduction of cereals and increase of fruits and vegetables. It should also be noted that soil and water exhausting crops like rice and wheat, need to be replaced with protein rich and soil enriching pulses. These three acts are in coherence of these demands. The other point to be noted that contract farming is implemented in certain pockets in India by reputed MNCs such as Pepsico and Reliance. Legalizing the practice will only enhance the confidence among stakeholders. However, it is needed that there should be formation of expert groups comprising the specialist from state agricultural universities to study the implementation of act with time and they should submit timely reports regarding various drawbacks and best models (state wise) pertaining to it. Simultaneous strengthening of FPOs will definitely serve as complement to strengthen the farmers' bargaining position especially marginal ones. There is long way to go in agriculture and the cautious implementation of these acts will definitely be helpful.

It will surely be a welcome step if government takes heed of the genuine concern of the public at large and alleviate the fear among the mindset of the people by incorporating the desired changes into the legislation. However, succumbing down to the demand of repealing the legislation in totality should not be agreed upon as it will give the wrong precedence for future to come. Government will also be able to shun off its pro-capitalist and anti - farmer image while ensuring the strategic benefit to the nation and its democratic harmony.