

**THE FARMERS' PRODUCE TRADE AND COMMERCE
(PROMOTION AND FACILITATION) (RAJASTHAN
AMENDMENT) BILL, 2020**

(To be introduced in the Rajasthan Legislative Assembly)

A

Bill

to amend, and add special provisions in, the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, in its application to the State of Rajasthan, with a view to restore the safeguards for the farmers of the State of Rajasthan through the regulatory framework of the Rajasthan Agricultural Produce Markets Act, 1961 (Rajasthan Act No. 38 of 1961), in order to secure and protect the interests and livelihood of farmers, farm labourers and also all others engaged in agriculture and related activities.

Be it enacted by the Rajasthan State Legislature in the Seventy-first Year of the Republic of India, as follows:-

1. Short title, extent and commencement.-(1) This Act may be called the Farmers' Produce Trade and Commerce (Promotion and Facilitation) (Rajasthan Amendment) Act, 2020.

(2) It shall extend to the whole of the State of Rajasthan.

(3) It shall come into force on such date, as the State Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 1, Central Act No. 21 of 2020.- For the existing sub-section (2) of section 1 of the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 (Central Act No. 21 of 2020), hereinafter referred to as the principal Act, in its application to the State of Rajasthan, the following shall be substituted, namely:-

“(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.”.

3. Amendment of section 2, Central Act No. 21 of 2020.- In section 2 of the principal Act,-

(i) the existing clause (a) shall be renumbered as

clause (aaa) and before the clause (aaa) so renumbered, the following clauses shall be inserted, namely:-

“(a) “APMC Rules” means Rajasthan Agricultural Produce Markets Rules, 1963;

(aa) “Director” means the Director of Agriculture Marketing for the State of Rajasthan;”;

(ii) after the existing clause (f) and before the existing clause (g), the following clauses shall be inserted, namely:-

“(ff) “Market Committee” means the Market Committee as defined in clause (ix) of section 2 of the State APMC Act;

(fff) “Minimum Support Price” shall mean the price announced for crop purchases by the Central Government in consultation with the Commission for Agricultural Costs and Prices;”;

(iii) for the existing clause (i), the following shall be substituted, namely:-

“(i) “prescribed” means prescribed by the rules made by the Central Government or the State Government, as the case may be, under this Act;”;

(iv) for the existing clause (k), the following shall be substituted, namely:-

“(k) “State” means the State of Rajasthan;”;

and

(v) for the existing clause (l), the following shall be substituted, namely:-

“(l) “State APMC Act” means the Rajasthan Agricultural Produce Markets Act, 1961 (Rajasthan Act No. 38 of 1961);”.

4. Amendment of section 6, Central Act No. 21 of 2020.-

For the existing section 6 of the principal Act, the following shall be substituted, namely:-

“6. Regulation of notified agricultural Produce and Levy of cess/cesses in trade area.- (1) The State Government may, from time to time, notify a

Fee/Cess/Cesses/Charges, which shall be levied on notified agricultural produce, brought or bought or sold, as the case may be, by a corporate or trader and/or on the electronic trading and transaction platform, as the case may be, for trade and commerce in a trade area.

(2) The Fees/Cess/Cesses/Charges leviable under sub-section (1) shall be credited in the fund/s, set up for running of market committee and welfare of farmers or other purposes related to welfare and promotion of agriculture or agriculturist.”.

5. Amendment of section 8, Central Act No. 21 of 2020.- For the existing section 8 of the principal Act, the following shall be substituted, namely:-

“8. Dispute Resolution Mechanism for farmers.- In case of any dispute arising out of transaction between the farmer and a trader under section 4, the parties may seek a resolution through the provisions laid down under the State APMC Act and rules made thereunder.”.

6. Amendment of section 14, Central Act No. 21 of 2020.- For the existing section 14 of the principal Act, the following shall be substituted, namely:-

“14. Act to have overriding effect.- In the State of Rajasthan, subject to the provisions of the Farmers' Produce Trade and Commerce (Promotion and Facilitation) (Rajasthan Amendment) Act, 2020 (Rajasthan Act No...of.....), the provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any other instrument having effect by virtue of any law for the time being in force.”.

7. Amendment of section 15, Central Act No. 21 of 2020.- For the existing section 15 of the principal Act, the following shall be substituted, namely:-

“15. Power of civil court.- The jurisdiction of civil court will be as prescribed in State APMC Act and rules made thereunder.”.

8. Insertion of new sections 16A, 16B and 16C, Central Act No. 21 of 2020.- After the existing section 16 and before the

existing section 17 of the principal Act, the following new sections shall be inserted, namely:-

“16A. Special provisions for the State of Rajasthan.- (1) Notwithstanding any judgment, decree, or order of any court or any other instrument, status quo before 5th June, 2020 shall be maintained qua the provisions of State APMC Act and rules made thereunder.

(2) All notices issued by the Central Government or any authority on its behalf under provisions of this Act, shall be deemed to have been suspended and no punitive action shall be taken against any person for violating the provisions of this Act.

16B. Punishment for harassment of farmers.- Notwithstanding anything contained in any other law for the time being in force, if any trader causes harassment to the farmers, such trader shall be guilty of committing the offence of harassment to the farmers which shall be punishable with a term of imprisonment of not less than three years and extending upto seven years or fine of not less than five lac rupees or both.

Explanation I.- For the purpose of this section, where the offence is committed by a company, all the directors of the company, where the offence is committed by a limited liability partnership firm, all the partners of such firm and where the offence is committed by a partnership firm registered under the Indian Partnership Act, 1932 (Central Act No. 9 of 1932), all the partners of the said firm who were such directors or, as the case may be, partners at the time of commission of offence, shall be guilty of committing the offence of harassment to the farmer.

Explanation II.- For the purpose of this section, an offence of harassment shall be treated to be committed where the trader does not accept the delivery of the farm produce agreed upon or having accepted the delivery does not make the payment to the farmer in accordance with the terms of the agreement or within three days from the date of receipt of delivery of goods, whichever is earlier.

16C. Power of State Government to give directions.- The State Government may, from time to time, in the larger interest of public, issue such directions to the authorities as it may deem fit, for giving effect to the provisions of this Act and it shall be the duty of all the authorities to comply with such directions.”.

9. Insertion of new section 18A, Central Act No. 21 of 2020.- After the existing section 18 and before the existing section 19 of the principal Act, the following new section shall be inserted, namely:-

“18A. Power of State Government to make rules.- (1) The State Government may, by notification published in the official gazette, make rules for carrying out the provisions of this Act.

(2) Every Rule made by the State Government under this Act shall be laid before the House of the State Legislature as soon as may be after it is made, while it is in the session. The Legislature may make any modification in any rule or annul any rule and the rule shall thereafter have the effect only in such modified form or be of no effect as the case may be so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

10. Amendment of section 19, Central Act No. 21 of 2020.- In existing section 19 of the principal Act,-

(i) in sub-section (1), for the existing expression “the Central Government may,” the expression “the State Government may,” shall be substituted; and

(ii) in sub-section (2), for the existing expression “before each House of Parliament.” the expression “before the House of the State Legislature.” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Parliament has enacted the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 (Central Act No. 21 of 2020), hereinafter referred to as the Central Act, to provide a new regime for trade and commerce in agricultural produce.

There has been extraordinary outrage amongst the farmers, farm labourers and all others engaged in incidental and ancillary agricultural activities including those engaged in handling and sale of agricultural produce including fruits & vegetables etc. Since the direct consequence of the Central Act would be to nullify the minimum support price mechanism that has stood the test of time and introduce several other infirmities and distortions operating to the grave detriment and prejudice of agriculture and the communities associated with it.

The Parliament has introduced a trading mechanism through the Central Act that is vulnerable to encroachment and manipulation by vested corporate interests through provisions contained therein and leaving the farmer open to the vagaries of market forces for getting remunerative price for agriculture produce, including fruits and vegetables. No check has been provided against exploitation of farmer.

As per the Agriculture Census 2015-16, 86.2% of farmers own less than five acres of land and a majority of them own less than two acres of land falling in the category of small and marginal farmers and consequently have limited or no access to multiple markets with an inherent handicap of bargaining power to negotiate fair price contracts, hence, requiring proper protection by the State Legislature to ensure a level playing field, to prevent exploitation and to ensure remunerative price to the farmers.

This is the primary and principal responsibility of the State Government but the Central Act fails to take into account this imperative and this object of the Indian Constitution.

Agriculture, land and markets is the primary legislative domain of the State falling under Entries 14, 18 and 28 of List-II of

Seventh Schedule of the Constitution of India; and 'production, supply and distribution of goods' is also a State subject under Entry 27 of List-II read with Entry 33 of List-III of Seventh Schedule of the Constitution of India.

The Hon'ble Supreme Court of India in the case of Jayant Verma v/s Union of India has categorically held that as per the constitutional scheme in so far as the agriculture is concerned, it is an exclusive State subject. The State Government, therefore, is of the opinion that the Central Act in so far as it encroaches upon the agriculture and market is beyond the legislative competence of the Parliament. However, the State Government at this stage is of the further opinion that it can protect the interest of the farmers, farm labour and those engaged in incidental activities by amending the Central Act in exercise of its powers vested under Article 254(2) of the Constitution.

Therefore, it is proposed to introduce the Farmers' Produce Trade and Commerce (Promotion and Facilitation) (Rajasthan Amendment) Bill, 2020 to amend the Central Act with a view to protect the interest of farmers, farm labourers, those engaged in ancillary and incidental activities, relating to marketing of agricultural produce and for adherence to the minimum support price mechanism.

The Bill seeks to achieve the aforesaid objectives.

Hence the Bill.

अशोक गहलोत,
Minister Incharge.

**MEMORANDUM REGARDING DELEGATED
LEGISLATION**

Clause 9 of the Bill, if enacted, shall empower the State Government to make such rules as may be necessary for giving effect to the provisions of this Act.

The proposed delegation is of normal character and mainly relates to the matters of detail.

अशोक गहलोत,
Minister Incharge.

**EXTRACTS TAKEN FROM THE FARMERS' PRODUCE
TRADE AND COMMERCE (PROMOTION AND
FACILITATION) ACT, 2020
(Central Act No. 21 of 2020)**

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1. Short title and commencement.- (1) xx xx xx

(2) It shall be deemed to have come into force on the 5th day of June, 2020.

2. Definitions.- In this Act, unless the context otherwise requires,—

(a) “electronic trading and transaction platform” means a platform set up to facilitate direct and online buying and selling for conduct of trade and commerce of farmers’ produce through a network of electronic devices and internet applications, where each such transaction results in physical delivery of farmers’ produce;

(b) to (h) xx xx xx xx

(i) “prescribed” means prescribed by the rules made by the Central Government under this Act;

(j) xx xx xx xx

(k) “State” includes the Union territory;

(l) “State APMC Act” means any State legislation or Union territory legislation in force in India, by whatever name called, which regulates markets for agricultural produce in that State;

(m) to (n) xx xx xx xx

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6. Market fee under State APMC Act, etc., in trade area. - No market fee or cess or levy, by whatever name called, under any State APMC Act or any other State law, shall be levied on any farmer or trader or electronic trading and transaction platform for trade and commerce in scheduled farmers’ produce in a trade area.

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8. Dispute Resolution Mechanism for farmers.- (1) In case of any dispute arising out of a transaction between the farmer and a trader under section 4, the parties may seek a mutually acceptable solution through conciliation by filing an application to the Sub-Divisional Magistrate who shall refer such dispute to a Conciliation Board to be appointed by him for facilitating the binding settlement of the dispute.

(2) Every Board of Conciliation appointed by the Sub-Divisional Magistrate under sub-section (1), shall consist of a chairperson and such members not less than two and not more than four, as the Sub-Divisional Magistrate may deem fit.

(3) The chairperson shall be an officer serving under the supervision and control of the Sub-Divisional Magistrate and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party:

Provided that, if any party fails to make such recommendation within seven days, the Sub-Divisional Magistrate shall appoint such persons as he thinks fit to represent that party.

(4) Where, in respect of any dispute, a settlement is arrived at during the course of conciliation proceedings, a memorandum of settlement shall be drawn accordingly and signed by the parties to such dispute which shall be binding upon the parties.

(5) If the parties to the transaction under sub-section (1) are unable to resolve the dispute within thirty days in the manner set out under this section, they may approach the Sub-Divisional Magistrate concerned who shall be the “Sub-Divisional Authority” for settlement of such dispute.

(6) The Sub-Divisional Authority on its own motion or on a petition or on the reference from any Government agency take cognizance of any contravention of the provisions of section 4 or rules made thereunder and take action under sub-section (7).

(7) The Sub-Divisional Authority shall decide the dispute or contravention under this section in a summary manner within thirty days from the date of its filing and after giving the parties an opportunity of being heard, he may—

(a) pass an order for the recovery of the amount under dispute; or

(b) impose a penalty as stipulated in sub-section (1) of section 11; or

(c) pass an order for restraining the trader in dispute from undertaking any trade and commerce of scheduled farmers' produce, directly or indirectly under this Act for such period as it may deem fit.

(8) Any party aggrieved by the order of the Sub-Divisional Authority may prefer an appeal before the Appellate Authority (Collector or Additional Collector nominated by the Collector) within thirty days of such order who shall dispose of the appeal within thirty days from the date of filing of such appeal.

(9) Every order of the Sub-Divisional Authority or Appellate Authority under this section shall have force of the decree of a civil court and shall be enforceable as such, and decretal amount shall be recovered as arrears of land revenue.

(10) The manner and procedure for filing a petition or an application before the Sub-Divisional Authority and appeal before the appellate authority shall be such as may be prescribed.

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14. Act to have overriding effect.- The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any State APMC Act or any other law for time being in force or in any instrument having effect by virtue of any law for the time being in force.

15. Bar of jurisdiction of civil court.- No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter, the cognizance of which can be taken and disposed of by any authority empowered by or under this Act or the rules made thereunder.

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19. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make

such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of the period of three years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

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Bill No.30 of 2020

**THE FARMERS' PRODUCE TRADE AND COMMERCE
(PROMOTION AND FACILITATION) (RAJASTHAN
AMENDMENT) BILL, 2020**

(To be introduced in the Rajasthan Legislative Assembly)

RAJASTHAN LEGISLATIVE ASSEMBLY

A

Bill

to amend, and add special provisions in, the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, in its application to the State of Rajasthan, with a view to restore the safeguards for the farmers of the State of Rajasthan through the regulatory framework of the Rajasthan Agricultural Produce Markets Act, 1961 (Rajasthan Act No. 38 of 1961), in order to secure and protect the interests and livelihood of farmers, farm labourers and also all others engaged in agriculture and related activities.

(To be introduced in the Rajasthan Legislative Assembly)

Pramil kumar Mathur,
Secretary.