



FARM LAWS 2020: A BOON OR A BANE

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Being from Punjab and Uttar Pradesh, we are aware of the importance of agriculture... farmers...

Having been seen since childhood, grandparents talking about whether they had a good crop this season, whether they will earn better than last year, whether they are getting any benefit from their sole means of livelihood. The green pastures, the green fields, good rain, this is what a farmer life is surrounded by. The only way to their bread and butter.

“Agriculture is our wisest pursuit, because it will in the end contribute most to real wealth, good morals and happiness”
-Thomas Jefferson.

Agriculture is an extremely important part of the economy of India. And also it is among the two important farm producers in the world. Around 52% of the jobs are provided by the agricultural sector. And also 18% of India's GDP comes from farming. It is considered to be one of the sole means of livelihood. Approximately 70% of the rural household depends upon agriculture.

India is known to be the land of farmers as almost more than half of the population are somewhere involved in farming. An Indian farmer is considered to be the spine of our economy. The Indian farmer is rudimentary

in feeding the world's greatest democracy. It also plays a very important role when it comes to foreign exchange by the way of exports of its produce.

In the covid pandemic if there was one thing that everyone completely relied upon was the fact that our country has this huge surplus of food grains and one of the reasons why India had no shortage of them even during these predicament situation. For the upliftment of our farmers and the farming sector during this time, the direct cash scheme under the PM Kisan scheme have benefitted the farmers. Farmers are considered to be the heroes during this pandemic.

However there came a situation in the month of September during the pandemic which created a lopsided situation among the farmers. The passing of 3 farmers' bill by the central government namely:

- a. Farmers' producer trade and commerce(promotion facilitation bill 2020)
- b. Farmers (empowerment and protection agreement) of price assurance and farm services bill, 2020.
- c. Essential commodities amendment bill 2020.

The bill took the course via ordinance and the fact that it related to agricultural sector one of the subjects of state list turned things a little clumsy.

A huge uproar can be seen from the last several months when it comes to the implementation of farm laws. Farmers can be seen protesting day and night trying to make the government to take back their farm laws. A lot of discussions have been seen taking place between the farmers and the government. However, it has been to no



avail. There have been incidents of violence especially on January 26, 2021 which had created a berserk situation in the whole country. There have been voices raised by various Hollywood and Bollywood stars who are giving their statements regarding their own views when it comes to farm laws. Indians from across the world being part of the protest. There have been videos and songs made for the protection of farmers. Media has been targeted. There have been debates, political dramas which surround these laws. There have been talks that the bill is creating divisions between religions of our country. Hundreds of academicians have been compelling the central government to take back these farm laws as they have a tendency to pose major threat to the farming communities all over India. There were 413 signatories including the various agricultural universities. However, some have been saying that this critical sector of the Indian economy has somewhere received a welcome boost. The fact that there is a larger investment, unique adoption of technology and digitalisation and strong partnerships, it is possible to have a new era of next generation agriculture that will raise farmer incomes and also will try trigger a virtuous cycle of progress and prosperity. That a great impetus will be given to the investment.

Hundreds of farmers sitting in the bone chilling winter and also after failure of the talks between the center and the farmers. Article 19 of our constitution gives the power to the citizens of having free speech and expression. Right to peaceful protest is also one them. In **Rakesh Vaishnava vs union of India**¹ it has been held that right to protest is a part of fundamental right subject to public order. The SC held in it that farmers protest

should be allowed without any impediment as long as it is nonviolent.

But when the circumstances were not improving later on the SC eventually intervened.

The Supreme Court set the three controversial laws on hold and mentioned that the matter shall be sent to a committee. Though there were several members who tried to recuse themselves from the committee the matter being political. The SC ultimately named a committee and its members. However, the farmers again were disgruntled with the main members of the committee as a statement was given by the members that they were in favor of the farm laws. The farmers were of the opinion that their disputes will not be redressed finely and hence the protests are continuing. That there should be one member in the committee who knows the ground realities.

So, what exactly are these farm laws which have created such a boisterous condition hitting all the news and radio and the newspapers' channels?

INTRODUCTION

The three acts which have been passed by the parliament are:

1. Farmers' Producer Trade and Commerce (Promotion Facilitation Act 2020)
2. Farmers (Empowerment and Protection Agreement) of price assurance and farm services act, 2020.
3. Essential commodities amendment act 2020.

These acts most commonly known as Indian Agricultural Acts 2020 got approval of Lok

¹ 12 January, 2021



Sabha on 17th September and the assent of President of India, Ram Nath Kovind on 27th September 2020. The protests against the new acts started from September itself and gradually gained momentum leading to Bharat Bandh on September 25.

Even during the passing of the bill, a high drama could be seen in the parliament. There was a suspension of 8 opposition MP's and also Harsimrat Kaur Badal resigned as the Union Cabinet Minister of Food Processing Industries in which she cited that she had some differences over the bill.

Before discussing the aforementioned legislations in detail let us first have their clear understanding:

1. The first act that is the **Farmers' Producer Trade and Commerce (Promotion Facilitation Act 2020)** aims to allow the agricultural produce be sent outside the markets here called as mandis which are regulated by APMC's known as the Agricultural Produce Marketing Committee. Now there are several states which have passed the resolution relating to APMCs with the sole aim that there should not be any exploitation which can be saved by the farmers. However, this particular act is trying to remove such restriction. The object and the reason of the act states that this has somewhere caused a hindrance that there are less choices available to farmers to explore their market and eventually there are less chances of any investment thereon. The definition of "**trade area**" has been mentioned in **clause 2(m)²** of the act which is

² Section 2(m) "trade area" means any area or location, place of production, collection and aggregation including— (a) farm gates; (b) factory premises; (c) warehouses; (d) silos; (e) cold storages;

apparently excluding the concept of Mandis. It however includes any area where the trade of the farmers can be undertaken. Now instead of this there are some electronic trading and transaction platforms which have been considered under this act. This will include the companies, firms, partnership firms, farmer producer organization and also the agricultural cooperative society.

Clause 3 and 4 which is giving **freedom to the farmers** that they could sell their produce intra and interstate which is outside the purview of the APMCs.

Clause 6 is trying to eventually **end the market fee** or also the cess which is under the APMCs act. However, some of the state governments are against this particular provision as it was one of the ways for the state government to generate revenue.

Then there exists **clause 14**, which clearly states that if any **inconsistency arises between this particular act and the APMC act**, which is made by the state legislature, then the former would have prevalence over the latter. And also, the rules and regulations will be made by the central government. Thus, the framers are of the clear view that somewhere the central government has been all the powers and there are chances of exploitation for the same.

There are some states that have implemented the APMC act and then there are others who haven't acted likewise.

2. The second act would be **Farmers (Empowerment and Protection)**

or (f) any other structures or places, of THE FARMERS' PRODUCE TRADE AND COMMERCE (PROMOTION AND FACILITATION) ACT, 2020 NO. 21 OF 2020



Agreement on Price Assurance and Farm Services Bill, 2020 and this act aims to promote the contract farming. It aims to achieve the notion that farmers can engage with agribusiness firms, processors, wholesalers, exporters or larger retailers for the sale of farm produce at a mutually agreed price and a farming agreement can be made for this particular activity.

Clause 3 states that the farming agreement shall be in writing and the same can be entered in by two ways:

- a. Minimum period of agreement
- b. Maximum period of agreement

The first can include a season or **one production cycle** and the second would include a maximum period of **5 years**. Now the relevant price has to be mentioned in the agreement also any variation in the prices and the bonus or the premium along with it shall be mentioned in the agreement as well. There shall also be a registering authority which will register this farming agreement.

A **Conciliation Board** has been established to deal with the related issues under this act. All the grievances which will be related to the farming agreement and any variation from the same shall be redressed by this conciliation board. The authority of the civil courts has been completely barred under this act. In case there is any dispute with the order of the conciliation board then the matter shall go to **Sub-Divisional Magistrate** and then eventually to the Appellate Authority. However, a time period of **30 days** has been given by the government in order to settle the disputes.

The bill is prohibiting the sponsors that they cannot acquire the ownership title over the

land of the farmers or no modifications of permanent nature can be done.

Clause 8 of the act mentions that the land of the farmers shall not be kept on sale, lease or any mortgage as well. This provision basically protects the farmers from the companies under the contract farming to recover the compensation from the farmer by attachment of the farming land.

3. The third act would be the **Essential commodities (Amendment) act 2020**. This act mentions that the imposition of any stock limit will be done solely on the basis of price rise only. The powers under the ECA act that the government will regulate the supply of the food items only when there are extraordinary or extreme conditions. The food items include pulses, cereals, onions, potatoes, and edible oils. It implies that, except in extraordinary circumstances like war and natural calamities, the law will remove the stock holding limits on such products.

The regulation can be done also to ensure that there is equitable distribution in the market of these products but then again only under extraordinary circumstances.

A stock limit will be imposed:

- When there is a 100% increase in the retail price of horticultural produce;
- When there is a 50% increase in the retail price of the non-perishable agricultural food items.

These acts have brought widespread criticism from the farming sectors and major states like Punjab, Haryana, UP, Rajasthan.

Potential of Farm Laws

1. These legislations provide **freedom to farmers to sell their produce** to any buyer



as opposed to restricting them to the particular state mandis. These additional number of buyers open a lot of new ways and opportunities for them, they can give their produce to the highest bidder. They can approach to many large corporations and agritech startups to wholesalers, modern retailers, hotels and restaurants etc.

All of these transactions will be taking place outside mandis so **APMC cess will not be charged**. This will also benefit direct market linkages and better supply chains that will eventually increase farmer's income.

2. The Farm laws can be the most awaited opportunity for **upliftment of Agritech startups and digital farmer platforms**. Agritech startups and organized players are the ones who connect farmers to agribusinesses, food processors and exporters, warehousing companies, cold storage providers, supply chain and logistics operators that ensure the effectiveness and transparency of offline or online trading marketplaces.
3. This newfound freedom will **help the farmers to gain technological upgrades**, crop advisory, improved market linkages, and reduced intermediary for better price realization of crops. These changes will increase private involvement in the farming resulting in more capital investment and enhanced produce. During COVID-19, many middlemen and aggregators disappeared and farmers had a taste of organized agritech companies. Farm bills enforce this demand visibility and structural processes in a more regulatory manner.
4. The new reforms are said to **increase the farmer's income** and make it double by 2022, this bill is said to be the progressive, visionary and a definitive step towards the betterment of Farmers. The new laws are

mainly **beneficial for small and marginal farmers** who own less than two acres of farmland. These small farmers make upto 80% of agrarian production and are not protesting against the said laws.

5. **No restrictions by state** level bureaucracies and the License Raj of local APMCs will now be in competition with the private companies as well, making it free market for the farmers to sell their produce at their own terms. The requirement of a license and cess will no longer be the bottleneck for the farmers.
6. Besides these benefits, **elimination of intermediaries and reduction in red-tapism** will boost the farmers income and the Farm Laws may even bring out many opportunities of contract farming frameworks, farmer advisory, farm consulting providers, and online farm markets in near future as well.
7. While freedom of selling the product in the market may be the immediate impact but, in long term, the Farm Laws are also said to **boost agri storage infrastructure**. Warehousing has always been towards the larger markets and finance, now with all the investment lot of smaller locations can be utilized as storage facilities by the local entrepreneurs.
8. Due to new Farm Laws in action existing **mandis will have to add value** and be more than just facilitators of trade, they will now be facing competition and will have to offer better prices due to the freedom of choice of the farmers.
9. **Dispute resolution procedure is also enhanced** in the new Farm Laws, any dispute arising will be settled within 30 days by the Sub-Divisional Magistrate. Provisions regarding heavy penalties for violation of rules and regulation have also been provided.

Even **IMF** has commented that Farm bills



passed by the Indian Government have the **potential to represent a significant step** forward for agrarian reforms but a safety net is required to protect those who fall prey to it. Gerry Rice, Director of Communication at IMF said that the new Farm Laws will reduce the role of intermediaries and enhance efficiency and transparency.

I can mention certain grounds which are considered to bring apprehensions of criticism in the mind of the farmers.

1. The fact that there have been talks of destroying the APMCs which serve as a tool for the non-exploitation of the farmers. The government has however time and again tried to point out that the APMCs will not be weakened or will not be destroyed but the farmers have been alleging that the act gives more power to the central government and has an overriding power the state governments so eventually the central government can dispel the APMC. Also, once the farming agreement has been entered into, all the state acts regarding the regulation of sale and purchase of the produce shall stand cancelled and the regulations made by the central government shall be considered only. Also, once there is a direct conversation with the corporate firms and the other entities the role of APMCs will be diminished. The brokers in the mandis will have no work left to be done and they will have to face unreasonable costs related to salaries given to the middlemen and the costs of storage of the farmer's produce. So eventually this will lead to the vanishing point of the APMCs.
2. The fact there has been no MSP present in the agreement. Nowhere in the act has it been mentioned that the product shall not be bought by the corporate firms below the MSP. Even though our Honourable PM have

been stressing upon MSP in the parliamentary debates but a written legal word would be considered to be more fruitful than anything else. There are less chances for the farmers to have a fair price without any mention of the MSP. The small farmers or the marginal farmers without any regulation regarding the MSP will be dealt with in the worst way. The big corporate companies can take the farmer's produce in a price as per their own wish in bulk and can later on sell it at an aggravated price. Also, the central government by ECA act having no authority now to check the prices of the most valuable products till a range as mentioned above will play no role in order to help the farmers if such a situation arises.

3. Also, that the large corporate companies can try to suppress and oppress the farmers. Not all the farmers are educated who have the capacity to come to an arrangement with the big corporate entities. Nor are they aware of the terms of the legal protection that they deserve. This can lead to an unequal bargaining position. Before the act the fact that there were middlemen and brokers made it easier for the farmers to have a communication. Also, there would exist a language barrier between both the parties and the concept of understanding the terms and conditions would be more difficult. The farmers are also of the opinion that the government somewhere has a soft spot for the big corporate companies which eventually would lead to a disaster for the farmers. The fact that our present government have been more inclined towards privatisation is one of the reasons why such apprehensions have been created in the mind of the protestors. It has been felt that there is more inclination towards commercialisation of the agricultural produce without any regulation. Agriculture being the prime sector and it has suffered the



least in the pandemic situation the private entities are trying to move to the agricultural commodity trade so that they can recover their losses.

4. Also, there was no discussion with the farmer groups while implementing such laws. Such rocket speed by the government gave some serious suspicions regarding the intention of the act. There was no consultation with the relevant stakeholders. Also, the fact that the bill was introduced via ordinance route when it could have been brought in the normal period gives more aversions regarding the acts. Also, agriculture being the state subject has been questioned whether the central government is exceeding its powers.

The fact that the jurisdiction of the civil courts has been completely barred is one of the criticisms. The conciliation board shall consist of members which will appointed by the parties and the fact that already there is already an existence unequal positions of both the parties one being a farmer and other being the big corporate firm, hardly would a marginalised farmer will able to afford the costs and expenses of dealing with such a situation. Farmers do not have such a legal expertise as compared to the corporate firms who have the legal counsels close to their homes. Also, the dispute is not settled the authority would be the SDM or another appellate authority who would be a collector. The nature of the dispute is of a civil nature how someone from the administrative side can have a supreme knowledge regarding it. Getting justice from the doors of bureaucracy is far from reality.

Where is the judicial expertise? Many a time's questions have been put on the working of the SDM who sometimes have been burdened by the big political pressure.

And what if the matter is not solved within the time frame mentioned that is 30 days? Will a small farmer have the resources to be a part of such a huge legal course? A farmer could have no help from the district court or the high court. No provision has been mentioned that the board should have any member who has a certain degree of expertise in farming. The Supreme Court and the high court can exercise no jurisdiction when the matter pertains to an agreement between private parties.

CONCLUSION & SUGGESTION

One way to address these issues is to call it "trust deficit" instead of lack of legislative inability to make a suitable law for farm trade dispositions. No law is perfect in every aspect, it matures on case to case basis and evolves over a period of time. The main problem is not the law and its provisions, but the fact that farmers feel that they have not been consulted and their demands over the time have not been fulfilled. The protests clearly show the lack of trust of farmers in government even after its several attempts to solve and mediate the issue. There have been some loopholes like non-fulfilment of proper procedure in passing the bill, grey areas regarding the conditions of contract farming and lack of expertise of farmers in the said system but to resolve these issues dispute settlement body has been provided, the appellate board is also there, what's missing is the faith in the system and assumption that government will not help the farmers.

If the government is able to get the cooperation of the farmers and implement these laws and hoping everything falls in line, the said reforms have the ability to double the income of farmers by 2022 as claimed by the Government. The laws have the potential of



increasing farmers' income, give them freedom to choose- whom to sell, how much to sell, at what price to sell. The laws will allegedly increase the online trading of farm produce, reduction of intermediaries, no cess or market fees and no requirement to take the license for trading.

These acts are however required to be checked by a competent authority so that the corporate firms do not exploit the farmers. If history has taught us anything that would be how the big corporations have tried to treat the farmers or the agriculturist. We all are familiar with the work of east India Company. We can also see how the India's federalism has been ruptured considering how the central government has tried to transgress its powers. There is a requirement of a decent sitting between the two sides: farmers and the central government and clause by clause the acts must be discussed. Civil courts should be given the authority while dealing with such matters. Utmost generation of faith is the only option left. Settlement of disputes need to be solved amicably without the show of domination and violence.

As Mahatma Gandhi said you cannot achieve durable reform by becoming impatient. Even though the government may have the interest of farmers in its heart but it needs to be communicated to them as they are the main beneficiaries to it. Being patient with the farmers and making necessary changes to reduce their fear is what our government can do to maintain such a large number of farmers which are the backbone of our country.
