

To,  
Shri Rajendra Bhagwat,  
Principal Secretary,  
Maharashtra Legislature Secretariat,  
Vidhan Bhawan, Mumbai.

*Suggestions on the Farm Bills in response to the advertisement DGIPR/2021-2022/1247 dt. 21<sup>st</sup> July 2021 by Maharashtra National Law University Mumbai.*

A. **The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services (Maharashtra Amendment) Bill 2021.**

The Act specifies Farmer (Empowerment and Protection) and its agreement on Price assurance and farm services.

**SUGGESTIONS:**

1. The move to enlarge agricultural produce for market is welcome but this should be supplemented by measures that preserve the existing 'safety net' mechanisms like MSP and public procurement.
2. The government has made it clear that procurement at MSP will continue and also that the mandis will not stop functioning. This can be done by clearly stating in the act itself that new system, farmers will have the option to sell their produce at other places in addition to the mandis.
3. Though a farmer will have the freedom to choose where he/she wants to sell, he/she may not have the knowledge to negotiate the best terms with a private company. The state should work towards empowering the farmers in this direction through Model Contract. It is mentioned in the act government may conduct Model Contract guidelines which can be replaced by government shall conduct Model Contract guidelines as this will make system more transparent.
4. Insertion of a clause, allowing farmers to take the dispute to the judiciary, satisfies them, then such a demand should be taken into account. Special courts or a "Maharashtra Agriculture Tribunal" can be set up with subordinate or district tribunal in every district. For tribunal, members of both judiciary and administrative can be made members. The appeal from District Agriculture Tribunal can be made to the Maharashtra Agriculture Tribunal and the final to the High Court.



B. **The Farmers Produce Trade and Commerce (Promotion and Facilitation) (Maharashtra Amendment) Bill 2021**

The Act creates parallel system and does not talk about eradication of APMC yet apprehension among farmers mind that APMC can become redundant as they will not be able to cope up with emerging private company is the biggest question mark in the mind of farmers it can be solved by adopting strategies to strengthen APMC so that they can compete in healthy environment with Private bodies.

In Maharashtra apart from APMC there are private markets and Direct markets, licenses been established and well working. In 2019-2020 the turnover of the state 305 APMCs was Rs. 48,429 cores while turnover of 60 private markets and 1165 direct marketing licenses was Rs. 8,360 crores. This shows APMC business was almost 6 times higher and gap between the two is Rs. 40,069 crores and presence of private markets and direct markets has not made APMC redundant. This shows that present Act will open new avenues for the farmers and step forward towards doubling farmer's income by 2022. These examples must be highlighted to remove state of uncertainty.

Proper Guidelines of Dispute settlement mechanism should be framed with intervention of Judiciary. Judicial assurance in this aspect will create state of confidence.

The Act mentions about Model Contract, government should frame Model Contract guidelines this will make system more transparent and will remove doubts and situation of confusion.

Price fixing mechanism has given two options to farmers pre-fix and prefix plus flexible contract (minimum assured price + bonus/premium) so relating misnomer that market rates benefits will not reach farmers as there is price fixation must be well communicated to public they can opt for flexible contract. These aspects should be properly disseminated among farmers.

**Suggestions:**

In section 4 of the principal Act, for subsection (1), the following subsections shall be substituted, namely: —

*“(1) 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.*



*(1A) Notwithstanding anything contained in the Act, no trader shall trade in any scheduled farmers' produce unless such trader has a valid license granted by the Competent Authority, as may be prescribed:*

*Provided that, marketing of agricultural produce specified in all the entries of items VII - Fruits, VIII – vegetables and entries (2), (3), (4) and (5) of item X - Condiments, spices and others of the Schedule appended to the Maharashtra APMC Act, by any person outside the market established under section 5 of the Maharashtra APMC Act, except as provided in section 5D of the said Act, shall not require any license or permission, and shall not be regulated under this section. (1B) The manner of making application and granting of license under subsection (1A) shall be such, as may be prescribed.”*

Section 4 (1) of the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 introduced by the Central government requires only the PAN number allotted to the trader under the Income-tax Act, 1961 for engaging in trade with any scheduled farmer. The objective of this Act is to facilitate remunerative prices through competitive alternative trading channels and to promote efficient, transparent, and barrier-free inter-State and intra-State trade and commerce of farmers' produce.

However, the Amendment introduced by the Maharashtra government, requires a valid license granted by the Competent Authority to the trader for engaging in trade with any scheduled farmer. The amendment to this section has been brought with the aim to regulate and control the trader in case of default in payment to the farmer as stated by the Hon'ble Co-operation Minister of Maharashtra – Mr. Balasaheb Patil.

So, this procedure of licensing seems more than the required Central government's requirement of PAN number, which is enough to register the payments made by traders while engaging with scheduled farmers.

**C. The Essential Commodities (Maharashtra Amendment) Bill, 2021.**

In the Essential Commodities (Maharashtra Amendment) Act, 2021, S. 2 states that, “In section 3 of the Essential Commodities Act, 1955, after sub-section (1A), the following sub-section shall be inserted, namely: —

*“(1B) Notwithstanding anything contained in sub-section (1A), the State Government may, by an order, regulate or prohibit the production, supply, distribution, imposing stock limits*



*under extraordinary circumstances, which may include famine, price rise, natural calamity.””*

The wording of this section, unlike the Central legislation, does not contain the words “extraordinary price rise, and natural calamity of grave nature”. It merely contains the words “price rise” and “natural calamity”, which can be interpreted in an ambiguous manner, as to whether the State has powers to order, regulate and prohibit the production, supply, distribution, etc. during extreme price rises and grave natural calamities, or it can just do so in situations of normal price rise, and occurrence of any natural calamity, be it of grave nature or pacified nature. This omission of words presents an ambiguity, which can result in application of such powers as mentioned in the amendment in situations where such application is not required. Nominal price rise is a part of the market system, and occurrence of mild natural calamities can be coped up with by the markets (i.e., the producers, the traders, and the people related to the sector) without the intervention of the government. The omission of such words as mentioned can pave way for excessive regulation, which would be detrimental for the people, and could almost always lead to inappropriate and unrequired interpretations resulting in excessive unnecessary control of the state government over people’s activities. Further, if there is such utilisation of this provision which may result into excessive exercise of control and there is a challenge to such utilisation, or even if the ambiguity is challenged before the courts, it would cost the state government its resources and the state would have to go through the entire judicial process to defend its amendments, which could prove futile if the court orders a striking down of the amendment. Therefore, it is suggested that the specific words “excessive price rise” and “natural calamity of grave nature” be mentioned in the provision to do away with this ambiguity.

### CONCLUSION

In general, in the bills, the mention of pre-determined or anticipated pricing of crops is mentioned. The state government has tried to bring in amendments to make the Central Acts less detrimental towards the farmers of Maharashtra, but the crux of the anticipated pricing is still present in the Bills. It needs to be understood that the agricultural produce in India is seasonal in nature with wide fluctuations of yield, thereby leading to variation in prices. Since the contracts generally have anticipated and pre-determined price rates, the farmers might extract less income for the produce. Many a times the producers, exporters and the buyers might enter into the



and the buyers might enter into the contract during the harvesting season and sell the products when the prices soar high. Such irrational volatility of prices may increase illegitimate hoarding as well as black marketing of the produce. This would be disadvantageous for the farmers to a large extent, and therefore, it is suggested that the state government should take steps to ensure that the anticipated pricing contracts will contain a margin of price increase or would contain a clause of certain kind which would enable the provision of an option – either to get the price anticipated, or get a certain equivalent (or in some cases, multiple) of the market value, whichever is greater. This would enable the producers to get the best price for their produce.

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