

Impact of new farm laws & “Their Constitutionality”

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ABSTRACT

Farmers are the one who play a very important role in society. Every person needs food to survive and that is provided to all by farmers. The farmer's produce trade and commerce (Promotion and facilitation) Act 2020 promotes corporatizing of agriculture which will later evict the Agricultural Produce Market Committee and farmers will be left at the mercy of corporates. The Farmers (Empowerment and Protection) Agreement of Price Assurance and Farm services Act, 2020 promotes contract farming which will later become trouble for farmers as the corporates will exploit them with illogical terms and conditions of contract. The Essential commodities (Amendment) Act 2020 will remove serials, pulses, oil seeds, edible oils, onions, potatoes from the list of essential commodities which will help the traders to do hoarding and earn lot of money from it. In this research, the researcher would like to reach up to the goal as to how the said Acts are unconstitutional and affect the farmers.

Keywords: Farmer, Agricultural Produce Market Committee (APMC), Minimum support price, Concurrent list, State list

INTRODUCTION

Farmer has been a very important person for providing food to the society. Farmers work very hard for society. Farmers are considered as the backbones of nation's economy as Indian economy is primarily based on Agriculture. Hence, in return it becomes a duty of legislation to make changes in the laws from time to time which provides benefit to farmers. So, the Parliament has brought new laws for farmer which is referred as

1-The farmers produce trade and commerce (Promotion and facilitation) Act 2020

2-Farmers (Empowerment and protection) Agreement on Price Assurance and Farm services Act 2020

3-Essential commodities (Amendment) Act 2020.

However the farmer particularly from the states of Punjab and Haryana are protesting against these Acts. Due of this, Supreme court of India stayed implementation of these laws on 12/01/2021. The said court has appointed a four member committee for mediation between the protesting farmers and the Government of India, but protest has not stopped. The Government of India also offered the farmers that it will put stay on the implementation of law for one and half year, but the farmers want nothing but the total repeal of these laws. This research paper will further explain by way of legal analysis as to how these Acts are unconstitutional and disadvantageous to farmers.

LEGAL ANALYSIS

Legal analysis will be helpful for the researcher to prove as to how the new laws relating to farmers are affecting the farmers and how it is disadvantageous to them.

- Are the three Acts disadvantageous to farmers?
 - Did the Parliament take advantage of temporary power given to it in entry 33 of list III which proves the Act as unconstitutional?
 - Was there a lack of consultation by parliament before making the law?
 - Is the Act unconstitutional on being passed by voice vote and not by division of votes?
 - Is Supreme court of India acting like a mute spectator by not deciding on the validity of this law?
- *Are the three Acts disadvantageous to farmers?*

The first Act talks about farmer's produce trade and commerce (**Promotion and facilitation) Act 2020**

The researcher will explain it with the help of illustrations

Suppose there is a farmer. He wants to sell his produce wheat. So, to sell the produce, he has got three options.

Option 1-The first option is, he will have to approach the nearby Agricultural Produce Market Committee (APMC). After approaching, he will get in touch with Arthiyas, who acts like a commission agent between farmer and buyer and then, farmer will ask for best price. The produce of farmer will then be auctioned and farmer will get the price for his produce.

Option 2-The second option for the farmer to sell his produce is, instead of selling the produce in Agricultural Produce Market Committee (APMC), he can sell it outside the Agricultural Produce Market Committee (APMC). But, if he sells it outside Agricultural Produce Market Committee (APMC), then he will have to pay fee, i.e. Tax called as Agricultural Produce Market Committee (APMC) Tax to Government of India.¹

Option 3-There is third option to farmer to choose Minimum Support Price (MSP). Minimum Support Price (MSP) is like an insurance for farmer. Government of India announces minimum support price (MSP) before sowing season so that farmer need not worry about what will be the price in the open market of his farm produce.² He can directly sell his produce to Government of India at the price fixed by Government of India.

So all this was the situation prior to introduction of law.

The new law is creating a barrier free intra-state and inter-state trade of farm produce which means if the farmer wants to sell his farm produce outside the Agricultural Produce Market

¹ -https://en.wikipedia.org/wiki/Agricultural_produce_market_committee-Accessed on 30/03/2021 at 12.13 pm

² -<https://www.tribuneindia.com/news/comment/why-msp-is-a-must-for-farmers-183047>- Accessed on 30/03/2021 at 12.18 pm

Committee(APMC),³he can do it. There will be no tax, no fee imposed on him, that is neither by Agricultural Produce Market Committee(APMC), nor by the State Government. Hence, farmer has got the liberty. That is, if he want to sell the produce inside the Agricultural Produce Market Committee(APMC)⁴,he can. If he want to sell the produce outsideAgricultural Produce Market Committee(APMC), he can, without paying any tax.But, farmers are unhappy with this. They say that, Government of India is basically corporatising the agriculture. For example, farmers will sell their produce outside theAgricultural Produce Market Committee(APMC) that is to corporates. Initially, they will get the best price from corporate sector, but once the Agricultural Produce Market Committee(APMC) dissapears they will be left at the mercy of corporates. In short according to farmers, Government of Inida want's to evict Agricultural Produce Market Committee(APMC).

The next law talks about the Farmers **(Empowerment and Protection) Agreement of Price Assurance and Farm services Act,2020**

This law promotes contract farming. Thatmeans, corporate entity will make a contract with farmers before sowing season that it will guarantee to pay the agreed price to farmers. But the farmers are unhappy with this. They say that today this sounds a nice situation for us, but tomorrow these corporates will find us to some illogical terms and conditions which we will not be able to undersand. Farmers also said that if it is win situation for us, then why don't Government of India give us in writing that corporates will pay us above Minimum support price and will not force us to enter into contract , by selling the farm produce below the Minimum support Price(MSP).

The third law talks about essential commodities (Amendment) Act 2020.

This Amendment removes serials,pulses,oil seeds, edible oils, onions, potatoes from the list of essential commodities. The researcher will explain this with the help of illustration.

For example there are some onions. Price of onion in the open market for example is twenty rupees per kg. So, the big traders will buy these onions produced in bulk from farmers and will start hoarding⁵. When they will start hoarding, it will create artificial scarcity of onions in the market. After it creates arificial scracity in market, the demand will increase and supply will decrease. Once, the Price of onion increases the traders will start selling the onion produce in the market and they will get the best price.Hence, *The three Acts are disadvantageous to farmers.*

- ***Did the Parliament took advantage of temporary power given to it in entry 33 of list III which makes the law unconstitutional?***

The Central Government has resorted to entry33 of list III which is concurrent list. Entry 33 of list III says that the distribution of powers, trade and commerce in food stuff,production, supply and

³ -<https://www.tribuneindia.com/news/schools/the-farmers-produce-trade-and-commerce-law-157562?faodatalab=2020-10-18-1>-Accessed on 30/03/2021 at 12.21 pm

⁴ -<https://www.newslandry.com/2020/12/07/a-matter-of-trust-why-farmers-want-msp-written-into-law>-Accessed on 30/03/2021 at 12.21 pm.

⁵ -<https://thewire.in/agriculture/onion-farmers-remain-at-mercy-of-market-ups-and-downs-as-prices-crash-again>-Accessed on 30/03/2021 at 12.25 pm

distribution is in concurrent list. This power is also given to state under entry 27 of List II which is state list, by which it can make law regulating production, supply and distribution of goods. But, such power which is given to state under entry 27 of state list is subject to entry 33 of concurrent list⁶. Hence, here entry 33 of list III gives power to Central Government to make the law. But, here the entry 33 of concurrent list was not originating part of constitution. It was inserted by third Constitutional Amendment Act in 1954 with introduction of Article 369. Article 369 of Indian constitution talks about the temporary power given to parliament. It states that such temporary power is for 5 years wherein Parliament can make laws on certain items mentioned in the state list. However, here by entering into entry 33 of concurrent list, Parliament has converted this temporary power into permanent one and by doing this, it is converting federal constitution into unitary constitution. **Hence, the parliament took advantage of temporary power given to it in entry 33 of list III which makes the law unconstitutional.**

- ***Was there lack of consultation by Parliament before making these laws?***

There has to be consultation with the stake holders before the Government of India can bring any legislation in the Parliament. The Government of India says that they had consulted a large section of population including the farmers but then a Right to Information application (RTI) was filed. Right to information application asked the Government of India to show the level of consultation that they had taken with the stake holders to which Government of India replied that they had no such record of the consultation which means there was no consultation at all. Hence, if there is no consultation it is clear that such legislation is made by going against the stakeholders and **hence, there was lack of consultation by Parliament before making these laws.**

- ***Does the bill become unconstitutional on being passed by voice vote and not by division of votes? if yes then how?***

Article 100 of Indian constitution, says that if there is any question at any sitting of the house, then the bill shall be passed by simple majority. However, the bill was passed by the Parliament in Rajya Sabha by voice vote despite the fact that the opposition had asked for division of votes. The rule says if any member of the Parliament would object to the voice vote and would ask for division of vote, then it is mandatory for the Presiding officer to go for division of votes. As there was no division of votes, there is violation of Article 107 which says that a bill shall not be deemed to have been passed by Parliament unless and until it has been agreed by both houses. Here, as the bill was passed by voice vote which is not recognized by constitution, hence it will be presumed that bill is not passed in Rajya Sabha. As, the bill is not passed in Rajya Sabha this Act is violation of constitution and the procedure which is required to be followed for the passing of bill. **Hence, the bill becomes unconstitutional on being passed by voice vote and not by division of votes.**

⁶ -<https://thewire.in/law/farm-bills-legal-challenge-constitution-seventh-schedule-supreme-court> - Accessed on 30/03/2021 at 12.27 pm

- ***Is supreme court of India acting like a mute spectator?***

On 12/01/2021 Supreme court of India has stayed the implementation of these laws and appointed a four member committee to mediate between the protesting farmers and the Government of India. But, supreme court of India is the guarantor of Fundamental right. The supreme court of India is considered as the protector of constitution. Hence it should pass the judgement regarding the constitutionality of the laws as to whether the Acts are constitutional or unconstitutional and should not act as a mute spectator just by appointing committee for mediation. ***Thus, the supreme court of India is acting like a mute spectator.***

SUGGESTIONS & CONCLUSION

From the above discussion concluding that the law which will be implemented it will have negative effect on farmers and is disadvantageous to farmers and that is the reason why there is so much of protest being carried out by farmers against the implementation of the laws. The Act is disadvantageous to farmers and it also violates Article 369 of Indian constitution which gives temporary power to central government and by misusing such power, it is converting the federal constitution into unitary one. Also, the said Acts violates the Article 100 and Article 107 of Indian constitution. Hence According to researcher, these three Acts needs to be struck down by Supreme court . Also, The Government of India should resort to some new law which benefits the farmers as the farmers are the person because of whom people are able to eat meal every day. Farmers provide a great support to the entire society, hence they deserve respect with such laws which provide them benefits and help them to grow which ultimately will also benefit the entire society at large.

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