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New Farmers Bill, 2020

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ABSTRACT

This paper deals with New Farm's Bill which is recently introduced by our legislation also there are various topics of investigation which is covered by us like APMC Act, which were adopted by 16 States in 2016 for the benefit of farmers and now there is a need for amend the APMC Act, therefore in this paper, also deals with what is the need of reform and what are the consequences after the reforms.

For the reform, there were three bills were introduced as: -

The Farmers Produce Trade and Commerce [Promotion and Facilitation] Bill, 2020.

The Farmers [Empowerment and Protection] Agreement on Price Assurance and Farm Services Bill, 2020.

The Essentials Commodities [Amendment] Bill, 2020.

The objectives of these bills are: -

To allow the farmers to sell their goods outside the registered mandis as APMC.

To allow the farmers to enter into the agreement for strike a deal before the actual production happens.

To allow the farmers for inter-state trade of the farmer's goods beyond the region of APMC regulated markets and this provision also prohibit the state government to charge any taxes on outside APMC.

In September 2020, there are many controversies arises on the bills after the president gave their assent to the bills. This paper also deals with major findings over why and what are the reasons of protest, what is contract farming also the problems which are highlighted here are if the settlement is done and market price is increasing.

Why MSP is given only to some crops and is the MSP is provided still why we find so much of suicidal rate done by the farmers.

I. FARM'S BILL, 2020

India is a country where most famous sector is agricultural, so it is also known as Agricultural country. This sector also contributes in country's GDP [Gross Domestic Price] that is 17.5% as per current prices in 2015-2016. The production of food grains in India, has been increasing year by year and several crops such as wheat, rice, pulses, sugarcane and cotton, in which India

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is among the top producers. Behind all these achievements, the farmers are playing a big role and they have great importance in our society.

In order to promote the agriculture and to protect the farmers, the Government of India takes many measures and makes many policies or laws. Therefore, APMC Model [Agricultural Produce Marketing Committee] were introduced in 2003 by the Union Government. The purpose of this model of APMC was to limit the matter of distress sale done by farmers in the pressure and in order to remove the exploitation incidences by creditors and other intermediates.

So, this model of APMC were accepted in 2016 by 16 states. And APMC Act, [Agricultural Produce Market Committee] it is a system which operates under the state by the State Government, that is mention in the Seventh Schedule of the Indian Constitution. It has a Mandis that is setup in several places within the states. Recently, there are approximately 7,500 regulated markets or mandis in the country. The main objective of this Act is to ensure that farmers are received a fair price for their crops in a transparent manner.

And now, the government think that the APMC Act [Agricultural Produce Marketing Committee] is an outdated institution and this institution is there from the age of scarcity. And this Act were enacted for the protection of farmers but now it become his tyrant, a monopoly and forcing them for distress sale. Therefore, the government think about the benefit of farmers and then decided that APMC Act needs reform and that's why, there were three bills introduced in September 2020. And the bills name as: -

The Farmers Produce Trade and Commerce [Promotion and Facilitation] Bill, 2020. The main objective of this bill is to allow the farmers to sell their goods outside the registered mandis as APMC [Agricultural Produce Market Committee]. Therefore, the farmers get the more choices to whom they want to sell.

The Farmers [Empowerment and Protection] Agreement on Price Assurance and Farm Services Bill, 2020. The main objective of this bill is to allow the farmers to enter into the agreement for strike a deal before the actual production happens. By this way, this bill set the framework for the contract farming.

The Essential Commodities [Amendment] Bill, 2020. The main objective of this bill is to allow the farmers for inter-state and intra-state trade of the farmer's goods beyond the region of APMC regulated markets. And this provision prohibited the state government to charge any taxes on outside APMC [Agricultural Produce Market Committee] or mandis areas.

In September 2020, there are many controversies arises on the bills after the president gave

their assent to the bills. Then the protests started by farmers across the whole country. There are the states like Chhattisgarh, Maharashtra and Punjab, which might not implement the new bills. Kerala and Punjab are the two states and they declared that their intention is to challenge the new bills in the Apex Court, and as the same act done by a Congress MP who is from Kerala, Prathapan T.N, already challenged the bills.

The epic centre of the protests at Punjab and Haryana and at there the market fee, rural development fee and ashatiya's commission. All these fees are the big sources for the state revenue and according to new bills, states are not permitted to take market fee outside APMC areas and this provision affected more on Punjab and Haryana states because in this state, most of the population are participated in the agricultural sector. So, it could be lost approximately Rs. 3,500 crores and Rs. 1,600 crores in each year respectively.

There are some questions arises on constitutionality of these bills and that are shown as per the cases:

Union of India V. H.S. Dhillon, In this case, it was held that the constitutionality of Parliamentary laws can be challenged only on two grounds that are the subject is in the State List, or that it violates fundamental rights. Is invoking Parliamentary powers on agriculture consistent with the scheme of federalism and spirit of the Constitution? Does Parliament have the power to enact laws on agricultural markets and lands? Should the Constitution have been amended before enacting these laws?

And there are some questions which will be mentioned in the petitions and that questions on challenging the constitutionality of the Acts. There is a case i.e., Ram Krishna Dalmia V. Justice S.R. Tendolkar and other judgments, in this case, the Supreme Court begin their hearing after the presuming the constitutionality of these laws. That's why, the burden will be quite heavy on the states and individuals who are going to challenge these Acts. And actually, the Supreme Court not imposed any stay on the implementation of parliamentary laws. So, CAA and UAPA, both Act were implemented.

On these bills, the question arises on the federalism and it was already solved by the cases earlier. Firstly, in case State of West Bengal V. Union of India, in this case, the Supreme Court held that the Constitution of India is not federal. Then in the next case, S.R. Bommai V. Union of India, in this case, nine judges' bench of Supreme Court held that federalism was the part of basic structure of the India Constitution and overruled the judgment of the case State of West Bengal V. Union of India case. And Supreme Court held that "Neither the relative importance of the legislative entries in Seventh Schedule, List I and II of the Constitution, nor the fiscal

control by the Union per se are decisive conclude the Constitution is unitary. The respective legislative powers are traceable to Articles 245 to 254.... The State qua the Constitution is federal in structure independent in its exercise of legislative and executive power.

Here, as per the India Constitution Federalism means the Centre and State Government both have their own power to operate their specific areas and they have right to enjoy their power with coordination to each-other. There are three lists in the Seventh Schedule of the Indian Constitution that distributed the power between the both centre government and state government. The three lists are:

The Union List, it contains 97 subjects in which the centre [Parliament] have power to legislate and that is mentioned in the Article 246.

The State List, it contains 66 subjects in which the only states have power to legislate.

The Concurrent List, it contains 47 subjects in which the centre government and the states government both have right to legislate. But if there is a conflict on law between the centre and state then centre prevails that is mentioned in Article 254. Parliament have exclusive power to legislate on subject which is there in the state list under some specific circumstances and that is mentioned in the Constitution.

In the Seventh Schedule of the Indian Constitution, the agriculture mentioned in the entries and that are: -

In Union List, Entries 82, 86, 87 and 88, in this, it mentions taxes and duties on income and assets, especially excluded those which is in respect of agriculture.

In State List, there are eight entries which contains the term relating to agriculture and that are, Entry 14 [agricultural education and research, pests, plant diseases]; Entry 18 [rights in or over land, land tenures, rents, transfer agricultural land, agricultural loans, etc]; Entry 28 [markets and fairs]; Entry 30 [agricultural indebtedness]; Entry 45 [land revenue, land records, etc]; Entry 46 [taxes on agricultural income]; Entry 47 [succession of agricultural land] and Entry 48 [estate duty in respect of agricultural land].

In Concurrent List, Entry 6 of the Seventh Schedule, it mentioned transfer of property other than agricultural land and Entry 7, in this mentioned about various contracts not relating to agricultural land, and Entry 41 in this mentioned that evacuee property, including the agricultural land.

By this it become clear that the Union List and Concurrent List, these lists put the matter outside the Parliament's jurisdiction which are related to agriculture and in that matter give exclusive

power to the state legislature.

There are some cases by which it shows that if legislation covers entries in two lists then what happens: -

In case, *State of Rajasthan V. G. Chawla*, the court used the doctrine of “Pith and Substance” to determine the intention of legislation which overlaps between the entries. And it held that “The constitutionality of legislation is upheld if it is largely covered by one list and touches upon the other list only incidentally”. But here in the two new farm bills, it is beyond that and they affected on the State List’s entries.

As per the Seventh Schedule of the Indian Constitution. The Farmers Produce Trade and Commerce [Promotion and Facilitation] Act, 2020, it comes under Entry 28 of the State List that deals with markets and The Farmers [Empowerment and Protection] Agreement on Price Assurance and Farm Services Act, 2020, this affected on Entries 14, 18 and 46 of the State List and Entry 7 of the Concurrent List in the Seventh Schedule of the India Constitution.

In case, *State of Bihar V. Kameshwar Singh*, the Supreme Court interpreted the list and held that it invoked the doctrine of colourable legislation, this doctrine means “you cannot do indirectly what you cannot do directly”.

II. PROTEST OVER THE BILL

The three-bill introduced was –

- The farmer (Empowerment and protection agreement on price Assurance and farm service bill (2020)
- The farming produce Trade and commerce (Protection and facilitation) Bill (2020)
- The essential commodities (Amendments) Bill, 2020
- The reform proposed in the bill has led farmers to come out and protest, the three main contentions about the bill are
- It will allow inter and interstate trade of farmers produce beyond the physical premises of APMC market.
- Reforms are leading to scrapping of MSP.
- Creating a framework for contract farming through an agreement between a farmer and a buyer before a production.

So, talking about the bill one by one I am going to discuss the problem and the lacunas of the bill so the first bill is the farmer (Empowerment and Protection Agreement Price Assurance and farm service bill 2020. This bill aims to provide national framework on farming agreement

that protect and empowers farmers to engage with agriculture— business firms, process wholesalers, exploiter on large retailers. The move target farm services and sale of future farming produce at a mutually agreed remunerative price framework in a fair and transparent Manner.

III. CONTRACT FARMING

Farmers came across the idea of protest because the fear is that big company will enter the Agriculture-market and exploit the hell out of it. Farmer came across a very big issue that if he grows crop like wheat and that is sold in 25 rupees but when he harvests his crop the price of wheat low down by 16 rupees, so according to this bill big company will do contract farming and even through the market price of such crop is lower high they are supposed to buy crop at that price which was decided at the time of framing of contract.

IV. THE PROBLEM WHICH IS HIGHLIGHTED HERE ARE

If the settlement is done and the market of that price is increased that the farmers are bound to sell their crop at lower price.

If the company is in loss or is bankrupted at that time what will the farmers do. More problem is that the agreement which is done between that farmer and the company. Agent will be done by Agent of the Mandi which will lead to a greater flaw, because they rather than thinking about themselves and act accordingly.

Fear of the farmer is also that the corporate fair might exploit them since government will not have back any more, it might be possible that the corporate fair will take the produce in lower price, lower than that of MSP.

V. THE FARMING PRODUCE TRADE AND COMMERCE (PROMOTION AND FACILITATION BILL 2020)

The bill as per the government provide new Eco system in which farmers and traders will enjoy freedom of choice relating to sale and purchase of their produce and facilitating remunerative price through comparative alternative learning channels to promote efficient transparent and barriers free interstate and intra state trade and commerce. Farmer produce will go outside the physical premises of ‘mandis’ (Agriculture produce markets) or deemed markets notified under various state agriculture produce market laws to provide a frame work for electronic training.

The farmer who is growing his crop bring that to mandi and sell it out now except from mandi he can sell it anywhere, NSSU which is the government agency give the statistic of

unemployment and also of the farmers and so that the government have removed this and by it its clearly visible that now no further statistic about unemployment would be displayed.

NSSO said that in India what is the farming done only 6% of that is sold in Mandi and rest 94% is sold as a local wandors or either on any other criteria.

Reasons for Protest is

Middle Man are saying that if the government will abolish Mandi system then where the Godown made by them will go and since in Punjab and Haryana there are many middle men they will go in loss.

Farmers think that now the government will not provide them minimum support price, MSP announced by the government is that price at which government is ready to purchase the crop from the farmers directly if the crop price become lower to MSP.

MSP is given to major the crops.

MSP is implemented by CACP (commission for Agriculture costs and Price) which works under FCI farmers are claiming that government is bringing company and sparing itself, for now the belling would be done by company then that of the government.

MSP rate is decided by CACP by when it comes to contract farming here, we talk about two hand first is if the price of crop in market cost rupees to and the contract is done of rupees 50 then ever though company will go in loss, he needs to pay the farmer fully second market price cost rupees 90 of some crop but farmer due to they have done contract in 50 rupees they need 10 sells in the same price.

MSP is the before price which is decided and if the farmer gets more price than that in market so they can shift over that.

FCI near when we talk about play an evil role on part of farmer, a farmer when he grows his crop, he went it 10 sell it so he before doing so look book the side either on MSP or market price where is he getting more benefit. So here FCI what they do is they have set up their agent and they do corrupt the farmer by saying that they don't have space in there go-down or have no sacks so unwilling the farmers have to move to Mandi to sell their crops then the FCI agent come back to Mandi and at low price buy the crops grow the middle man to show the record that they have bought crops from the farmer and they earn benefit accordingly. Only 6% of farmer can sell their crops in Mandi, so government wants to change this FCI system.

Lack of system, as we know that 86% of land holding were small and marginal (less than 2 hectares) these are such small plots that most farmers depend on them are net buyer of food.

Santa committee says that MSP is burden over the government and that is should be Removed.

The essential commodities Amendment Bill 2020

The bill seeks to remove commodities like cereals, pulses, oil seeds, onions and put also from list of essential commodities.

1955 sharing system was abolished because what the dealer uses to do was, they store all the goods and ever though he had it he was not ready to sell it out but when the price rate gets increased at that time, he takes it out and sell it off, government abolished and said that who will do so will pay compensation but now government have allowed to share which accordingly will lead to exploitation, since farmers do not have much storage capacity will arrive in loss.

VI. NEW SYSTEM BENEFITS

- APMC will exist but it will not be mandatory for farmers to sell them and them.
- Buyers would directly deal with farmers and can set up price more than that of APMC.
- Contract farming will flourish so why farmers will sell in MSP if they will get maximum support price.
- Reduced the power of Licensed Middle Man.
