

From License Raj to Unregulated Chaos

(A Critical Analysis of the Shenanigans of the Government)

DK Balkrisnan

Assistant Professor, ILSR, GLA University

Dr.Gurudev Sahil

Assistant Professor, ILSR, GLA University

Surabhi Sharma

Assistant Professor, ILSR, GLA University

Abstract

The BJP regime has brought forth a flurry of three legislations which basically intends to do away with the existing structure. The legislations intend to gradually do away with the concept of APMC, mandi system and minimum support price. Driven with the dream of an “atmanirbhar” India the regime is trying to bring in legislations which plan to make the farmers self-dependent overnight. It is always better to remove the bottlenecks in an existing plan rather than scrapping the existing system completely and bringing a new system altogether. The new legislations are brought forth by the government because according to surveys the MSPs have been inefficient to ameliorate the issues of the farmers. So instead of ensuring effective procurement of crops and ensuring MSPs at variety of crops the government has very conveniently chosen to gradually do away with MSPs. The government via these changes wishes to bring end to the impediment of middlemen. The very logic or rationale behind this is if the middlemen are eliminated from the process then the farmers and also the consumers will be benefitted. However the legislations don’t provide for enough safeguards which would discontinue the practice of middlemen. Rather if these legislations are analysed deeply it can be seen that the legislations sort of announce corporate bigwigs into the agrarian scenario and pull the plug on MSPs gradually. Also the change in essential commodities Act ensures that these corporate bigwigs will also get opportunity to artificially increase the prices as products like pulses, lentils, onion etc have been removed from the essential commodities Act. These therefore removes any sort of restriction on the corporate bigwigs to hoard these products and artificially create inflation.

Keywords: MSPs, corporate exploitation, credit infrastructure, inflation

Introduction

Agriculture happens to be by far the sector which employs the largest number of people in India.¹ So naturally it should be presumed that the contribution of Agriculture towards the gross domestic product of the country should also be the highest but the answer is a big no.² In spite of it employing the highest percentage of Indian population it has a very low output.³ It would not be wrong to say that agriculture sustains itself from huge loans by the government and that its very existence depends upon the welfare schemes put forth by the government.⁴ In nutshell if we put things crudely then our agriculture sector is quite crippled and needs the support of the government.

Numerous reasons can be attributed to why agriculture sector continues to reap low dividends. For example Land Fragmentation where much emphasis is given to the yield per hectare rather than the agriculture output as a whole. This behaviour of intensive agriculture system degrades the quality of land and also the yield is of subpar quality. Next issue that props up is the fact that around 85 percent of the total population of farmers happen to be marginal farmers who are generally illiterate and also lack awareness about the schemes of the government.⁵ These farmers have small tracts of land so they are bound to go for intensive agriculture unlike scenario in western countries wherein much focus is given to the agriculture output rather than yield per hectare.⁶

One of the main reasons which haunts the Indian Farmers is also the loans for doing agriculture. The government does provide for agricultural loans and welfare schemes but the problem lies in implementation for the same. These farmers have to then rely upon the local moneylenders who grant loans at high rate of interest. Agriculture is a risky business in India because to this date we largely depend upon rain water for irrigation of our lands.⁷ In addition to it the season cycle has to run in its perfect course for a good agricultural yield. However with the climate change and global warming a perfect season cycle happens to be nothing but a mirage.⁸ Therefore the agricultural yield in India is bound to suffer and then if it does then consequently the cost of production for the crops becomes more than the price obtained from selling the crops and the farmers therefore plunge deep into loans. Which is one of the reason why maximum farmers commit suicides. Farming in India is not something which a person does out of choice but it is

¹Pg 338, Economic Survey 2020-21 Vol.2, accessible on

https://www.indiabudget.gov.in/economicsurvey/doc/echapter_vol2.pdf, Last seen on 22.05.2021, 14:43 pm

²<https://pib.gov.in/PressReleasePage.aspx?PRID=1693205#:~:text=The%20Economic%20Survey%20observes%20that,for%20the%20year%202019%2D20> Last seen on 12.05.2021, 14:49 pm

³ Ibid

⁴<https://www.prsindia.org/report-summaries/swaminathan-report-national-commission-farmers> last seen on 20.05.2021, 15:21 pm

⁵Supra Note 2.

⁶Pg 4, Carlo Rega, A classification of European agricultural land using an energy-based intensity indicator and detailed crop description, Landscape and Urban Planning, Vol. 198

⁷Pg 3, Dr. Vibha Dhawan, Water and Agriculture in India, Background paper for the South Asia expert panel during the Global Forum for Food and Agriculture, 2017

⁸<https://www.unescap.org/sites/default/files/5.%20The-Impact-of-Climate-Change-on-the-Agricultural-Sector.pdf> last seen on 20.05.2021, 15:02 pm

generally out of compulsion of illiteracy and poverty.⁹ The schemes pertaining to crop insurance and the loans from the government become a mere hoax because of non-implementation.¹⁰

Finally coming to the issues which our government chooses to redress are the problem of middlemen. Which I believe is the least of the worries in comparison to the mammoth problems of loans, proper irrigation facilities, crop insurance and intensive agriculture. The two legislations namely The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 and The Farmers (Empowerment and Protection) Agreement of Price Assurance and Farm Services Act, 2020 are the legislations which intend to open the floodgates and leave the farmers at the mercy of the corporate bigwigs. In addition to it the government has also come up with an amendment in The Essential Commodities Act as well which intends to exclude cereals, pulses, oilseeds, edible oils, onion and potatoes from the ambit of central restrictions. This further allows the new entrants of private sector to hoard these products and thereby artificially inflate the prices of these agro products.

Gradual Erosion of MSPs and the Constitutional Debacle

The points to ponder is that the APMCs have not been that great themselves and yes there is a need for change in the existing structure because the existing structure is riddled with a lot of deficiencies. For example APMCs have so far focused only on regulation and have utterly disregarded the development of local markets. Be it promotion for local products, introducing grading or encouraging local processing the APMCs have failed at all these aspects. Even in the Swaminathan Committee it was suggested that direct marketing of the agriculture products will enable the farmers to have a better shot at being properly remunerated and will also cut the transaction costs by a great deal.¹¹

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 ensure the same and it ensures that the farmers can now sell outside the purview of APMCs. The rationale behind this was that the farmers can now directly sell to the concerned parties without the aid of middlemen. This would thereby indicate an abolition of intermediaries. In addition to it the Act also ensures e-trading wherein the government ensures that the communication gap between the farmer and the buyer if any can be bridged.¹² In addition to it the Act also mentions that the payment to the farmer has to be paid on the scheduled day or a maximum extension of three working days can be given but in case the same is contravened then legal action be taken up against the defaulter.¹³

The intriguing thing here is that the Act if seen on face value then seems to be a very welcome change wherein there lies a hidden propaganda of the government behind this veil of public interest. The very fact that these laws were hastily passed by the parliament riding high on

⁹Pg 6, Swaminathan Report, Vth Report, Vol No. 1 accessible on <http://indianfarmers.org/indianfarmers/wp-content/uploads/2018/01/M.Swaminathan-Report-Natnl..Common-Farmers-Findings-Recommendns.pdf>, last seen on 21.05.2021, 23:31 pm

¹⁰Ibid at Pg15, 19 and 20

¹¹Pg 247, Swaminathan Report, 3rd Report accessible on <https://agricoop.nic.in/sites/default/files/NCF3%20%281%29.pdf> last seen on 22.05.2021, 00:05 am

¹²Section 3 of the Act.

¹³Section 4 (3) r/w Section 8 of the Act

majority shows this.¹⁴ The Act was introduced in Lok Sabha on September 14, 2020 and was passed with presidential assent by 27th of September, 2020. In spite of the protests and the suggestions about the bill it was still passed in a hasty manner. In addition to it the government's utter disregard to the minimum support price also goes a long way to show why the public does not have confidence in the bill. In Swaminathan Report it was suggested that the MSP needs to be in addition to the 50% of the cost of production of the agricultural yield.¹⁵ The Swaminathan committee's had clearly said that the reason behind their formulae of MSP because the cost of production is definitely higher than the minimum support price because of the ever increasing prices of diesel and other inputs.¹⁶ It was also evidenced in the committee's findings that the cost of cultivation of 12 crops in most of the states was not covered under the existing MSP rates. However the government has clearly showed it's intentions when they filed an affidavit in response to the PIL filed by the Consortium of Indian Farmers Associations (CIFA) before the Honourable Supreme Court in February 2015. The government said that the fixation of MSP is not something which should be more than the cost of produce but is something which is determined by the market forces. The government categorically in it's affidavit stated that MSP is not an income policy.

Now the very point of MSP is that it is supposed to support the farmers and ensure that they are sufficiently remunerated. However the government has a view that is poles apart from this very simple logic. This sort of approach by the government is the reason why the Act that has been brought by the government is being protested by the public. In addition to this it is interesting to note that there is no single provision that the prices promised to the farmers will be at MSP rates.

There is also a constitutional debate upon the same as the parliament has definitely encroached upon the state list. A joint reading of entries 27 and 28 of the state list suggest that "Markets and Fairs" and "trade and commerce" fall within the ambit of state list. However they both fall under the rider clause of entry 33 of the concurrent list. The historical Background behind the introduction of an entry also carries a lot of weight in its interpretation.¹⁷ Entry 33 was introduced in the times of Second World War and emergency was declared and it was imperative for the central legislature to legislate matters which fell in the state/provincial list.¹⁸ So to draft these legislations under the guise of public interest in normal times would be nothing less than a fraud on the constitution. It has been reiterated time and again that the principle of federalism is a basic structure of the constitution.¹⁹

Mad drive of privatisation and the hardships by the farmers

The Farmers (Empowerment and Protection) Agreement of Price Assurance and Farm Services Act, 2020 ensures that the private parties will be now free to enter into contracts with farmers. The first legislation removed the restrictions on APMC's and inter and intra trade and this

¹⁴ <https://prsindia.org/billtrack/the-farmers-produce-trade-and-commerce-promotion-and-facilitation-bill-2020> last seen 22.05.2021, 01:02 am

¹⁵ Supra Note 6

¹⁶ Supra Note 6

¹⁷ M/S. Shriram Industrial Enterprises vs The Union Of India And Others, AIR 1996 All 135

¹⁸ Ibid

¹⁹ SR Bommai v UOI, AIR 1994 SC 1918

particular legislation facilitates and encourages the private players to get into the business of agriculture. To let the private players get in is a very welcome change, however the thing to worry about is that the guarantee of fair price.

The government believes that the remuneration that the farmer would get should depend upon the market forces of demand and supply rather than the cost of production. Even while disbursing the minimum support price the present government has been clear about this. As almost 85 percentage of the farming population happens to consist of marginal farmers the state of worry is whether they have equal bargaining power in comparison to their counterparts. The Act does not mention at all any provision for a fair price. So the very reason of introducing this legislations kind of defeat their very own purpose as the farmers still continue to suffer the woes of getting remunerated very less for their produce.

In addition to it in case there is a legal tussle it is highly unlikely that these marginal farmers will be able to put up a stand before the corporate bigwigs and their backup of huge legal resources. Therefore it can be concluded that the government is retracting from the principles of socialism. It seems now that the very word socialism in the preamble is nothing less than a sham. The government is going for a laissez faire type of an economy rather than an approach of mixed economy. This sort of brainless approach of police state is one of the vital reasons for the great economic depression in the 1930's. However the government is yet to learn its lessons from the past.

Possibilities of Hoarding looms large

Essential Commodities Act has also been amended and cereals, pulses, oilseeds, edible oils, onions and potatoes have been removed from the ambit of regulation by the government. The very object of the essential commodities Act has been to ensure that hoarding and black marketing of commodities is not done by the traders.²⁰

However with the restrictions being removed on these food items and the government giving the traders free hand gives them ample opportunity to hoard these products and artificially create inflation over these food items. In addition it can also be observed that the corporate bigwigs that might enter into the agrarian scenario now will have much better facilities of storage and preservation so therefore the threat of an artificial inflation over food items looms large.

Conclusion and Suggestive Framework

It is convenient and sensible to improve an existing system rather than scrapping it altogether and putting a new structure in place. It's true that the APMCs and the mandis have not been repealed via the legislations that the government have brought forth. However they have been brought by the government with the intention of scrapping the existing systems in place.

The biggest concern of the farmers is the guarantee of MSPs and fair pricing of their commodities. They are not concerned with who ends up being the buyer whether it's the government or the private players. The government had categorically stated that they would

²⁰Thanmal Surana And Ors. vs Union Of India (Uoi) And Ors, AIR 1959 Raj 206

subject the MSPs according to the market forces of demand and supply irrespective of the fact that the price may be actually way less than the cost of production. Also the government does not ensure via their legislations that the private players will pay a fair price for the agricultural produce.

Therefore it can be suggested that if the government is adamant about privatisation of agricultural sector and withdraw their support the least that they can do is ensure that fair price is paid to the farmers.