

CENTRAL PROVINCES AND BERAR AGRICULTURAL PRODUCE MARKET ACT, 1935

29 of 1935

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CENTRAL PROVINCES AND BERAR AGRICULTURAL PRODUCE MARKET ACT, 1935

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An Act to provide for the establishment and better regulation of market for the sale and purchase of agricultural produce in

2[Madhya Pradesh) Preamble Whereas it is expedient to provide for the establishment and better regulation of the recognized open markets for the sale and purchase of agricultural produce, other than cotton, in 2[Madhya Pradesh]; And Whereas the previous sanction of the Governor-General required by sub-section (3) of section 80-A of the Government of India Act and the previous sanction of the Government required by section 80-C of the said Act have been obtained for the passing of this Act: It is hereby enacted as follows :-

1. Short title and extent :-

(1) This Act may be called the Central Provinces [and Berar] Agricultural Produce market Act, 1935.

(2) It extends to the whole of 4[Vidarbha region of the State of Maharashtra].

2. Definitions :-

(1) In this Act, unless there is anything repugnant in the subject or context, -

(i) "agricultural produce" shall not include cotton ;

(ii) "agriculturist" means a person who grows agricultural produce but shall not include a dealer or broker in agricultural produce although such dealer or broker may grow such produce ;

(iii) "market" means a place or market declared as a market under section 3;

(iv) "prescribed" means prescribed by rules made under this Act.

(2) If a question arises whether any person is an agriculturist or not for the purposes of this Act, the decision of the Deputy Commissioner of the district in which such person has a permanent residence shall be final.

3. Establishment of market :-

(1) The ¹ [Commissioner] may, after consulting, if necessary, the local authorities concerned in such manner as it thinks fit, or upon a representation made by such authorities or by growers of agricultural produce within the area affected, by notification declare that any place or market is a market for the sale and purchase of agricultural produce.

(2) Every notification under sub-section (1) shall define the limits of a market and may, for the purposes of this Act, include within such limits such local areas as the 5[commissioner] may prescribe.

1. This word was substituted for the words "State Government" by Bom. VIII of 1958, Schedule.

4. Market Committee :-

Market Committee regulation. For every market, there shall be a Market Committee. Such committee shall be constituted as may be prescribed and shall consist of ten or more members not exceeding sixteen. Of the total number of members of the committee, not less than half shall be persons elected by the agriculturists of such area as the State Government may prescribe ; one member, who shall be a [servant of the Government] not below the rank of a Naib-Tahsildar, shall be nominated by the State Government ; one member shall be elected by the [district council or local board] of the district in which the market is situated ; one member shall be elected by the municipal committee, notified area committee, [Village panchayat or a village sanitation panchayat], as the case may be, of the area in which the market is situated ; and the remaining members shall be elected by the traders in the market, in such manner as may be prescribed.

4A. Control of Market Committee over other markets :-

Notification If a market is also declared to be a cotton market under section 4 of the Central 784 Provinces and Berar Cotton Market Act, 1932, the committee constituted under section 4 of this Act shall be deemed, if the State government , by notification so direct, to be a committee constituted under section 5 of the Central Provinces and Berar cotton Market Act, 1932,]

5. Power to make rules :-

Contents of the rules

(1) The State Government may make rules, consistent with this Act, for carrying out the purposes and objects thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate -

(i) the election of members of a Market Committee, the number of members to be elected by each of the bodies or groups of individuals referred to in section 4 and the manner of election, the preparation and revision of lists of voters from time to time and the

term of office of such members ;

(ii) the qualifications and disqualifications of voters and the candidates for election;

(iii) the powers to be exercised and the duties to be performed by Market Committee;

(iv) the election of the Chairman and Vice-Chairman of a Market Committee, their powers and term of office.

(v) the filling of casual vacancies in the office of members or in the office of chairman or vice-chairman of a Market Committee;

(vi) the management of a market and the levy of fees by a Market Committee, and, subject to the provisions of this Act, the collection and disposal of such fees ;

(vii) the grant by a Market Committee of licences to traders, brokers, weighmen, measurers, surveyors and warehousemen and other persons using a market and fixing the fees leviable by them, the form in which and the conditions under which such licences shall be granted and the fees to be charged for such licences;

(viii) the place or places at which and the hours during which agricultural produce shall be weighed or measured, and the kind and the description of the scales, weights and measures to be used at such place or places;

(ix) the periodical inspection, verification, correction, regulation and confiscation of scales, weights and measures in use in a market;

(x) the trade allowances which may be made or received by any person in any transaction in a market;

(xi) the transfer of any immovable property by a Market Committee under section 12 ;

(xii) the preparation of plans and estimates for works proposed to be constructed partly or wholly at the expense of a Market Committee, and the grant of sanction to such plans and estimates ;

(xiii) the form in which the accounts of a Market Committee shall be kept, the manner in which they shall be audited and the times at which they shall be published ;

(xiv) the preparation of an annual budget and its submission for sanction, and the reports and returns which shall be furnished by a

Marke Committee ;

(xv) the disposal of any surplus or part of surplus fund of a Marke Committee ;

(xvi) the time, place and manner in which a contract between buye and seller is to be entered into and the money is to paid to the seller ; and

(xvii) generally, for the guidance of a Market Committee and for carrying out the purposes of this Act.

(3) Any such rules may, when necessary, provide that a contravention thereof, or of any of the conditions of a licence issued thereunder, shall be punishable on conviction by a competent Magistrate, with fine which may extend, to five hundred rupees.

(4) All rules made under this section shall be subject to the condition o previous publication. A copy of the draft of the proposed rules shall be laid ¹[before each of the Houses of the State Legislature]. The State Governmentshall give ²[both the Houses] an opportunity of discussing them and shall take into consideration any resolution concerning the same ³ [in which both the Houses concur] before finally publishing them in the official Gazette.

1. The words "before each of the Houses of the State Legislature" were substituted for the words "on the table of the Legislative Assembly of the State" by the Bombay (V. R.) Adaptation of Laws Order, 1956.

2. The words "Both the Houses" were substituted for the words "the Assembly" by the Bombay (V.R.) Adaptation of Laws Order, 1956.

3. The words "in which both the Houses concur" were substituted for the words "which may be passed by the Assembly" by ibid.,

6. Power to make bye-laws :-

Market Committee may frame bye-laws

(1) Subject to the rules made by the State Government under section 5, a Market Committee may, in respect of a market under its management, make bye-laws for -

(i) the regulation of its business,

(ii) the conditions of trading ,

(iii) appointment and punishment of its officers and servants,

(iv) payment of salaries, pensions, gratuities, and leave allowance: to such officers and servants and contribution by them to any provident fund which may be established for the benefit of such officers and servants, and

(v) the delegation of powers, duties and functions of a subcommittee, if any, appointed under section 7, and may, provide that a contravention thereof shall be punishable by a competent Magistrate with fine which may extend to fifty rupees.

(2) All bye-laws made under sub-section (I) shall be subject to the condition of previous publication and no bye-law shall take effect until it has been confirmed by the State Government.

7. Sub-committee :-

Subcommittee of the Market committee. A Market Committee may appoint from amongst its members a sub-committee for the performance of any of its duties or functions,

8. mode of making contracts :-

(1) Every contract entered into by a Market Committee shall be in writing and shall be signed on behalf of the Market Committee by the chairman and two other members of the Market Committee.

(2) No contract other than a contract executed as provided in subsection (1) shall be binding on a Market Committee.

9. Constitution of market fund :-

Market fund and its utilisation All moneys received by a Market Committee shall be paid into a fund to be called "the Market Fund", and all expenditure incurred by a Market Committee under, or for the purpose of, this Act within the area subject to its authority shall be defrayed out of the said fund : any surplus remaining after such expenditure has been met shall be expended in such manner as may be prescribed .

10. Application of market fund Subject to the provisions of sec. 9. the market fund shall be applicable only to the following purposes, namely :-

(i) the maintenance and improvement of a market;

(ii) the construction and repair of buildings which are necessary for the purposes of a market or for the health, convenience and safety of the persons using it;

- (iii) the construction, repair and maintenance of means of communication which are useful for the purposes of development of a market or for the convenience and safety of the persons using it;
- (iv) the planting of trees, rearing them, making arrangements for providing water to the persons and cattle coming to a market and like purposes ;
- (v) the meeting of establishment charges, including payments and contributions towards provident fund, pension and gratuities of the officers and servants employed by a Market Committee;
- (vi) the preparation and revision of voter's lists, and the elections and bye-electing of a Market Committee.
- (vii) with the previous sanctions of the State Government any other purposes whereon the expenditure of a market fund is in the public interest ; and
- (viii) the expenses incurred in auditing the accounts of a Market Committee.

11. Prohibition of trade allowances, unauthorised charges and exactions :-

Prohibition allowances ect.

(1) No trade allowance, other than an allowance prescribed by rules or bye-laws made under this Act, shall be made or received by any person in any transaction in a market and no Civil Court shall, in any suit or proceeding arising out of any transaction in any market, have regard to any trade allowance not so prescribed.

(2) Any person, who, in any transaction in a market -

(a) makes deductions on account of dharmadaya, gorakshana, or similar other objects , or

(b) exacts, or appropriates to himself without the concurrence of the owner, a share from any agricultural produce brought into a market,. shall be punishable on conviction, with fine which may extend to fifty rupees for each offence.

12. Incorporation of Market Committee :-

Every Market Committee shall be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property, both movable and immovable, to lease, sell or otherwise

transfer any such property which may have become vested at or been acquired by it, and to contract and to do all other things necessary for the purposes of this Act;

Provided that, subject to such exceptions as the State Government may, by general or special order, direct on such committee shall permanently transfer any immovable property except in pursuance of a resolution passed at a meeting by a majority of not less than three - fourths of the members of the committee and in accordance with rules made under section 5 and such transfer shall be subject to the sanction of the State Government.

13. Bar of suit in absence of notice :-

(1) No suit shall be instituted against any Market Committee or any member, officer or servant thereof or any person acting under the direction of any such committee, member, officer or servant for anything done or purporting to be done, in good faith as such member, officer or servant, under this Act, until the expiration of two months next after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of a committee , delivered or left at its office, and, in the case of any such members, officer, servant or person as aforesaid, delivered to him or left at his office or usual place of abode, and the plaint shall contain a statement that such notice has been so delivered or left.

(2) Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the alleged cause of action.

(3) Nothing in this section shall be deemed to apply to any suit instituted under section 54 of the Specific relief Act, 1877.

14. Power to borrow :-

(1) A Market Committee may, with the previous sanction of the ¹ [Commissioner or such officer as the State Government may authorise in this behalf] raise the money required for carrying out the purposes of this Act on the security of any property vested in and belonging to such committee and of any fees leviable by such committee under this Act.

(2) The conditions in which such money shall be raised and the time within which the same shall be repayable shall be subject to

the previous sanction of the State Government.

1. The words "Commissioner or such officer as the State Government may authorise in this behalf" were substituted for the words "State Government" by Bombay VIII of 1958, Schedule.

15. Supersession of Market Committee :-

Commissioners order superseeding the Market Committee

(1) If, in the opinion of the [Commissioner] a Market Committee is not competent to, perform or persistently makes default in the performance of the duties imposed on it by or under this Act, or exceeds or abuses its powers, the [Commissioner with the previous approval of the State Government] may, after giving such committee an opportunity for explanation, by an order published in the official Gazette, declare such committee to be incompetent or to be in default or to have exceeded or abused its powers, as the case may be, and may supersede it [and report the fact of such supersession to the State Government].

(2) when a Market Committee has been superseded, all members of the committee shall as from the date of the order, vacate their offices as members.

(3) when a Market Committee has been superseded, all property and rights vested in it shall, subject to all charges and liabilities affecting the same, [vest in] [the State Government]:

Provided that, if no new committee is constituted for a market under section 4, all property that shall remain after the satisfaction of all debts and liabilities of the superseded Market Committee shall vest in the local authority of the area in which the market is situated for the purpose of any object of public utility in the said area.

16. Prohibition to open private markets :-

When a market area is declared private markets prohibition Whenever the Commissioner has, by a notification under section 3, declared any place to be a market, no person shall, notwithstanding anything contained in any enactment for the time being in force, within the area of such market or within a distance thereof, to be notified in the Official Gazette in this behalf in each case by the Commissioner, set up, establish or continue or allow to be continued any other market for the purpose and sale of agricultural produce.

Explanation :- A person shall not be deemed to set up, establish or continue or allow to be continued a place as a market for the purpose of the purchase and sale of agricultural produce if he sells such produce belonging to him outside the premises set apart by a Market Committee for the purpose of purchase and sale of agricultural produce.

16A. Management of markets by Co-operative Societies :-

(1) Any society registered under the Co-operative Societies Act, 1912 and desirous of managing a market may make an application to the State Government in writing to that effect.

(2) The State Government may thereupon require the society to furnish, within a time specified, such information as it may deem necessary.

[(3) On receipt of the information and on being satisfied that the society is representative of genuine agricultural producers within the area served by the market and is capable of managing the market in a satisfactory manner, then notwithstanding anything contained in this Act, the State Government may, by order in writing, direct that the management of the market shall vest in the society with effect from the date to be specified in the order (hereinafter referred to as the specified date.).

(4) Upon the making of an order under sub-section (3), the following consequences shall ensue, namely :-

(a)

(i) if in respect of such market a market committee constituted under section 4 is in existence such Market Committee shall cease to exist with effect from the specified date and all properties and rights vested in the Market Committee shall vest in the society subject to all charges and liabilities affecting them, and the powers conferred on a Market Committee by or under this Act shall vest in the society and the managing committee or

(ii) if on the date immediately preceding the specified date no Market Committee is in existence for such market, the powers conferred on a Market Committee by or under this Act shall vest in the society and the managing committee or the governing body of the society shall be deemed to be the Market Committee for the such market;

(b) the provisions of section 4, clauses (i), (ii), (iv) and (v) of subsection (2) of section 5 and clause (vi) of section 10 of this Act shall cease to apply to such market;

(c) all references in this Act to a Market Committee, Chairman and Vice-Chairman shall be construed as references to the managing committee or governing body of the society and to persons bearing office therein].

17. Penalties :-

Penalties for contravention of this Act whoever, in contravention of this Act, sets up, establishes, continues or allows to be continued any market for the purpose of the purchases and sale of agricultural produce shall be punishable, on conviction by a competent Magistrate, with fine which may extend to five hundred rupees, and in case of a continuing breach of the provisions of section 16, with fine which may extend to one hundred rupees for each day after first which the breach continues.

18. Trial of offences :-

Trial by a First Class Magistrate No offence under this Act or under any rule or bye-law made thereunder shall be triable by a Magistrate other than a Magistrate of the First Class.

19. Disposal of fines and institution of prosecutions :-

*] Prosecutions under this Act may be instituted by

20. Fines :-

¹ Fees leviable in Berar in pursuance of any rules made under this Act may be realized as fines under the orders of any Magistrate.]

1. This section was inserted by section 2 of C. P. and Berar Act XV of 1941.

21. Public servants :-

Members, office-bearers and servants of committee to be public servants :- Every member of a Market Committee, every Chairman and Vice-Chairman of such Committee and every officer or servant thereof shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.]