

The Essential Commodities (Amendment) Ordinance, 2020 : A Bird's Eye View*

Introduction

In the cotemporary times, where India is looking forward to sail free with promoting economic development on one hand and fighting the pandemic of COVID 19 on other hand, **Self-Sufficient and Self Reliant** India (*Atmanirbhar Bharat*) subsumes to this perfect balance. In the wake of endorsing Atmanirbhar Bharat, Government has reforming their policies for boosting all the primary and secondary sector of economy. To begin with, we have seen a strong focus of the government for encouraging the agriculture sector of the country.

While India has become surplus in most agri-commodities, farmers have been unable to get better prices due to lack of investment in cold storage, warehouses, processing and export as the entrepreneurial spirit gets dampened due to hanging sword of Essential Commodities Act. Farmers suffer huge losses when there are bumper harvests, especially of perishable commodities. With adequate processing facilities, much of this wastage can be reduced.

- Landmark decisions to benefit farmers and transform the agriculture sector taken
- Regulatory environment liberalized for farmers through amendment to Essential Commodities Act by the enactment of Essential Commodities Ordinance, 2020
- Ordinance to promote barrier-free inter-state and intra-state trade in agriculture produce approved
- Farmers empowered to engage with processors, aggregators, wholesalers, large retailers, exporters

Under this perspective, the enactment of Essential Commodities (Amendment) Ordinance, 2020 is major move in multiplying the benefits of the act and reducing the possible restrictions. Therefore, this paper aims to briefly analyze the salient features of Essential Commodities (Amendment) Ordinance, 2020

Benefits

- With the amendment to Essential Commodities Act, commodities like cereals, pulses, oilseeds, edible oils, onion and potatoes will be removed from list of essential commodities. This will remove fears of private investors of excessive regulatory interference in their business operations.
- The freedom to produce, hold, move, distribute and supply will lead to harnessing of economies of scale and attract private sector/foreign direct investment into agriculture sector. It will help drive up investment in cold storages and modernization of food supply chain.

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Safeguarding interest of consumers

The Government, while liberalizing the regulatory environment, has also ensured that interests of consumers are safeguarded. It has been provided in the Amendment, that in situations such as war, famine, extraordinary price rise and natural calamity, such agricultural foodstuff can be regulated. However, the installed capacity of a value chain participant and the export demand of an exporter will remain exempted from such stock limit imposition so as to ensure that investments in agriculture are not discouraged.

The amendment announced will help both farmers and consumers while bringing in price stability. It will create competitive market environment and also prevent wastage of agri-produce that happens due to lack of storage facilities.

The Essential Commodities (Amendment) Ordinance, 2020: Salient Features¹

- The Essential Commodities (Amendment) Ordinance, 2020 was promulgated on June 5, 2020. It amends the Essential Commodities Act, 1955. The Act empowers the central government to control the production, supply, distribution, trade, and commerce in certain commodities. The Ordinance seeks to increase competition in the agriculture sector and enhance farmers' income. It aims to liberalise the regulatory system while protecting the interests of consumers.
- **Regulation of food items:** The Act empowers the central government to designate certain commodities (such as food items, fertilizers, and petroleum products) as essential commodities. The central government may regulate or prohibit the production, supply, distribution, trade, and commerce of such essential commodities. The Ordinance provides that the central government may regulate the supply of certain food items including cereals, pulses, potato, onions, edible oilseeds, and oils, only under extraordinary circumstances. These include:
 - a. war,
 - b. famine,
 - c. extraordinary price rise and
 - d. natural calamity of grave nature.
- **Imposition of stock limit:** The Act empowers the central government to regulate the stock of an essential commodity that a person can hold. The Ordinance requires that imposition of any stock limit on certain specified items must be based on price rise.

A stock limit may be imposed only if there is:

- (i) 100% increase in retail price of horticultural produce; and
- (ii) 50% increase in the retail price of non-perishable agricultural food items.

The increase will be calculated over the price prevailing immediately preceding twelve months, or the average retail price of the last five years, whichever is lower.

- The Ordinance provides that any stock limit will not apply to a processor or value chain participant of agricultural produce if stock held by such person is less than the: (i) overall ceiling of installed capacity of processing, or (ii) demand for export in case of an exporter. A value chain participant means a person engaged in production, or in value addition at any stage of processing, packaging, storage, transport, and distribution of agricultural produce.

¹ Reproduced from PRS Legislative Research ("PRS")

- **Applicability to Public Distribution System:** The provisions of the Ordinance regarding the regulation of food items and the imposition of stock limits will not apply to any government order relating to the Public Distribution System or the Targeted Public Distribution System. Under these systems, food grains are distributed by the government to the eligible persons at subsidized prices.

Conclusion

With the enactment of this Ordinance, Government has approved an amendment to the 65-year-old Essential Commodities Act, removing cereals, pulses, oilseeds, edible oils, onion and potatoes from the list of essential commodities. With this, government has also approved ordinances to remove restrictions on farmers selling their produce outside notified market yards, as well as to facilitate contract farming and allow farmers to engage in direct marketing, according to an official statement.

References:

- Press Information Bureau, PM chairs Cabinet Meeting to give historic boost to Rural India
- PRS Report on The Essential Commodities (Amendment) Ordinance, 2020
- TaxGuru, The Essential Commodities (Amendment) Ordinance, 2020.
