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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 86-L.—January 21, 2015.—The following Act of the West Bengal Legislature, having been assented by the Governor, is hereby published for general information:—

West Bengal Act XXVII of 2014

THE WEST BENGAL AGRICULTURAL PRODUCE MARKETING (REGULATION) (AMENDMENT) ACT, 2014.

[*Passed by the West Bengal Legislature.*]

[Assent of the Governor was first published in the *Kolkata Gazette, Extraordinary,* of the 21st January, 2015.]

An Act to amend the West Bengal Agricultural Produce Marketing (Regulation) Act, 1972.

WHEREAS it is expedient to amend the West Bengal Agricultural Produce Marketing (Regulation) Act, 1972, for the purposes and in the manner hereinafter appearing; West Ben. Act XXXV of 1972.

It is hereby enacted in the Sixty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 2014.

The West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 2014.

(Section 2.)

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette,* appoint.

Amendment of section 2 of West Ben. Act XXXV of 1972.

2. In sub-section (1) of section 2 of the West Bengal Agricultural Produce Marketing (Regulation) Act, 1972 (hereinafter referred to as the principal Act),—

(1) for clause (a), the following clause shall be substituted:—

'(a) "agricultural produce" means any produce, whether processed or unprocessed of agriculture, horticulture, apiculture, pisciculture, sericulture, livestock and products of livestock, animal husbandry, fleeces (raw wool) and skins of animals, forest produce and any related and secondary product or by-product and combination of two or more than two of such produce as specified in the Schedule:

Provided that the State Government may, by notification, include in, or exclude from, any item of agricultural produce in the Schedule;';

(2) in clause (bb), for the words "State Marketing Board", the words "State Agricultural Marketing Board" shall be substituted;

(3) after clause (c), the following clauses shall be inserted:—

'(ca) "business" means purchase and sale, processing, value addition, storage, transportation and connected activities of agricultural produce;

(cb) "buyer" means a person or a firm or a company or co-operative society or Government agency or public undertaking or public agency or corporation or commission agent, who himself or on behalf of any other person or agent buys or agrees to buy agricultural produce in the market area as may be notified under this Act;

(cc) "Collector" means the Collector of a district;';

(4) for clause (d), the following clause shall be substituted:—

'(d) "commission agent" means a person who on behalf of his principal trader,—

(i) buys agricultural produce and makes payment, keeps it in his custody and delivers it to the trader in due course, or

(ii) sells, after receiving and keeping in his custody agricultural produce sent for sale within the market area or outside the market area, sells the same in the market area and collects payment thereof from the buyer and remits the sale proceeds to his principal trader,

in consideration of a commission or percentage on the amount involved in such transaction;';

(5) for clause (e), the following clauses shall be substituted:—

'(e) "Director" means the Director of Agricultural Marketing, West Bengal, appointed by the State Government, by notification, and includes such other officers to assist the Director as the State Government may, by notification, specify to exercise or perform such powers or functions of the Director under the provisions of this Act, or the rules or bye-laws made thereunder, as mentioned in such notification;

(ea) "export" means dispatch of agricultural produce outside India;

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(Section 2.)

(eb) "exporter" means such person or firm or company who exports agricultural produce outside India;

(ec) "e-trading" means trading in which billing, booking, contracting, negotiating, information exchange, record keeping and other connected activities are done electronically on computer network or internet;

(ed) "fund" means the West Bengal Agricultural Produce Marketing Fund established under section 20C and does not include the market committee fund;';

(6) for clause (ee), the following clauses shall be inserted:—

'(ee) "import" means bringing agricultural produce from outside India;';

(ef) "importer" means such person or firm or company who imports agricultural produce from outside India;

(eg) "licence" means licence granted under section 13;

(eh) "licensee" means a person or association of persons, firm, company, public sector undertaking or society holding a licence issued under this Act;';

(7) in clause (g), for the words "and a sub-market yard", the words ", a sub-market yard, a private market yard and consumers' or farmers' market, i.e. *Krishak Bazar* or *Brihat Krishak Bazar* etc." shall be substituted;

(8) after clause (g), the following clause shall be inserted:—

'(ga) "marketing" means all activities involved in the flow of agricultural produce from the production points commencing from the stage of harvest till the produce reach the ultimate consumers *via* grading, processing, storage, transport, channels of distribution and all other functions involved in the process;';

(9) after clause (h), the following clauses shall be inserted:—

'(ha) "market charges" includes charges on account of or in respect of commission, brokerage, weighing, measuring, loading, unloading and carrying, cleaning, drying, sieving, stitching, stacking, hiring, gunny bags, stamping, bagging, storing, warehousing, grading, surveying, transporting and processing;

(hb) "market yard", in relation to a market area, means a specified place and includes any enclosures, buildings or locality declared, by notification, as such in any market area by the State Government;'.

(10) after clause (m), the following clauses shall be inserted:—

'(ma) "private market yard" means such place other than the market yard or sub-market yard in the market area, where infrastructure for such market yard has been developed and managed by a person holding a licence for this purpose for marketing of such agricultural produce as the State Government may, by notification, specify;

(mb) "processing" means any one or more of a series of treatments relating to powdering, crushing, decorticating, de-husking, parboiling, polishing, ginning, pressing, curing or any other manual, mechanical, chemical or physical treatment to which raw agricultural produce or its product is subjected to;

(mc) "processor" means a person who undertakes processing of any notified agricultural produce on his own account or on payment of a charge;

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(Sections 3, 4.)

(md) "producer" means a person who produces notified agriculture produce on one's own account—

(i) by one's own labour,

(ii) by the labour of any member of one family,

(iii) under the personal supervision of oneself or any member of the family by hired labour or by labour on wages payable in cash or kind.

Explanation.—For the purpose of this clause, a producers' society, farmers' society, self help groups shall be deemed to be a producer;';

(11) after clause (n), the following clause shall be inserted:—

'(na) "sale" means physical transfer of ownership of agricultural produce from one person to another person against a consideration of value, either by cash, or by valuable, or on deferred payment basis:

Provided that any transfer of stock of agriculture produce from one market area to another market area, irrespective of change of ownership falls within the definition of sale;

(nb) "seller" means a person who sells or agrees to sell any agricultural produce;

(nc) "special market" means a market notified as such and includes special commodity market;';

(12) in clause (t), after the words "preservation of agricultural produce", the words ", but does not include an agriculturist" shall be inserted;

(13) after clause (t), the following clauses shall be inserted:—

'(ta) "transportation" means taking agricultural produce by pushcart, bullock cart, truck, boat, vessel or other vehicle in course of business for marketing from one place to another;

(tb) "transporter" means a person who transports agricultural produce;';

(14) after clause (u), the following clause shall be inserted:—

'(ua) "value addition" means processing, grading, packing or other activities due to which value is added to agricultural produce;'.

Amendment of section 3.

3. In section 3 of the principal Act,—

(1) sub-section (2) shall be omitted;

(2) sub-section (3) shall be omitted.

Amendment of section 4.

4. For section 4 of the principal Act, the following section shall be substituted:—

"Principal market yards, sub-market yards, consumers' or farmers' market i.e. *Krishak Bazar* or *Brihat Krishak Bazar* etc. and private market yard.

4. (1) In every market-area, there may be—

(a) one principal market yard managed by the market committee;

(b) one or more than one sub-market yards managed by the market committee;

(c) one or more than one private market yards or private markets managed by a licensee;

(d) one or more than one farmers' or consumers'market i.e. *Krishak Bazar* or *Brihat Kriskah Bazar* etc. managed by a licensee.

The West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 2014.

(Section 5.)

(2) The State Government shall, after the issue of notification under section 3, declare any specified place including any structure, enclosure, open place, or locality in the market-area to be a principal market yard or sub-market yard, and private market yard, consumers' or farmers' market i.e. *Krishak Bazar* or *Brihat Krishak Bazar* etc., as the case may be.".

Insertion of new sections after section 4.

5. After section 4, the following sections shall be inserted:—

"Notification of intention to alter limits of or to amalgamate or to split up market areas to de-establish a market.

4A. The State Government may, by notification in the *Official Gazette*,—

(a) alter the limits of a market area by including within it any other area in the vicinity thereof or by excluding thereof any area comprised therein; or

(b) amalgamate two or more market areas and constitute one market committee thereof; or

(c) split up a market area and to constitute two or more market committees thereof; or

(d) de-establish a market; or

(e) modify the list of agricultural produce to be regulated in the market.

Explanation.—Every notification issued under this section shall define the limits of the area which is intended to be included in or excluded from a market area, or of the market area intended to be amalgamated into one, or of the area of each of the markets intended to be constituted after splitting up an existing market area or of the area of the market intended to be de-established, as the case may be, and shall also specify the period which shall not be less than six weeks within which objections, if any, shall be received by the State Government.

Establishment of private yards for direct purchase of agricultural produce from agriculturist (Direct purchasing from producer).

4B. The market committee or any authority as may be prescribed by the State Government, may grant licence to set up a private market yard for direct purchase and sale of agricultural produce for the purpose of processing, trading, exporting and importing, grading, or for making any transaction in other way by value addition, of such agricultural produce as may be notified by the State Government.

Establishment of consumers' or farmers' market i.e. *Krishak Bazar* or *Brihat Krishak Bazar* etc.

4C. (1) The consumers' or farmers' market or *Krishak Bazar* or *Brihat Krishak Bazar* etc. may be established by developing infrastructure as may be prescribed, by any person in any market area and at such place, a farmer or producer of agricultural produce himself may, sell his produce directly to the buyer in such manner as may be prescribed.

(2) A market charge shall be collected on sale of agriculture produce by the seller and shall be remitted to the licensee of the consumer market.

(3) Save as otherwise provided in this Act, no market fee shall be leviable on the transactions undertaken in the consumers' or farmers' market or *Krishak Bazar* or *Brihat Krishak Bazar* etc.

The West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 2014.

(Sections 6-8.)

(4) A licence for establishment of private market yards shall be granted by the market committee or any authority prescribed by the State Government under section 13A.''.

Insertion of new sections after section 13.

6. After section 13, the following sections shall be inserted:—

''Grant or renewal of licence of private market yard, consumers' or farmers' market.

13A. (1) Any person who desires to establish private market yard in one or more than one market area, shall apply to the prescribed authority, for grant or renewal of licence, as the case may be, in such manner and subject to such terms and conditions, as may be prescribed:

Provided that no licence is required for direct purchase of agricultural produces from the notified consumers' or farmers' market or notified *Krishak Bazar* or *Brihat Krishak Bazar* etc.

(2) The authority as mentioned in sub-section (1), shall dispose of the applications made under sub-section (1), in such manner, and subject to such conditions, as may be prescribed.

Power to cancel or suspend licence.

13B. (1) Any licence granted under this Act may, in such manner as may be prescribed, be cancelled or suspended, if such authority has reasons to belief that—

(a) the licence has been obtained through willful misrepresentation or fraud; or

(b) the licensee has violated any of the terms or conditions of licence; or

(c) the licensee has made an obstruction in the functioning of normal business of the market; or

(d) the licensee has incurred such disqualifications as may be prescribed; or

(e) the licensee is convicted of any offence any of the provisions under this Act.

(2) Any licence granted under the Act, shall not be cancelled or suspended without giving a reasonable opportunity of being heard to its holder and to show cause against such suspension or cancellation.''.

Amendment of section 17.

7. After the proviso to sub-section (1) of section 17 of the principal Act, the following proviso shall be inserted:—

''Provided further that where a licensed trader has purchased from the market areas different kinds of agricultural produces of paddy and rice of an amount exceeding rupees seventy-five crore *per annum*, the State Government may, by notification, specify the rate of such fees in respect of such licensed trader depending on the different kinds of agricultural produces of paddy and rice.''.

Amendment of section 19.

8. To sub-section (2) of section 19 of the principal Act, the following proviso shall be added:—

''Provided that all moneys received by a market committee under the second proviso to sub-section (1) of section 17, shall be credited to the Consolidated Fund of West Bengal in such manner as may be prescribed and the State Government may, if the State Legislature by appropriation made by law in this behalf so provides, credit an amount to the West Bengal Agricultural Produce Marketing Fund and all expenditure incurred by the market committee under or for the purpose of this Act shall, with the previous permission of the State Government, be defrayed out of the said fund.''.

The West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 2014.

(Sections 9-11.)

Amendment of section 20.

9. In sub-section (1A) of section 20 of the principal Act, for the words, figures and brackets ''fees referred to in sub-section (1) of section 17'', the words, figures and brackets ''fees referred to in sub-section (1) of section 17 other than fees referred to in the second proviso to sub-section (1) of the said section'' shall be substituted.

Insertion of new sections after section 20B.

10. After section 20B of the principal Act, the following sections shall be inserted:—

''Establishment of West Bengal Agricultural Produce Marketing Fund.

20C. (1) There shall be established, for the purposes of this Act, a fund to be called the West Bengal Agricultural Produce Marketing Fund.

(2) The Fund shall be under the control of the State Government and shall be credited thereto—

(a) any sum of money credited under the proviso to sub-section (2) of section 19;

(b) any sum of money credited under section 20D;

(c) any sum realised by the State Government in carrying out its functions under this Act or in the administration of this Act, if any;

(d) any fund provided by the Central Government for the regulation of marketing of agriculture produce in West Bengal.

(3) The balance to the credit of the Fund shall not lapse at the end of the financial year.

Grants and loans by the State Government.

20D. The State Government may, after due appropriation made by the State Legislature by law in this behalf, credit in the fund, by way of grants or loans, such sums of money as the State Government may consider necessary.

Maintenance of accounts.

20E. The State Government shall maintain proper accounts and other relevant records in such form, and in such manner, as may be prescribed.

Administration of West Bengal Agricultural Produce Marketing Fund.

20F. The State Government shall administer the fund and take such decisions regarding investment of the fund in the regulation of marketing of agricultural produce in West Bengal, as it considers necessary.''.

Insertion of new sections after section 35.

11. After section 35 of the principal Act, the following sections shall be inserted:—

''Appeal on the order of the market committee.

35A. (1) Any person aggrieved by an order of the Market Committee or Special Market Committee, passed under any section, except section 17A, section 17B or section 17C, of this Act, may prefer an appeal within 30 days in the manner prescribed by the State Government,—

(a) to the Director, where such order is passed by the Market Committee or Special Market Committee;

(b) to the State Government, where such order is passed by the Director or the Board.

(2) The Appellate Authority may, if it considers necessary to do so, grant a stay of the order appealed against for such period as it may deem fit.

Redressal of dispute between private market, or farmers' or consumers' market or *Krishak Bazar* or *Brihat Krishak Bazar* etc., and market committee.

35B. (1) Any dispute between the private market, or the farmers' or consumers' market or *Krishak Bazar* or *Brihat Krishak Bazar* etc., and the market committee, shall be referred to the Director, or any other officer authorised in this behalf by the State Government, for redressal of such dispute.

The West Bengal Agricultural Produce Marketing (Regulation) (Amendment) Act, 2014.

(2) The dispute so referred under sub-section (1) shall, after giving both the parties a reasonable opportunity of being heard, be decided in such manner as may be prescribed and the decision of the authority as mentioned in sub-section (1), shall be final.''.

By order of the Governor,

SIDDHARTHA CHATTOPADHYAY,
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Law Department.

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