

ESSENTIAL COMMODITIES ACT (AMENDMENT) BILL 2020 – “FOOD HOARDING FREEDOM FOR CORPORATES BILL 2020”ⁱ

The Essential Commodities Act (Amendment) Bill 2020 is listed to be [introduced in the Lok Sabha on 14th September 2020](#), and is listed for consideration and [passing on the 15th](#).

RATIONALE GIVEN BY GOVERNMENT: The ostensible reasons for the amendment are enhancing of farmers’ incomes and attracting private investment in post-harvest agricultural infrastructure in a predictable setting, which frequent ad hoc orders of ECA 1955 were apparently jeopardizing.

WHAT DOES THE BILL DO? The ECA Amendment Bill removes the supply of **all food commodities** from regulation under Essential Commodities Act, except in “extraordinary circumstances”. The price limits set for such ‘extraordinary circumstances’ are so high that they are likely to be never triggered, and even in those cases, big companies like Adanis would be exempt from any stock limits. (Details below).

ARE FARMERS INVOLVED HERE?

- Preamble says that the purpose is “enhancing income of farmers” but the EC Act was never about Farmers or their incomes. There was no restriction under ECA on Farmers or Farmer Producer Organisations (FPOs) from stocking produce and selling it.
- The restriction was on Agri-business companies and traders. Now, those restrictions are being removed for all food commodities, so it gives them to purchase and store any quantities, hence indulge in hoarding. Therefore, it should be called “Food Hoarding (Freedom for Corporates) Bill”.
- Companies like Adani-Wilmar, Reliance etc. will now have freedom to stock any amount of food commodities (this freedom was only with farmers and FPOs until now). They will build huge storage and processing facilities, and build complete market domination. This means that they will dictate terms to farmers – which is likely to lead to less prices to farmers, not more income.
- It has been established that when there is price rise in retail market, the benefit is not passed on to the farmers, but when there is a price fall, the loss is passed on to the farmers.
- For example, Adani-Wilmar imports large quantities of oils and pulses from its holdings in other countries including Africa. Adani-Wilmar is investing 350 million dollars in Bangladesh setting up food processing industry. Since there will be no limit on stocking in India, imports by Adanis from their businesses abroad can dominate Indian market in a bigger way.

GOVERNMENT WILLINGLY CURTAILING ITS POWER TO PROTECT THE INTERESTS OF MOST MARGINALISED CITIZENS VIS-À-VIS HOARDERS AND BIG BUSINESSES:

NOT FOR FARMERS, BUT FOR BIG AGRI/FOOD BUSINESSES

For Big Agri-Business

- Removal of stock limits, Removal of restrictions
- Bigger storage chains, Domination over supply & market
- Bigger doors open for importers and companies with production facilities and land in other countries such as Adanis

For Farmers

- No additional freedom due to this Act
- No change in their holding capacity (storage & finance)
- Reduces bargaining capacity including of FPOs vs. Agribusiness
- Market domination by Agribusiness may lower farmer prices
- Govt says it won’t help build farmers’ storage & processing capacity, it leaves everything to big agribusiness companies

- ❖ There used to be **several regulatory tools** with the earlier version of ECA, with the government – licensing, price control, compulsory licensing, stocking, information collection and produce for inspection records, entry/search/examination of premises and seizure etc. All of this is being thrown away now.
- ❖ Now, food stuffs’ supply regulation only under ‘**Extraordinary circumstances**’ – war, famine, extraordinary price rise, natural calamity of grave nature and that too of only Stock limit imposition based only on a certain price rise now – only when there is 100% rise in retail price of horticultural produce or 50% rise in retail price of non-perishable food stuffs. What has not been specified is which price and where, as well as when and how such data will be maintained when reference is now to “*Price prevailing in preceding 12 months or Average retail price of last five years*”.
- ❖ Even within the very limited purview of regulatory authority kept for food stuffs now, exemptions have been given. The **non-applicability of the regulation** is to processors and value chain participants within their installed capacity of processing, or demand for export. It is of course not clear how export demand will be scrutinized and confirmed if fake indents are produced.
- ❖ There is a big concern around **invisibilising of stocks** in the country of different food stuffs for policy action. Further, there are different regulatory regimes applicable between registered warehouses and private players now. The implications for trade and food support policies are apparent, when the government does not have information on food stocks and where they exist, whether they exist, in what quantities etc.

WHAT THE GOVERNMENT OUGHT TO HAVE DONE

- State the objective accurately and transparently, that this is about enhancing investments in post-harvest infrastructure in food supply chains of India and not draw in unverified and unrelated claims about enhancing farmers’ incomes.
- Ensure that the ‘extra-ordinary circumstances’ which allow for regulation cover other situations too and not just the four listed, especially to ensure that non-competitive behaviour of any buyer is also considered an extra-ordinary circumstance, just as “unreasonable and unusual hoarding” should also be considered as one! How can regulatory obligation of the state on these matters be abdicated?
- Ensure that various tools of regulation are available and not just imposition of stock limits (price control, compulsory selling, movement control, regulating certain classes of commercial and financial transactions etc.). This is so that the interests of the weakest citizens can be protected.
- Ensure that the price triggers that allow regulation to take place are specific to a locality, and of a lower range of price increase so that they are actually relevant for the objective.
- Ensure that regulatory powers are differential based on the existing infrastructure in a given locality which means that district level mapping or something needs to be taken up for such a differential and nuanced approach to take place in a locality.
- Ensure that regulatory authority is backed by adequate intelligence, based on imposition of mandatory maintenance of certain records and submission of the same to the government in online and offline ways, especially of real-time stock position of food stuffs all over the country.

ⁱ This is what the Bill in effect is about, and therefore, we have chosen to rename it as such.