

THE ANDHRA PRADESH GAZETTE

Part IV - B Extraordinary

Published by Authority

No.36]

Hyderabad, Thursday, August 16, 2007

Andhra Pradesh Acts, Ordinances and Regulations Etc.

The following Act of the Andhra Pradesh Legislature received the assent of the Governor on the 14th August, 2007 and the said assent is hereby first published on the 16th August, 2007 in the Andhra Pradesh Gazette for general information:-

ACT No.29 of 2007

An Act to Regulate the Supply, Distribution, Sale and Fixation of Sale Price of cotton seeds and for the matters connected therewith or incidental thereto.

Whereas, cotton seeds of certain varieties are not notified under section 5 and consequently no sale of such seeds are regulated under section 7 of the Seeds Act, 1966;

And whereas, cotton seed is not an essential commodity within the meaning of the Essential Commodities Act, 1955 as amended by the Essential Commodities (Amendment) Act, 2006;

And whereas, the provisions of the Seeds (Control) Order, 1983 issued under section 3 of the Essential Commodities Act, 1955 are not applicable in so far as they relate to the cotton seeds w.e.f. 12.2.2007;

And whereas, there is no provision in the Environmental

Protection Act, 1986 to regulate the supply, distribution and sale of transgenic and genetically modified cotton seed and to control the sale price of such cotton seed in the State;

And whereas, the traders in cotton seed including transgenic cotton seed are exploiting poor farmers by collecting exorbitant prices;

And whereas, there is no provision to regulate the supply, distribution, sale of cotton seeds and to control the sale prices of such cotton seeds in the State;

And whereas, it has become imperative on the part of the State to regulate the supply, distribution and sale of cotton seeds by fixing the sale price in the interests of the farmers in the State;

Be it enacted by the Legislature of the State of Andhra Pradesh in the Fifty-eighth Year of the Republic of India as follows :-

Short title and commencement

1. (1) This Act may be called the Andhra Pradesh Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of sale Price) Act, 2007.

(2) It shall be deemed to have come into force on and from the 28th June, 2007.

Definitions

2. In this Act, unless the context otherwise requires,-

(1) "Agronomic Performance" means distinguishable agronomic qualitative and quantitative characteristics of any cotton seed variety considered for evaluation of performance as claimed by the producer on label;

(2) "Controller" means the Cotton Seed Controller appointed by the Government under section 3;

(3) "Cotton Seed" means cotton seed of any variety and includes transgenic and genetically modified cotton seed varieties used for sowing;

(4) "Farmer" means any person who raises cotton crops either by cultivating the land by himself or through any other person but

shall not include persons, companies, traders, dealers who engage in the commercial procurement and sale of seeds;

(5) "Government" means the State Government;

(6) "Misbranded" the seed shall be deemed to be misbranded,-

(i) If it is a substitute for or resembles in a manner likely to deceive, another variety of seed under the name of which it is sold, and is not plainly and conspicuously labeled so as to indicate its true nature;

(ii) If it is falsely stated to be the produce of any place or Country;

(iii) If it is sold by a name which belongs to another kind or variety of seed;

(iv) If false claims are made for it upon the label or otherwise;

(v) if, when sold in a package which has been sealed or prepared by or at the instance, of the dealer and which bears his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this Act;

(vi) If the package containing it or the label on the package bears any statement, design or device regarding the quality of cotton seed contained therein, which is false or misleading in any material particular or if the package is otherwise deceptive with respect of its contents;

(vii) If it is not registered in the manner required by or under this Act; or

(viii) If its label does not contain a warning or caution which may be necessary, and sufficient, if complied with, to prevent risk to human beings or animals; or

(ix) If the package containing it or the label on the package bears the name of a fictitious individual or company as the dealer of the kind or variety; or

- (x) If it is not labeled in accordance with the requirements of this Act or rules made there under;
- (7) "notification" means a notification published in the Andhra Pradesh Gazette and the word 'notified' shall be construed accordingly;
- (8) "prescribed" means prescribed by rules made under this Act;
- (9) "producer" means a person, group of persons, firm or company or organisation who grows or organises the production of cotton seed;
- (10) "spurious seed" means that which is not genuine or true to its type;
- (11) "State" means the State of Andhra Pradesh;
- (12) "State Referral Seed Testing Laboratory" means a laboratory established or declared as notified by the State;
- (13) "substandard" means cotton seed which does not meet the prescribed seed standards for the cotton seed;
- (14) "Transgenic variety" means seed or planting material synthesized or developed by modifying or altering the genetic composition by means of genetic engineering;
- (15) "Variety" means a plant grouping except micro organism within a single botanical taxon of the lowest known rank, which can be,-
- (i) defined by the expression of the characteristics resulting from a given genotype of that plant grouping;
 - (ii) distinguished from any other plant grouping by expression of atleast one of the said characteristics; and
 - (iii) considered as. a unit with regard to its suitability for being propagated, which remains unchanged after such propagation and includes propagating material of such variety, extant variety, transgenic variety, farmers' variety and essentially derived variety.

(16) The words and expressions used in this Act but not defined shall have the same meaning assigned to them in the Seeds Act, 1966, the Essential Commodities Act, 1955, the Seeds (Control) Order, 1983, issued thereunder and the Environmental Protection Act, 1986.

Appointment of Controller

3. The State Government may, by notification appoint any authority, dealing with the subject to be the Cotton Seeds Controller, for the State.

Powers of Controller

4. (1) Subject to the control of the State Government, the controller, so far as it appears to him to be necessary or expedient for regulating, maintaining or increasing the supply or distribution or sale of Cotton Seeds, may, by order in writing.

(a) require any person holding stock of cotton seed to sell the whole or specified Part thereof at such prices as may be fixed by the Government from time to time and to such persons in such circumstances as may be specified in the order.

(b) require any person engaged in the supply, distribution and sale of Cotton Seeds to comply with such directions as may be specified in the order as to the variety, quality or quantity of the Cotton Seeds to be sold or delivered by him from time to time.

(2) Any person to whom an order is issued under sub-section (1) shall comply with such order, notwithstanding anything inconsistent therewith contained in any contract or other instrument to which he is a party.

Functions of Controller

5. (1) The Controller appointed under this Act shall perform the following functions :-

(a) mandatory registration of cotton seed firms which are engaged in trade of cotton seed duly indicating the production aspects and areas of operation etc.,

(b) Payment of compensation to the farmers;

(2) The Controller shall advice the State Government on matters

relating to,-

- (i) regulations of sale of cotton seed by way of compulsory DNA fingerprinting test or genetic purity test and
- (ii) such other matters as assigned by the Government.

State Seed Testing Laboratory

6. The Government may in consultation with Controller and by notification,-

- (a) establish one or more State Seed Testing Laboratories or declare any seed testing laboratory in the Government or non-Government sector as a State Seed Testing Laboratory where analysis of cotton seed shall be carried out under this Act in the prescribed manner;
- (b) Recognizes one or more seed testing laboratories as referral seed testing laboratories for the purpose of referral analysis in the manner prescribed.

Compensation to farmer

7. (1) The producer or distributor or vendor of cotton seeds or whose address appears on the label shall as the case may be disclose the expected performance of such seed, under given condition to the Controller and if such seed fails to provide the expected performance under such given conditions the Government or farmer may claim compensation in such manner as may be prescribed. In respect of transgenic seed all the conditions that are imposed by Genetic Engineering Approval Committee, has to be complied.

(2) In case the claim of expected performance found fictitious, the possessor of such cotton seed shall be responsible for payment of all such claims related to agronomic performance as specified in sub-section (1);

(3) The compensation payable under subsection (1) and (2) shall be assessed and fixed by the Committee appointed for each agro-climatic zone separately, consisting of crop experts and representatives of the Government as may be notified.

Seed Inspector

8. (1) The Government may, by notification, appoint such persons as it thinks fit, to be Seed Inspector and specify the areas within which he shall exercise jurisdiction.

(2) The Seed Inspector, if he has information that any person dealing in trade of Cotton Seed, has contravened any of the conditions issued by the Controller, or suspecting the quality of the Cotton Seed or any person about to commit offence in respect of Cotton Seed, he shall enter, search of any premises and draw samples and detain or seize the stock of Cotton Seed and records and after receiving the reports of Seed Analyst, shall take all further action as specified in the Act.

(3) Every Seed Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 and shall be officially subordinate to such authority as the Government may specify in this behalf.

Seed Analyst

9. The Government may, by notification, appoint such person as it thinks fit, to be the seed Analyst and specify the areas within which he shall exercise his jurisdiction.

Report of Seed Analyst

10. (1) The Seed Analyst shall, as soon as may be after the receipt of the sample from the Seed Inspector, analyze the sample at the State Seed Laboratory and furnish a report on the result of the analysis to the seed Inspector.

(2) The Laboratory to which a sample has been sent by a Seed Inspector for analysis shall send the analysis report to the concerned Seed Inspector within thirty days from the date of receipt of the sample to the laboratory.

(3) The Seed Inspector may, on the basis of the report of the Seed Analyst under sub-section (1) institute proceedings for the prosecution of the producer or vendor, as the case may be of the said seed.

(4) After institution of Prosecution under this Act, the accused vendor or the complainant may as the case may be on payment of the prescribed fee, make an application to the court for sending any of the sample retained with seed inspector or vendor as per discretion of Magistrate to any of the referral Laboratory as may be prescribed under section 6 of the act, for its report, the court shall first ascertain the mark or seal or fastening as prescribed or intact. On receipt of the application, the Court may dispatch the sample under its own seal to any of the referral Laboratory specified for the purpose, which shall there upon send its report to the Court in the prescribed form, specifying the result of the analysis within a period of thirty days from the date of receipt of sample.

(5) The report sent by the referral laboratory under sub-section (4) shall supercede the report given by the Seed Analyst under sub-section (1).

(6) The report sent by the referral Laboratory under sub-section (3) is produced in any proceedings, it shall not be necessary to produce any such proceedings of any sample or part thereof taken for analysis.

Direction to price fixing

11. The Government after taking into consideration of costs of production etc., including trait value wherever necessary obtained from various agencies concerned, may fix maximum sale price from time to time of all types of cotton seed every year.

Penalties

12. (1) If any person contravenes any order issued to him by the controller under section 4, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to rupees five thousand or with both.

(2) If any person commits any act of misbranding, sale of spurious and substandard seed shall be punishable with imprisonment for

a term which may extend to three years or with fine which may extend to rupees Five thousand or with both.

**Offences
by
companies**

13. If the person contravening any order issued by the Controller under section 4 is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

**Cognizance
by offences**

14. No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by the Controller or any other authority authorised by him.

**Protection
of action
taken in
good faith**

15. (1) No suit, prosecution or other legal proceedings shall lie against any person (including the Controller) for anything which is in good faith done or intended to be done in pursuance of any order issued under section 4.

(2) No suit or other legal proceedings shall lie against the State Government, the Controller or any other person, in respect of any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order issued under section 4.

Appeal

16. (1) Any person aggrieved by a decision of the Controller under section 4 or section 5 may, within thirty days from the date on which the decision is communicated to him and on payment of such fees as may be prescribed, prefer an appeal to such authority as may be specified by the State Government in this behalf;

Provided that the appellate authority may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under subsection (l), the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(3) Every order of the appellate authority under this section shall be final.

**Forfeiture
of property**

17. When any person has been convicted under this Act for the contravention of any of the provisions of this Act or the rules made thereunder, the cotton seed in respect of which the contravention has been committed may be forfeited to the Government.

**Power to give
directions**

18. The Government may give such directions as may appear to it to be necessary for carrying into execution in the State any of the provisions of this Act or of any rule made thereunder.

Exemption

19. Nothing in this Act shall apply to any cotton seed grown by a farmer and sold or delivered by him on his own premises directly to another farmer for being used by that farmer for the purpose of sowing.

**Power to
make rules**

20. (1) The Government may by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall immediately after it is made, be laid before each House of the state Legislature if it is in session and if it is not in session in the session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which, it is so laid or the session immediately following, both Houses agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified in the Andhra Pradesh Gazette, have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that

Guidelines for interpretation of Act

Repeal of Ordinance No.4 of 2007

rule.

21. The explanatory statement to this Act shall constitute the guidelines for the interpretation and implementation of this Act.

22. The Andhra Pradesh Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Ordinance, 2007 is hereby repealed.

EXPLANATORY STATEMENT

The provisions of the Seeds Act, 1966 (Central Act 54 of 66) in its application to the State of Andhra Pradesh regulate the quality of seed in respect of notified varieties. For the past few years, in view of substantial change of pattern of agriculture particularly in usage of seed, the said provisions are found to be inadequate for enforcement in respect of quality of cotton seed and regulation of trade of non-notified cotton varieties, research hybrid varieties etc., as a result the entire economy of farmers is affected.

By the recent amendment of Essential Commodities Act; 1955, cotton seed is deleted from the Schedule of the Act. The Environmental Protection Act, 1986, the rules, 1986 and the Rules for Manufacture, Use/Import/Export and Storage of Hazardous Micro Organisms! Genetically Engineered Organism or Cells, 1989 deals with only biosafety aspects of transgenic cotton seed: The traders who are dealing in cotton seed including transgenic cotton seed have been resorting to dubious methods and exploitation of poor farmers, particularly in respect of scarce type of cotton seed, causing unjustified burden towards seed cost which is essential and vital input in the process of agriculture, which lead the several farmers into debt trap, and some times leading to suicides also. The multinational companies are taking undue advantage of their monopoly in respect of scarce type of cotton seed.

Article 39(b) of the Constitution of India enjoins the State to make suitable statutory prescriptions, so as to make available the

commodities essential to the citizens at fair price. Therefore, in the interest of farming fraternity and to have free flow of supply, equi-distribution and price of all kinds of cotton seeds including transgenic cotton seeds and to protect the farmers economy, it is expedient and necessary that there is every need to bring a Cotton Seed Regulation law in consonance with National Seed Policy, 2002.

Salient features of Act:

To constitute and appoint a controller at the State level.

To notify the seed testing laboratories;

To curtail the supply of spurious or inferior quality of seed.

To evolve an effective regulatory system which will enable effective quality assurance, supply, distribution and at fair price.

To provide punishments in the event of violations of the provisions of the Act.

To provide adequate mechanism to pay compensation to the farmers in the event of supply of inferior quality of cotton seed.

To bring regulatory mechanism for regulation of trade of transgenic and genetically modified varieties by way of compulsory DNA Fingerprinting tests or genetic purity test. Mandatory registration of all types of cotton seed produced in the State or imported to the State.

V. SURIAPPA RAO,
Secretary to Government,
Legislative Affairs & Justice, (i/c.)
Law Department.