



महाराष्ट्र शासन राजपत्र

असाधारण
प्राधिकृत प्रकाशन

शुक्रवार, ऑगस्ट २२, २००८/श्रावण ३१, शके १९३०

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Cotton Seeds (Regulation of supply, distribution, sale and fixation of sale price) Ordinance, 2008 (Mah. Ord. V of 2008), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

M. N. GILANI,
Principal Secretary and R.L.A.
to Government,
Law and Judiciary Department.

[Translation in English of the Maharashtra Cotton Seeds (Regulation of supply, distribution, sale and fixation of sale price) Ordinance, 2008 (Mah. Ord. V of 2008), published under the authority of the Governor.]

AGRICULTURE, ANIMAL HUSBANDRY, DAIRY DEVELOPMENT AND FISHERIES DEPARTMENT

Mantralaya, Mumbai 400 032, Dated the 22nd August 2008.

MAHARASHTRA ORDINANCE No. V OF 2008.

AN ORDINANCE

*to regulate the supply, distribution, sale and fixation of
sale price of cotton seeds and for the matters connected
therewith or incidental thereto.*

WHEREAS the Governor of Maharashtra had promulgated the Maharashtra Cotton Seeds (Regulation of supply, distribution, sale and fixation of sale price) Ordinance, 2008, on the 23rd May 2008 (hereinafter referred to as "the said Ordinance");

Mah.
Ord.
III of
2008

AND WHEREAS upon the re-assembly of the State Legislature on the 16th July 2008, a Bill for converting the said Ordinance into an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly as L. A. Bill No. XXXIV of 2008, on the 21st July 2008 ;

AND WHEREAS the said Bill could not be passed by the State Legislature, as the session of the State Legislature was prorogued on the 26th July 2008 ;

AND WHEREAS as provided by article 213(2)(a) of the Constitution of India, the said Ordinance shall cease to operate at the expiration of six weeks from the re-assembly of the State Legislature ;

AND WHEREAS it is considered expedient to continue the operation of the provisions of the said Ordinance ;

AND WHEREAS both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance, for the purposes hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

Short title
and com-
mencement.

1. (1) This Ordinance may be called the Maharashtra Cotton Seeds (Regulation of supply, distribution, sale and fixation of sale price) Ordinance, 2008.

(2) It shall be deemed to have come into force on the 23rd May 2008.

Definitions.

2. (1) In this Ordinance, unless the context otherwise requires,—

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

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

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

(iv) "farmer" means any person who raises cotton crops either by cultivating the land by himself or through any other person but shall not include a person engaged in the commercial procurement and sale of cotton seeds ;

(v) "Government" means the Government of Maharashtra ;

(vi) "prescribed" means prescribed by rules made under this Ordinance ;

(vii) "producer" means a person, group of persons, firm or company or organisation who grows or organizes the production of cotton seed ;

(viii) "spurious seed", in relation to the cotton seed, means that seed which is not genuine or true to its type ;

(ix) "Referral Seed Testing Laboratory" means a laboratory established or declared as notified by the Government of India ;

(x) "substandard seed" means cotton seed which does not meet the prescribed seed standards for the cotton seed ;

(xi) "transgenic variety" means seed or planting material synthesized or developed by modifying or altering the genetic composition by means of genetic engineering ;

(xii) "variety" means a plant grouping except micro-organism within a single botanical taxon of the lowest known rank, which can be,—

(a) defined by the expression of the characteristics resulting from a given genotype of that plant grouping ;

(b) distinguished from any other plant grouping by expression of at least one of the said characteristics ; and

(c) 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.

54 of 1966. 10 of 1955. 29 of 1986. (2) Words and expressions used but not defined herein shall have the meanings respectively assigned to them in the Seeds Act, 1966, the Essential Commodities Act, 1955, the Seeds (Control) Order, 1983 and the Environment (Protection) Act, 1986.

3. The State Government may, by notification in the *Official Gazette*, appoint an Officer, possessing such qualifications as may be prescribed, to be the Controller. Appointment of Controller.

4. (1) Subject to the control of the State Government, the Controller, if 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, require any person,— Powers of Controller.

(i) holding stock of cotton seed, to sell the whole or specified part thereof at such prices as may be fixed by the State Government, by publication of notification in the *Official Gazette*, from time to time, and to such persons in such circumstances as may be specified in the notification ;

(ii) engaged in the supply, distribution and sale of cotton seeds, to comply with the directions, as may be specified in the notification, as to the variety, quality or quantity of the cotton seeds to be sold or delivered by him.

(2) The Controller shall determine the compensation payable for sale of misbranded or spurious or substandard seed, in such manner, as may be prescribed.

(3) Notwithstanding anything contained in any contract or instrument to the contrary, every person to whom an order is issued under sub-section (1) shall comply with such order.

Functions of
Controller.

5. (1) The Controller shall register the persons engaged in the trade of cotton seeds in the State and make necessary arrangements for payment of compensation to farmers.

(2) The Controller shall advise the State Government on the following matters, namely :—

(i) regulation of sale of cotton seed by way of compulsory DNA fingerprinting test or genetic purity test ;

(ii) any other matter referred to him for advice by the Government.

(3) In the discharge of its functions, the Controller shall be assisted by the Seed Inspectors, Seed Analysts and such other officers as the State Government may, by order, direct.

State Seed
Testing
Laboratory.

6. The State Government may, after consultation with the Controller and by publication of notification in the *Official Gazette*,—

(i) for the purpose of carrying out analysis of cotton seed, 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 ;

(ii) for the purpose of referral analysis, may recognize one or more seed testing laboratories as Referral Seed Testing Laboratories.

Seed
Inspector.

7. (1) The State Government may, by publication of notification in the *Official Gazette*, appoint persons possessing the prescribed qualifications, to be the Seed Inspectors and specify the local areas within which they shall exercise jurisdiction.

(2) The Seed Inspector, if he has reason to believe that any person dealing in trade of cotton seed has contravened any of the directions issued by the Controller, or that the quality of the cotton seed supplied by such person is of suspicious nature or that any person is about to commit an offence in respect of cotton seed, shall enter and search any premises and draw samples and detain or seize the stock of cotton seed and records and after receiving the report of Seed Analyst, shall take all further action as specified in this Ordinance.

(3) When a sample has been taken by the Seed Inspector, he shall forward one seed sample to the Seed Analyst for analysis and hand over another sealed sample, in the prescribed manner, to the person from whom it was taken.

8. The State Government may, by notification in the *Official Gazette*, appoint persons, possessing the prescribed qualifications, to be the Seed Analysts and specify the local areas within which they shall exercise their jurisdiction. Seed Analysts.

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

(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 Ordinance, the accused vendor or the complainant, as the case may be, on payment of the prescribed fee, may make an application to the Court, for sending any of the sample retained with the Seed Inspector or vendor to any of the Referral Seed Testing Laboratory prescribed under section 6 of the Ordinance, for the analysis. The Court shall first ascertain that the mark or seal or fastening, as prescribed is intact. On receipt of the application, the Court may dispatch the sample under its own seal to any of the Referral Seed Testing Laboratory specified for the purpose, which shall, thereupon, within a period of thirty days from the date of receipt of sample, send its report to the Court, in the prescribed form.

(5) The report sent by the Referral Seed Testing Laboratory under sub-section (4) shall supersede the report given by the Seed Analyst under sub-section (1).

10. (1) The Government, after taking into consideration the costs of production, etc., including trait value, wherever necessary, obtained from various agencies concerned, may fix, from time to time, the maximum sale price of all types of cotton seeds. Fixation of maximum sale price.

(2) Every such price shall be published in the *Official Gazette* and shall be effective from such date as may be specified therein.

11. (1) Every person desirous of conducting the business of sale in cotton seeds shall apply to the Controller for grant of licence in such form as may be prescribed. License for vendor.

(2) Such application shall be accompanied by such fees and such other documents, as may be prescribed.

(3) The Controller shall, after making such enquiry as he deems fit, either allow the application or reject it.

(4) If the Controller allows the application, he shall grant the licence to conduct the business of sale in cotton seeds, on such terms and conditions and in such form, as may be prescribed.

Prohibition of misbranding. 12. (1) No person shall sale or keep in his possession for sale, any cotton seed which is misbranded.

(2) For the purposes of sub-section (1) of this section, cotton seed shall be deemed to be misbranded, if,—

(a) 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 ;

(b) it is falsely stated to be the produce of any place or country ;

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

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

(e) it is 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 Ordinance ;

(f) 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 ;

(g) it is not registered in the manner required by or under this Ordinance ;

(h) 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 ;

(i) 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

(j) the package is not labeled in accordance with the requirements of this Ordinance or rules made thereunder.

Penalties. 13. (1) Any person who contravenes any order issued to him by the Controller under section 4, 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 amounting to sale of misbranding, or of spurious or of substandard seed, then 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.

(3) Any person who sells the cotton seed at the price in excess of the maximum price fixed under section 10 shall be punishable with a fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees.

14. (1) Where an offence under this Ordinance has been committed by a company, every person who, at the time the offence was committed, was in charge of, or was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Offences by companies.

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment under this Ordinance, if he proves that the offence was committed without his knowledge and that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means a body corporate and includes firm, association of persons or body of individuals whether incorporated or not ;

(b) “director”, in relation to firm, means a partner in the firm, and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

15. No Court shall take cognizance of an offence punishable under this Ordinance except upon a complaint, in writing, made by the Controller or any other officer authorised by him for this purpose.

Cognizance of offences.

16. No suit, prosecution or other legal proceedings shall lie against any authority or person for anything done or purported to have been done in good faith, in pursuance of the provisions of this Ordinance or the rules made thereunder.

Protection of action taken in good faith.

17. The Controller, every Seed Inspector, every Seed Analyst and every other person assisting the Controller, Seed Inspector or Seed Analyst, in pursuance of the provisions of this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Officers to be public servants.

45 of 1860.

18. (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 the Commissioner, Agriculture, Maharashtra State :

Appeals.

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 sub-section (1), 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. 19. When any person has been convicted under this Ordinance for the contravention of any of the provisions of this Ordinance 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. 20. The Government may give such directions to the Controller, Seed Inspector and Seed Analyst as may appear to it to be necessary for carrying into execution in the State any of the provisions of this Ordinance or of any rules made thereunder.

Exemption. 21. Nothing in this Ordinance 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. 22. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules to carry out the purposes of this Ordinance.

(2) Every rule made under this Ordinance shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry 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 both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such decision in the *Official Gazette*, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Power to remove difficulty. 23. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Ordinance, which appears to it to be necessary or expedient for removing the difficulty.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Mah. Ord. III of 2008. **24.** (1) The Maharashtra Cotton Seeds (Regulation of supply, distribution, sale and fixation of sale price) Ordinance, 2008, is hereby withdrawn.

Repeal by withdrawal of Mah. Ord. III of 2008 and saving.

(2) Notwithstanding such withdrawal, anything done or any action taken (including any notification or order issued) under the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Ordinance.

STATEMENT

The provisions of the Seeds Act, 1966 (Central Act No. 54 of 1966) regulate the quality of notified varieties of seeds for sale. For the past few years, in view of substantial changes in the pattern of agriculture, particularly in usage of seed, the said provisions were 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.

2. By the recent amendment of the Essential Commodities Act, 1955, cotton seed is deleted from the Schedule to the said Act. The Environment (Protection) Act, 1986, and the Rules for Manufacture, Use/Import/Export and Storage of Hazardous Micro Organisms/ Genetically Engineered Organism or Cells, 1989 deals with only bio-safety 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 on the farmers towards seed cost which is essential and vital input in the process of agriculture, thereby leading several farmers into debt trap.

3. In the circumstances, it had become imperative on the part of the State to regulate the supply, distribution and sale of cotton seeds, not regulated by the Seeds Act, 1966, by fixing the maximum sale price, in the interest of the farmers in the State.

4. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a special law for the purposes aforesaid, the Maharashtra Cotton Seeds (Regulation of supply, distribution, sale and fixation of sale price) Ordinance, 2008 (Mah. Ord. III of 2008), was promulgated by the Governor of Maharashtra on the 23rd May 2008.

5. Thereafter, upon re-assembly of the State Legislature on the 16th July 2008, a Bill to convert the said Ordinance into an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly as L. A. Bill No. XXXIV of 2008, on the 21st July 2008. However, the said Bill could not be passed, as the session of the State Legislature was prorogued on the 26th July 2008. As the said Ordinance would cease to operate at the expiration of six weeks from the re-assembly of the State Legislature, that is after the 26th August 2008, the Government considers it expedient to continue the operation of the provisions of the said Ordinance.

6. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the operation of the provisions of the Maharashtra Cotton Seeds (Regulation of supply, distribution, sale and fixation of sale price) Ordinance, 2008 (Mah. Ord. III of 2008), this Ordinance is promulgated.

Mumbai,
Dated the 22nd August 2008.

S. C. JAMIR,
Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

N. B. PATIL,
Principal Secretary to Government.