
CONSTRUING THE ESSENTIAL COMMODITIES ACT, 1955

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ABSTRACT

Currently, everyone's existence is reliant on a few essential things that they use on a daily basis. These items are required to live a normal existence. As a result, the availability and cost of such things have a substantial influence on the general public's well-being. As a result, the Vital Commodities Act of 1955 regulates the pricing, production, demand, and supply of essential items. In this paper the authors have made a humble attempt to decipher the Essential Commodities Act, 1955 and also the recent ordinance of 2020.

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The Proem

Today, every person's existence is dependent on a few basic goods that they utilise on a daily basis. These items are necessary for sustaining a regular life. Thus, the availability and pricing of such items have a significant impact on the general public's livelihood. As a result, the Essential Commodities Act, 1955, plays a significant role in regulating the pricing, production, demand, and supply of essential products.

The origins of this Act date all the way back to 1939, when the Government of India enacted rules governing the control, production, supply, and distribution of specified commodities under the Defence of India Act, 1939, during World War II.

The Act was repealed in 1946. However, it was determined that certain laws are required immediately to preserve certain critical commodities in the public interest. As a result, the 1946 Essential Supplies (Temporary Powers) Ordinance was repealed and replaced by the 1946 Essential Supplies (Temporary Powers) Act.

The terms of this Act were later expanded in 1948 and 1949 by two General Assembly resolutions. Following independence, the third Constitutional Amendment enacted the first Essential Commodities Ordinance, which was later superseded by the current Act, The Essential Commodities Act, 1955.

This Act is applicable across India. The Act was designed to guarantee consumers have access to vital commodities and to safeguard them from unscrupulous sellers. As such, the Act contains laws governing the regulation and control of the production, pricing, and distribution of basic commodities.

This Act has two primary objectives:-

- 1) To ensure the continued availability of these essential commodities, and
- 2) To ensure equal distribution and access to these essential commodities.

The Important Vignettes

- ***Essential Commodity:***

Essential commodities are defined in the Essential Commodities Act as any commodity

mentioned in the schedule. Thus, the schedule specifies the following seven commodities:

- 1) Drugs (in the same sense as described in Section 3(b) of the 1940 Drugs and Cosmetics Act);
- 2) Fertilizers, whether organic, inorganic, or a combination of the two;
- 3) Food products, such as edible oils and seeds;
- 4) 100% cotton hank yarn;
- 5) Petroleum and petroleum-related items;
- 6) Jute, whether raw or in textile form;
- 7) Seeds of fruits and vegetables, feed for livestock, or jute.

- **Collector:**

The Collector is defined in the Act as an Additional Collector or any other officer not below the rank of the sub-divisional officer who is allowed by the Collector to exercise the Collector's duties and functions.

- **Notified Order:**

This means an order which is notified in the Official Gazette.

- **Sugar:**

According to the Act, the term "sugar" refers to any kind of sugar that comprises more than 90% sucrose, such as sugar candy, khandsari sugar, bura sugar, crushed sugar, crystallised or powdered sugar, or sugar that has been processed in a factory or is raw produce.

- **Foodstuff:**

The term "foodstuff" is not defined anywhere in the Act. However, the reach of this phrase has been expanded through a variety of cases, including the following:

- 1) *Satpal Gupta v. State of Haryana*³- It was established in this case that cow

³ AIR 1982 SC 798.

and poultry foods are included within the definition of 'foodstuff'. As a result, it finds that the meal is both human and animal-related.

- 2) *State of Bombay v. Virkumar Gulab Chand Shah*⁴- It was established in this case that foodstuffs include raw materials, items employed in the manufacturing process, and items used in the preparation of food. As a result, turmeric has been classified as a food.
- 3) *S.Samuel, M.D., Harrisons v. Union of India*⁵- In this case, it was determined that tea is not a food but a stimulant. It is not utilised in the preparation of food and contains no nutritional value, but in common language, when someone drinks tea, they do not consider it to be food.

Powers Conferred By Section 3 of the Act To The Government

1) Power To Notify The Essential Commodity -

The Central Government exercises this authority on a periodic basis, adding and removing commodities from the schedule in the public interest. However, the commodities upon which such powers are exercised must be specified in entry 33, list 111 of the constitution's seventh schedule.

2) Power To Issue Control Order –

Under this Act, the Central Government has the power to issue control orders. Such orders provide for regulation and ban of vital items scheduled in one of the following circumstances:

- When the government finds that it is necessary and expedient to perform in favour of the general public.
- When they have to assure equitable distribution and availability of these commodities in the market.
- When they have to procure any specific commodity for the Defence of India.

⁴ AIR 1952 SC 335.

⁵ 2004 SSC 256.

The Desideratum Of Passing Control Orders

- To regulate by license, permit or otherwise.
- To bring under cultivation of any wasteland or arable land.
- To control the buying and selling price of any essential commodity.
- To determine entry, search, examine, seizure of any essential commodities.
- To require any person to do specific works.
- To regulate or prohibit any class of commercial and financial transactions.

The Prolegomenon Of Section 3A Of The Act

When deemed necessary to maintain control of an emergency situation, the Central Government may issue a notification governing the selling price of any food item in any locality.

The price of such food-stuff would be determined according to the following rule:

- If the foodstuff constantly falls under the category of controlled price and the parties have already agreed upon it then the price is calculated according to that agreement.
- If there is no such agreement related to the foodstuff can be reached then the price is calculated with reference to the controlled price.
- When there is a situation where condition 1 and condition 2 do not apply then the price of such foodstuff is calculated according to the average market rate prevailing in the locality.

The notification issued under this Section shall remain in force for 3 months only.

Section 6A: Seizure & Confiscation

This section discusses the collector's authority to confiscate or seize any important commodity. The collector may issue orders to seize any package, covering, or container in which the commodity was packaged, as well as any animal, vehicle, or other conveyance of the item.

However, no order of confiscation will be issued against any individual who produces such food grains or consumables.

Additionally, when an order of seizure and confiscation is issued for an animal, vessel, vehicle,

or other conveyance owned or rented by the owner, the offender must be given the option of paying a fine in lieu of such seizure or confiscation, provided that the fine imposed does not exceed the market price of the commodity sought to be transported by such conveyance.

Offences

- **Cognizance of Offences (Section 10A and Section 11) –**

According to these sections, notwithstanding anything stated in the CrPc, every offence punished under this Act is cognizable, however the Court shall not take cognizance of any such offence unless a public official as defined in Section 21 of the Indian Penal Code makes a report.

- **Burden of proof in certain cases (Section 14)-**

Under this Act, it is said that the burden of proof shall always lie upon the person who possesses any essential commodity without having any lawful authority or permit or license.

- **Prosecution of action taken under the Act (Section 15)-**

This section provides that no prosecution or proceeding shall be instituted against the person who acted in good faith or in pursuance of the order made under Section 3.

- **Cognizance of offences against the public servants (Section 15A)-**

When any public servant alleged to have committed any offence while discharging of his duty given under Section 3 of this Act, In that case, the Court of law can take cognizance, only after taking sanction from the Central Government, or state government under whose authority such a person is employed.

The 2020 Ordinance

As the Union government unveiled sweeping measures as part of its new coronavirus disease (COVID-19) alleviation package, emphasis focused on three agriculture sector laws dealing with farmer trade, contract farming, and amendments to the Essential Commodities Act.

While each of the three ordinances has far-reaching legal and socioeconomic ramifications, this blog will focus on the Essential Commodities (Amendment) Ordinance, 2020.

Alauddin Khilji recognised the value of stockpiling food grains in times of crisis more than 700 years ago, when he needed to maintain a huge army in the face of a threatening Mongol

invasion. He guaranteed a regular supply of food grains and established storage facilities. The market was regulated and the price was fixed.

The Centre notified an Amendment Ordinance on June 5, 2020. A new sub-section 1A in Section 3 of the act established that control orders — relating to the supply of particular food stuffs — may be issued only in extreme situations, which may include war, famine, an unusual price increase, or a natural calamity of grave nature.

A regulation limiting the stock of any agricultural produce may be imposed only if the following conditions exist:

- 1.) A complete increase in the retail price of horticulture produce; or
- 2.) A 50% increase in the retail price of non-perishable agricultural food items over the price immediately preceding a year or the average retail price for the preceding five years, whichever is lower.

The law, however, exempts a processor or value chain participant of any agricultural output from stock limit orders if the stock held by such person does not exceed the overall ceiling of installed processing capacity or demand for export in the case of an exporter.

The Coda

The Essential Commodities Act, 1955 is a significant piece of legislation in the country since it applies to the protection of the general public interest. The Central Government is empowered by this Act to exercise extensive control over the production and supply of critical commodities. The Central Government regulates the price of confiscated or seized vital commodities under this Act. All of these authorities are important to preserve the market. But the pragmatic need of the hour is that our policies, must ensure sustainable farm growth taking into consideration factors like climate change, land holdings, consumer capacity and farmers' interests.

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