

THE FARMERS' FREEDOM FROM INDEBTEDNESS BILL, 2018

By

SHRI RAJU SHETTI, M.P.

ARRANGEMENT OF CLAUSES

CLAUSES

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Bill No. 118 of 2018

THE FARMERS' FREEDOM FROM INDEBTEDNESS BILL, 2018

By

SHRI RAJU SHETTI, M.P.

A

BILL

to confer a right on indebted farmers to obtain an immediate one-time complete waiver of outstanding loan; right to obtain institutional credit; protection of debt trapped farmers suffering from natural disasters or distress and constitution of a National Farmers' Distress and Disaster Relief Commission and State Farmers' Distress and Disaster Relief Commissions with power to pass awards and recommend appropriate measures for the relief to farmers in distress and for matters connected therewith or incidental thereto.

WHEREAS the nation is indebted to farmers for ensuring food security and food sovereignty for the nation;

AND WHEREAS thousands of farmers are committing suicide every year across the nation due to agrarian distress and related indebtedness adding up to more than three lakh farmers suicide in the past twenty years;

AND WHEREAS the Government is obligated to prevent farmer suicides and distress under article 21 of the Constitution, particularly as the causes of farmers suicide are related to Government policies;

AND WHEREAS safeguarding the right to livelihood is an essential part of the right to life under Article 21 of the Constitution;

AND WHEREAS farm commodity prices have been kept low as a policy measure with several regulations on marketing, and the recommendation of the National Farmers' Commission to fix the minimum support prices with at least fifty per cent. profit margin over and above the comprehensive cost of cultivation has not been implemented for the past twelve years, thus adversely affecting farmers' net returns from agriculture reflected in official surveys with a vast majority of farmers having negative net returns, thereby debts being accumulated by farmers;

AND WHEREAS the successive Governments have not effectively fulfilled their responsibilities to provide comprehensive institutional credit facilities, to provide due recognition and full inclusion to many categories of cultivators including landless and lessee cultivators, women farmers and tribal farmers, to execute effective risk insurance and disaster relief measures, to keep input prices in check, to create large scale shift from high external input agriculture to sustainable agriculture, and to build infrastructure, all of which have in turn resulted in losses for farmers leading to debt;

AND WHEREAS many districts in the country are afflicted by severe distress due to the agrarian crisis, and it ruined many farmers financially and led to suicides;

AND WHEREAS several suits and other proceedings have been filed in courts, tribunals and before other authorities for the recovery of debts accrued from farmers, accompanied by harassment and defamation in public by creditors;

AND WHEREAS it is expedient to provide relief to the farmers who are in distress due to indebtedness by providing a one-time immediate and complete loan waiver to all farmers;

AND WHEREAS it is necessary to reform the institutional credit support system to prevent a future debt trap for the farmers, by providing access to institutional credit as a right to all categories of farmers, and by providing protection from debt trap to farmers suffering from losses due to disasters and distress;

AND WHEREAS the Supreme Court has provided guidance for harmonisation of entry 45 of List I of the Seventh Schedule (Union List) and entry 30 of List II of the Seventh Schedule (State List);

AND WHEREAS the conditions of agrarian crisis and indebtedness of farmers as well as increasing incidence of natural calamities due to climate change are common in various States across the nation and require to be addressed at the National level, with resource support from the Centre and implementation at both the national and State levels.

BE it enacted by Parliament in the Sixty-ninth year of the Republic of India, as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Farmers' Freedom from Indebtedness Act, 2018.

(2) It extends to the whole of India.

(3) It shall come into force within one month from the date of assent by the President.

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

(a) "agriculture" includes cultivation of seasonal and annual crops, horticulture, farming and growing of medicinal plants, crops and intercrops, plantation crops like coconut, arecanut, vanilla and pepper, tuber crops like tapioca, fruits, vegetables, milk production, gathering of minor forest produce, fishing, production of flowers, grass, fodder grass and trees or any kind of cultivation of soil, raising nursery, breeding and keeping of livestock including fish and mussels, bees, silkworm, poultry, duck, cattle or pigs or any other primary production activity;

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(b) "agricultural commodity" means all cereals, millets, pulses, oilseeds, fibre crops, horticulture crops of fruits and vegetables, plantation crops, spice crops, tuber crops, medicinal plants, all varieties of milk, minor forest produce, flowers, grass, fodder grass and tree produce, nursery produce, all livestock and animal products like meat, eggs and poultry, honey, silkworm cocoons, all fishery produce like fish mussel, marine fish and freshwater aquatic produce, and all such other primary produce and agricultural commodity with all its cognate expressions;

(c) "agricultural expert" includes a person with at least fifteen years of experience of policy making or management or field work in agriculture-related sectors including rural banking services for agriculture;

(d) "appropriate Government" means in the case of a State the Government of that State and in all other cases, the Central Government;

(e) "debt" means any liability, including that incurred for agricultural production, including purchase and rearing of cattle and other livestock improvement of production infrastructure and services (cattleshed, pump house, farm machinery and equipment, processing and value addition), basic needs of the household like survival, health and education, whether secured or unsecured, due from a farmer, whether payable under a contract or under a decree or order of any Court or Tribunal or otherwise, and includes any sum payable to—

- (i) an institutional creditor; or
- (ii) a private creditor,

but does not include any loan amount taken by the farmer for commercial purposes or luxury other than agricultural and allied purposes;

(f) "district" means a revenue district;

(g) "distress affected area" means revenue district or districts or part thereof in any State or several States or the entire country as declared by the Government under sections 8 and 19 on the recommendations of the National Commission or a State Commission for the purpose of this Act, where farmers are affected by acute distress due to reasons as the case may be, including natural calamities, failure of crop due to extensive pest or disease attack, widespread supply of adulterated or spurious inputs, extensive destruction by wild animals, price crash and such other reasons;

(h) "distress affected crop" means any crop or crops of any State or the entire country, as declared by the Government under sections 9 and 20 on the recommendation of the National Commission or a State Commission, as the case may be, for the purpose of this Act including natural calamities, destruction by wild animals, price crash, failure of crop due to reasons including natural calamities, failure of crop due to extensive pest or disease attack, widespread supply of adulterated or spurious inputs, extensive destruction by wild animals, price crash, and such other reasons;

(i) "distress affected farmer" means a farmer declared as such by the Commission (National or State) or any farmer who is practicing agriculture in a distress affected area as declared by the Commission or who is cultivating a distress affected crop as declared by Commission;

(j) "farmer" means a person actively engaged in the economic and/or livelihood activity of growing crops or producing other primary agricultural commodities with or without land ownership, including all agricultural operational holders, cultivators, sharecroppers, tenants, lessee cultivators, *adivasi* farmers, tribal farmers, agricultural labourers, poultry and livestock rearers, fisherpeople, beekeepers, pastoralists, non-corporate planters of plantation crops and planting labourers, forest-gatherers, women farmers and self-help groups doing-cultivation on collectively owned or leased-in land;

(k) "financial institution" means any financial institution constituted by or under any Central Act or State Act for the time being in force and registered with the Government, including non-banking financial institution;

(l) "institutional creditor" means Scheduled Banks in the public and private sector, Regional Rural Banks, Co-operative Societies, Non-Banking Financial Companies, Micro-Finance Institutions and includes the State Bank of India or any Subsidiary Bank within the meaning of clause (k) of section 2 of the State Bank of India (Subsidiary Bank) Act, 1959 or any other Scheduled Bank;

(m) "interest" means any amount payable in excess of the principal amount borrowed or pecuniary obligation incurred by whatsoever name such amount may be called, whether the same is expressly mentioned or not in the document or contract, if any;

(n) "member" means a member of the National Commission or a State Commission and includes the Chairperson;

(o) "National Commission" means the National Farmers' Distress and Disaster Relief Commission constituted under section 6;

(p) "penal interest" means any amount payable in excess of interest on a debt;

(q) "prescribed" means prescribed by rules under this Act;

(r) "principal amount" means the amount originally advanced together with the amount, if any, as has been subsequently advanced, notwithstanding any stipulation to treat any interest as capital and notwithstanding that the debt has been renewed, whether by the same farmer or by his heirs, assignees or legal representatives or by any other person acting on his behalf or in his interest; and whether in favour of the some creditor or his heirs, assignees or legal representatives or any other person acting on his behalf or in his interest, and whether in favour of the same creditor or his heirs assignees or legal representatives or of any other person acting on his behalf or in his interest;

(s) "private creditor" means any person engaged in lending money, whether under a licence or not or providing credit in the form of inputs and implements, and includes his heirs, legal representatives, assignees, and any other person as may be notified by the Government;

(t) "production loan" means short term loan borrowed for meaning the running or routine costs of producing an agricultural commodity;

(u) "Secretary" means the Secretary to the National Commission or State Commission appointed under section 6 or section 17, as the case may be; and

(v) "State Commission" means the State Farmers' Distress and Disaster Relief Commission constituted under section 16.

CHAPTER II

ONE-TIME IMMEDIATE LOAN WAIVER

Right of farmer to receive one-time immediate and complete loan waiver.

3. (1) Every farmer, including distress affected farmer shall be entitled to an immediate and unconditional waiver of the entire amount of outstanding institutional debt as defined in section 2 (e), as on 1st of April, 2018;

(2) Every farmer after repayment of debt who have repaid debt from the financial year preceding the cut-off period in sub-section (1) shall have his accounts credited with the amount of scale of finance for the crop grown and interest paid within three months of the commencement of this Act;

(3) The loan waiver shall be implemented in a single installment by the Government within three months of the commencement of this Act;

(4) The Central Government shall ensure that all farmers get fresh loans to every farmer in the ensuing season without any impact of the implementation of loan waiver;

(5) The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide sufficient funds to the State Governments to implement waiver of loans from Cooperative Banks;

(6) All private debts of farmers, shall stand null and void, as on date of waiver of outstanding debt as mentioned under sub-section (1) and no proceeding or suit shall lie against the farmer for the principal or interest:

5 Provided that a private creditor may file a claim for recovery from Government, of the principal amount of such a loan after establishing the existence of the loan as per prescribed procedure and subject to prescribed requirements and limits and there shall be no recovery of debt from the farmer.

(7) The Central Government shall issue a notification for implementation of the provisions sub-section (6) immediately after the commencement of this Act.

10 (8) The Central Government shall, within three months of the commencement of this Act, take up special measures for providing relief on priority basis to farmer suicide affected families, which shall include—

(a) complete waiver of outstanding loans;

15 (b) return of any land, equipment or other asset that may have been attached or confiscated by any institutional or private creditor in lieu of debt; and

(c) appropriate livelihood support as per prescribed guidelines.

CHAPTER III

RIGHT TO ACCESS INSTITUTIONAL CREDIT

20 4. (1) Every farmer including distress affected farmer shall be entitled to production loans from institutional creditors at subsidized interest rates:

Right to every farmer to access institutional credit.

Provided that—

(a) production loans up to rupees three lakhs shall be available to the farmer at zero interest rate and this limit be revised periodically;

25 (b) the amount of production loan for crop cultivation shall be as per prescribed scale of finance for the crop being cultivated with a small consumption loan component.

(2) Every farmer including a lessee farmer, tenant farmer, share-cropper, woman farmer, tribal farmer or a farmer of such category engaged in cultivation of crops on an extent of land but does not possessing the title for that land shall be registered and issued a Kisan Credit Card, within six months from the commencement of this Act:

30 Provided that—

(a) the cultivator shall, without any collateral security other than hypothecation of crop, be entitled to production loan as per sub-section (1); and

35 (b) the Kisan Credit Card shall be issued for a minimum period of five years and may be renewed after five years or modified during the period of validity as per prescribed procedure.

CHAPTER IV

DEBIT RELIEF FOR FARMERS AFFECTED BY DISTRESS AND DISASTERS

40 5. When a natural disaster or calamity is declared by the Central Government, the farmer shall be entitled to relief from repayment of the production loan to the extent of the loss of crop or other production with fresh loans issued for the next season within one month of declaration of such disaster or calamity:

Debt Relief for Farmers affected by Distress and Natural Disasters.

Provided that—

(i) loans other than production loans shall be rescheduled for three years with interest rates not exceeding two *per cent.*; and

45 (ii) loans shall be waived off in full in case of farmers who are affected by two consecutive years of natural disaster.

CHAPTER V

NATIONAL FARMERS' DISTRESS AND DISASTER RELIEF COMMISSION

Constitution
of the
National
Commission.

6. (1) The Central Government shall, within six months after implementing loan waiver under section 3, and within a maximum of twelve months from the commencement of this Act, by notification in the Official Gazette, constitute a Commission to be known as the National Farmers' Distress and Calamity Relief Commission, for exercising the powers and performing the functions and responsibilities defined under section 8. 5

(2) The Commission shall consist of—

(a) an eminent agricultural scientist or retired Vice Chancellor of an Agricultural University—Chairperson; 10

(b) Two agricultural experts including experts in rural banking for agriculture—Members;

(c) five representative of farmers, including leaders of farmers unions and persons with a proven record of having worked on farmers' issues—Members; and

(d) a person with proven record of work with cooperative sector farmer producer organisations or agricultural banking—member: 15

Provided that one of the members shall be designated as Vice Chairperson so that proceedings are not affected in the absence of the Chairperson for any reason.

Provided further that at least one of the members nominated under clause (iii) and (iv) shall be a woman. 20

(3) The Chairperson and members shall be nominated by the President of India on the recommendation of a Selection Committee after seeking applications from eligible candidates wide publicity by the Ministry of Agriculture and Farmers' Welfare.

(4) The Selection Committee shall consist of—

(a) the Prime Minister of India who shall be the Chairperson, 25

(b) the Leader of Opposition in the House of People or the leader of the single largest party or group in Opposition in the House of People; and

(c) the Union Minister for Agriculture and Farmers Welfare:

Provided further that a person shall be disqualified for appointment as a member if he,— 30

(a) has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or 35

(e) has such financial or other interest, as is likely to affect prejudicially the discharge of his functions as a member; or

(f) has such other disqualifications as may be prescribed by the Government.

(5) The Selection Committee shall, while nominating a member under clause (iii) and (iv) of sub-section (2), take into consideration diversity in representation in terms of region, gender and social background including Scheduled Castes and the Scheduled Tribes. 40

(6) The Central Government shall ensure that no member including Chairperson represents any financial, commercial or other interest which may prejudicially affect the discharge of his functions on the Commission: 45

Provided that no person associated with a farmers' organization may be disqualified on that ground alone.

(7) The Central Government shall, in addition to providing all infrastructure facilities required including office space and other facilities appoint a Secretary and other staff as may be necessary to assist the Commission in such manner as may be prescribed.

(8) In the discharge of their duties, the Secretary and other staff referred to in sub-section (7) above shall be subject to the administrative control of the Chairperson.

(9) The salary and allowances payable to and other terms and conditions of service of Chairperson, member, secretary and staff of the National Commission shall be such as may be prescribed.

7. (1) The term of the National Commission shall be five years:

Terms of the Commission.

Provided that, the Central Government shall re-constitute the National Commission at least ten months prior to the end of the tenure of the current Commission:

Provided further that the existing National Commission may continue to function for upto one additional year if required till new Commission is constituted.

8. A member may, by writing under his hand and address to the Chairperson, resign from his office at any time.

Resignation of member.

9. A vacancy arising by reason of resignation of any member of the National Commission under sub-section (2) or otherwise shall be filled up in accordance with the provisions contained in section 6:

Vacancies of membership.

Provided that the person so appointed shall hold office only for the remaining period of term of the person, in whose place he is appointed;

10. The Central Government may remove any member, if he,—

Removal of a member.

(a) is declared as undischarged insolvent/debtor;

(b) becomes incapable of countinuing as such, due to physical or mental disability;

(c) becomes of unsound mind and stands so declared by a court of competent jurisdiction;

(d) has been convicted for an offence, which in the opinion of the Government involves moral turpitude or financial irregularities;

(e) has, in the opinion of the Government, abused his/her official position so as to render his continuance in office prejudicial to public interest:

Provided that the member prior to his removal may be given an opportunity of being heard, before proceeding as such.

11. The National Commission shall regulate its own procedure for the conduct of its business based on principles of participation, transparency, equity, promptness, dignity and worth.

National Commission to regulate its own procedure.

12. (1) The National Commission shall exercise powers specified in sub-section (2) in those States where a State Commission under this Act or an equivalent Commission under an existing State Debt Relief Act is not in operation, and for those distress and calamity situations which affect two or more States and to make recommendations to the Central Government for farmers' distress and disaster relief.

Power and functions of the National Commission.

(2) The National Commission shall—

(a) recommend to the Central Government either *suo motu* or on an application to declare a district or districts or part thereof as distress affected area, or to declare a

crop or crops as distress affected crop, subsequent to which the Government is obligated to provide debt relief to related farmers:

Provided that—

(i) the recommendation may be made after such enquiry as it may deem fit including drawing upon required expertise from a committee of competent experts, and subject to such general guidelines as may be prescribed by the Central Government;

(ii) the commission shall submit its recommendations to the Central Government within one month of taking *suo motu* notice or on application made in this behalf; and

(iii) when the Central Government in any State declares certain regions, districts or parts of district as affected by natural calamity or disaster, those regions, districts or parts of district shall be considered as distress affected by the Commission under this Act.

(b) declare a farmer as distress affected in all those cases where individual farmers have applied to the National Commission following the due procedure laid down and subject to enquiry and norms as laid down, in those cases, where such farmers do not have a State Commission to apply to:

Provided that the National Commission shall complete its inquiry within three months after receipt of application in this behalf;

(c) issue orders as specified in section 14;

(d) exercise powers of Civil Court as specified under section 15;

(e) oversee the implementation of section 4 ensuring access to institutional credit to all farmers and to redress grievances thereof based on application by farmers or any associations or organizations representing farmers, registered or unregistered;

(f) recommend to the Central Government the extent and the manner in which any future debt relief may be granted to the farmers;

(g) recommend to the Central Government regarding the mechanisms for one time debt-swapping of non-institutional loans of distressed farmers and oversee the implementation of the same where State Commissions are not functional;

(h) recommend to the Central Government to take such action as may be necessary to ensure that future credit requirements of the farmers are met through such agencies, as may be prescribed;

(i) make periodical reports to the Central Government generally on any matter pertaining to farmers indebtedness;

(j) refer any pertinent matters to State Commission for further inquiry and action as well as to examine for consideration the recommendations given by the State Commissions to the National Commission; and

(k) perform such other functions and exercise such other powers as may be prescribed.

Central Government to notify distress affected area or distress affected crop.

13. The Central Government shall, as soon as may be, but within a maximum time period of fifteen days after the receipt of a recommendation under clause (a) of sub-section (1) of section 8, by notification in the Official Gazette, declare an area or a crop as a distress affected area or a distress affected crop, as the case may be:

Provided that all farmers practicing agriculture in a distress affected area or cultivating the distress affected crop shall be considered as a distress affected farmers for the purposes of this Act;

14. (1) Any distress-affected farmer who has not received adequate relief under section 5 may file an application before the National Commission if a State Commission is not existing or operational, in a manner and in the form as may be prescribed, to obtain an injunction on further proceedings against himself by creditors until the adjudication is complete:

Provisions for orders for relief to distress affected farmers.

5 Provided that in all cases where State Commissions exists, the farmer shall file an application before the State Commissions pertaining to his State.

(2) Notwithstanding anything contained in this Act or in any other law or contract or decree or order of any court or Tribunal, the National Commission or any Bench thereof may pass order to:

10 (a) obligate the Central Government to repay the debt of an individual distressed farmer or all related farmers to crops or areas declared as distressed, against any creditor (private or institutional) based on prescribed guidelines for extreme distress;

15 (b) reschedule short-term loans into medium term loans with zero interest rate, and medium term loans into long term loans at a maximum of two per cent. interest rate, in respect of the debts availed or by a farmer from institutional creditors if the indebted farmer is found to be distressed or is related to a distressed crop or distressed area;

(c) provide necessary facilities for one time settlement of agriculture loans falling under the category of non-performing assets, as per the guidelines issued by the Reserve Bank of India, provided the farmer is ready for such settlement;

20 (d) declare as discharged from a loan, any farmers who has repaid the principal amount taken by him;

(e) a farmer to discharge his debts in suitable small instalments on the principal amount outstanding at the time of each payment, with the interest to be borne by the Central Government.

25 **15.** (1) The National Commission shall, for the purpose of exercising the powers conferred by or under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

Powers of a Civil Court.

(a) summoning and enforcing the attendance of any person and examining him on oath;

30 (b) ordering that no notices shall be issued, no coercive action or public shaming shall be exerted against the distressed farmer in any manner;

(c) requiring the discovery and production of any documents;

(d) receiving evidence on affidavit;

(e) examination of witnesses;

35 (f) issuing commission for the examination of witnesses or for local investigation;

(g) inspecting any property or thing concerning which any decision has to be taken;

(h) requisitioning of any public record or copy thereof from any court, authority or office; and

40 (i) any other matter which may be prescribed.

(2) Every award passed by the National Commission under sub-section (2) of section 14 shall be binding on the respondent.

(3) Every award of the Commission passed under sub-section (2) of section 14 shall be executed under the provisions of the Code of Civil Procedure, 1908 as if it is decree of a Civil Court and accordingly, title deeds or any other documents pertaining to the loan with the creditor to be returned to the farmer, as the case may be, within the specified time:

45

Provided that the awards of the Commission shall be executed within a time period of thirty days or otherwise as specified in each award.

(4) Any farmer may obtain file for an Execution Decree from a Civil Court if the respondent fails to adhere to the time limit.

Sittings of
the
Commission.

16. (1) The National Commission shall hold its sittings at such places and at such times as may be determined by it: 5

Provided that the National Commission may hold its sittings in the respective district(s) declared as distress affected areas to consider matters relating to the distress affected areas;

(2) The quorum for the sitting of the National Commission shall be ordinarily five, except as provided below in sub-section (3); 10

(3) The National Commission may in appropriate cases as it deems fit, hold sittings in States or districts by constituting a Bench consisting of two or more members:

Provided that at least one member representing farmers in the National Commission shall be included in the Bench so constituted:

Provided further that in case of the Bench constituted by the National Commission, the quorum for the meeting of the Bench shall be the total number of members of that Bench or two whichever is less. 15

Bar and
Injunction on
proceedings
against a
distress
affected
farmer.

17. (1) No suit for recovery of debt shall be instituted or application for execution of a decree in respect of a debt shall be made against a distress affected farmer described under sections 12 and 14, and no appeal, revision petition or application for review against any decree or order in any such suit or application shall be presented or made against such distressed farmer in any Civil Court or Tribunal or other authority, and such suits, applications, appeals and petitions instituted or made against such farmer before the date of declaration of a district or part thereof as a distress affected area and pending on such date shall stand stayed, for such period as the Commission may recommend in that behalf; 20 25

(2) No notice shall be issued, and no coercive action or public shaming shall be exerted against any distress affected farmer described under section 12 and section 14 for recovery of debt.

Transparent
functioning
and Annual
Report to be
laid before
the
Parliament.

18. (1) The National Commission shall publish all relevant information including applications handled, awards passed, orders issued, minutes of its meetings or sittings, if any and such other material on its website. 30

(2) The National Commission shall prepare a report of its function of that year under this Act and the same shall be submitted to Central Government in such form on or before such date as may be prescribed.

(3) The Annual Report submitted to the Central Government by the National Commission under sub-section (2) above shall be laid before each House of the Parliament as soon as may be, but not later than the immediately subsequent session of the Parliament after the same is received by the Central Government. 35

Accounts and
Audit.

19. (1) The National Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed. 40

(2) The accounts of the National Commission shall be audited annually and the audited report shall be placed before each House of the Parliament.

CHAPTER VI

STATE FARMERS' DISTRESS AND DISASTER RELIEF COMMISSION

Constitution
of State
Farmers
Distress and
Disaster
Relief
Commission.

20. (1) Every State Government shall, within six months after implementing the immediate and complete loan waiver under Section 3 but within a maximum period of twelve months of the commencement of this Act, by notification in the Gazette, except in those States where a State Farmers' Debt Relief Act or an equivalent Act by any other name is operational at the commencement of this Act, under which such a Debt Relief Commission 45

or an equivalent institution has already been established, constitute a State Commission to be known as the State Farmers' Distress and Disaster Relief Commission for the purpose of exercising the powers and performing the functions under this Act.

(2) The State Commission shall consist of,—

- 5 (i) an eminent agricultural scientist or retired Vice Chancellor of an Agricultural University—Chairperson;
- (ii) **two agricultural experts in rural banking for agriculture—members;**
- (iii) **five representatives of farmers, including leaders of farmers unions and persons with a proven record of having worked on farmers' issues—members; and**
- 10 (iv) **a person with having expertise in economic or co-operative sector—member,**

(3) The Chairperson and members shall be nominated by the State Government on the recommendation of a Selection Committee after seeking applications with wide publicity, from eligible persons.

(4) The Selection Committee shall consist of—

- 15 (i) the Chief Minister of the State who shall be the Chairperson;
- (ii) the Leader of Opposition in the State Assembly or the leader of the single largest party or group in Opposition in the State Assembly; and
- (iii) the Minister for Agriculture in the State Government:

Provided that—

- 20 (a) if an elected Government is not in place in the State, the Chairperson and Members shall be nominated by the Governor of the State; and
- (b) a person shall be disqualified for appointment as a member if he,—
- (a) has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or
- 25 (b) is an undischarged insolvent; or
- (c) is of unsound mind and stands so declared by a competent court; or
- (d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or
- (e) has such other disqualifications as may be prescribed by the
- 30 Government.

(5) The Selection Committee, while nominating a member under clause (ii), (iii) and (iv) of sub-section (2), shall take into consideration diversity in representation in terms of region, gender and social background including the Scheduled Castes and the Scheduled Tribes.

35 (6) The State Government shall ensure that no member including Chairperson represents any financial, commercial or other interest which may prejudicially affect the discharge of his functions on the Commission:

Provided that no person associated with a farmer's organization may be disqualified on that grounds alone.

40 (7) **The State Government shall, in addition to provision of office facilities and infrastructure for effective functioning appoint in Secretary and other staff as may be necessary, to assist the State Commission in such manner as may be prescribed.**

(8) **In the discharge of their duties, the Secretary and other staff referred to in sub-section (6) shall be subject to the administrative control of the Chairperson.**

Terms of the
State
Commission.

21. (1) The term of the State Commission shall be five years:

Provided that, the State Government shall re-constitute the State Commission at least ten months prior to the end of the tenure of the current State Commission:

Provided further that the existing State Commission may continue to function for upto one additional year if required till new State Commission is appointed. 5

(2) A member may, by writing under his hand and address to the State Government resign from his office at any time.

(3) A vacancy arising by reason of resignation of any member of the State Commission under sub-section (2) or otherwise shall be filled up in accordance with the provisions contained in section 20 of this Act: 10

Provided that the person so appointed shall hold office only for the remaining period of term of the person, in whose place he is appointed.

(4) The State Government may remove any member, if he,—

(a) is declared as undischarged insolvent or debtor;

(b) becomes incapable of continuing as such, due to physical or mental disability; 15

(c) becomes of unsound mind and stands so declared by a court of competent jurisdiction;

(d) has been convicted for an offence, which in the opinion of the State Government involves moral turpitude or financial irregularities:

(e) has, in the opinion of the State Government, abused his/her official position so as to render his continuance in office prejudicial to public interest: 20

Provided that the member prior to his removal may be given an opportunity of being heard, before proceeding as such.

(5) The State Commission shall regulate its own procedure for the conduct of its business based on principles of transparency, participation, equity, dignity and worth. 25

(6) The salary and allowances and the other conditions of service of Chairperson and Members of the State Commission shall be, as may be prescribed.

Powers and
functions of
the State
Commission.

22. (1) The State Commission shall—

(a) recommend to the State Government concerned either *suo motu* or on an application to declare a district or districts or part thereof as distress affected area, or to declare a crop or crops as distress affected crop, subsequent to which the State Government is obligated to provide debt relief to related farmers as recommended by the State Commission: 30

Provided that the State Commission shall make recommendation—

(i) the recommendation may be made after such enquiry as it may deem fit including drawing upon required expertise from a committee of competent experts; and subject to such general guidelines as may be prescribed. 35

(ii) the commission shall submit its recommendations to the Government within one month of taking *suo moto* notice or on application;

(iii) when the Government in any State declares certain regions, districts or parts of district as affected by natural calamity or disaster, those regions, districts or parts of districts shall be considered as distress affected area by the Commission under this Act; 40

(b) recommend, in the case of private loans, legal measures to the undertaken by the State Government, to exonerate the farmers from such loans whereby the State Government, as soon as possible, and upon the receipt of such a recommendation but within one month, notifies such private loans to be null and void; 45

(c) issue orders as specified under section 25;

(d) oversee the implementation of section 4 ensuring access to institutional credit to all farmers, and to redress grievances thereof, based on application by farmers or any associations or organizations representing farmers, registered or unregistered;

5 (e) oversee one time debt-swapping of private loans into institutional loans of distressed farmers within the State;

(f) make periodical reports to the State Government generally on any matter pertaining to farmer indebtedness;

(g) make specific recommendations to the National Commission to consider;

10 (h) recommend any other measures for survival of distressed farmers; and

(i) perform such other functions and exercise such other powers, as may be prescribed.

(2) An Award passed by the State Commission under section 25 shall be binding on the respondent.

15 (3) Every award by the State Commission shall be passed within six months of the time of receipt of application from an indebted farmer, with the first screening of paperwork happening within thirty days and first hearing happening within sixty days.

20 (4) Every award of the State Commission passed under section 22 shall be executed under the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as if it is a decree of a Civil Court, and accordingly, title deeds or any other documents pertaining to the loan with the creditor to be returned to the farmer, as the case may be within the specified time:

Provided that every award of the State Commission shall be executed within a specific time period of thirty days or otherwise, as specified in each award:

25 Provided further that a farmer may obtain an Execution Decree from a Civil Court if the respondent party does not comply to the time limit for the execution of the award.

(5) The State Commission shall, for the purpose of exercising the powers conferred by or under this Act, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure 1908 (5 of 1908) in respect of the following matters, namely:—

30 (a) summoning and enforcing attendance of any person and examining him on oath;

(b) Ordering in that no notices shall be issued, no coercive action or public shaming shall be exerted against the distressed farmer in any manner;

(c) requiring the discovery and production of any documents;

(d) receiving evidence on affidavit;

35 (e) examination of witnesses;

(f) issuing commission for the examination of witness or for local investigations;

(g) inspecting any property or thing concerning which any decision has to be taken;

40 (h) requisitioning of any public record or copy thereof from any court, authority or office; and

(i) any other matter which may be prescribed.

23. The State Government concerned shall, as soon as may be, but within a maximum time period of fifteen days after the receipt of a recommendation under clause (a) of sub-section (1) of section 22 notify in the Official Gazette, an area or a crop as a distress

State Government to notify distress affected area or distress affected crop.

affected area or a distress affected crop, as the case may be and thereby initiate the debt relief powers of the Commission:

Provided that all farmers practicing agriculture in a distress affected areas as declared or cultivated the distress affected crop as declared, shall be considered distress affected farmers under this Act. 5

Sittings of
the State
Commission.

24. (1) The State Commission shall hold its sittings at such places and at such times as may be determined by it:

Provided that the State Commission shall hold its sittings in the respective district(s) declared as distress affected areas to consider matters relating to the distress affected areas.

(2) The quorum for the sitting of the State Commission shall be five. 10

(3) The State Commission may in appropriate cases it deems fit, hold sittings in districts by constituting a Bench consisting of two or more members:

Provided that at least one member representing the farmer in the State Commission shall be included in the Bench so constituted:

Provided further that in case of the Bench constituted by the State Commission, the quorum for the meeting of the Bench shall be the total number of members of that Bench or two whichever is less. 15

Provisions
for Orders
from State
Commission
for relief to
distress
affected
farmers.

25. (1) Every farmer from the State, who has not obtained adequate relief under section 5 may, file an application before the State Commission, in a manner and in the form as may be prescribed, to obtain an injunction on further proceedings against himself by creditors until the adjudication is complete. 20

(2) Notwithstanding anything contained in this Act or in any other law or contract or decree or order of any Court or Tribunal, the State Commission or any of its Benches thereof may pass order to:—

(a) obligate the State Government to repay the entire debt of a distress affected farmer so declared by the State Commission, against any creditor (private or institutional); 25

(b) reschedule short-term loans into medium term loans with zero interest rate, and medium term loans into long term loans at a maximum of two per cent interest rate, in respect of the debts availed of by a farmer from institutional creditors; 30

(c) provide necessary facilities for one time settlement of agriculture loans falling under the category of non-performing assets, as per the guidelines issued by the Reserve Bank of India, provided the farmer is ready for such settlement;

(d) declare as discharged from a loan, any farmer who has repaid the principal amount taken by him or her; 35

(e) allow a farmer to discharge his debts in suitable small installments on the principal amount outstanding at the time of each payment, with the interest to be borne by the Government.

Bar and
Injunction on
proceedings
against a
distress
affected
farmer, as
per State
Commission
recommendations.

26. (1) No suit for recovery of debt shall be instituted, or application for execution of decree in respect of a debt shall be made against a distress affected farmer described under sections 20 and 22, and no appeal, revision petition or application for review against any decree or order in any such suit or application shall be presented or made against a distressed farmer in any Civil Court, or Tribunal or other authority, and such suits, applications, appeals and petitions instituted or made against such a farmer before the date of declaration of a district or part thereof as a distress affected area and pending on such date shall stand stayed, for such period as the State Commission may recommend in that behalf; 40

(2) No notices shall be issued, and no coercive action or defamation in public shall be exerted against a distress affected farmer described under section 19 and section 22, for recovery of debt. 45

27. (1) The State Commission shall publish all relevant information including the applications received, Awards passed, minutes of its meetings or sittings, if any, and such other material on its website. Transparent functioning and Annual report to be laid before the State Legislature.
- (2) The State Commission shall prepare a report of its function of that year under this Act and shall submit the same to State Government in such form on or before such date as may be prescribed.
- (3) The Annual Report submitted to the State Government by the State Commission under sub-section (2) shall be laid before the State Legislative Assembly as soon as may be, after the same is received by the State Government.
28. (1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed. Accounts and Audit related to State Commission.
- (2) The accounts of the State Commission shall be audited annually and the audit report shall be placed before the Legislative Assembly.
- CHAPTER VII
OBLIGATIONS OF CENTRAL GOVERNMENT
29. (1) **The Central Government shall reserve and spend adequate financial outlays in the Union Budget as required under this Act for the immediate one-time loan waiver on an annual basis to implement the award passed and orders issued by the Commission.** Central Government to constitute a Fund for the purpose of waiving off loan, etc.
- (2) **The financial outlay under sub-section (1) shall also be utilised for—**
- (a) **relief and rehabilitation of families where a farmer suicide has taken place in the last five years from the commencement of this Act; and**
- (b) **a part of the outlay shall be set aside as a Credite Guarantee Fund for lessee cultivators to build confidence among institutional creditors to lend to lessee cultivators for re-financing of institutional crditors during continuous natural disasters.**
30. (1) The Central Government shall notify— Exemption from attachment of property and prohibition of penal interest and excessive cumulative interest.
- (a) certain categories of property related to certain loans to be exempted from attachment or auctioning for non-payment of debt; and
- (b) prohibition of penal interest on crop loans and cumulative interest on any agricultural loan from exceeding the principal of the loan, whether from an institutional or private creditor.
31. The Central Government shall reform the priority sector lending norms ensuring that the bank credit under priority sector lending reaches small and marginal farmers and real farmers including women farmers, tenants, sharecroppers and adivasi farmers, ensure that its compliance is addressed by the Reserve Bank of India, NABARD and other apex institutions with re-financing schemes to such compliance. Reform of Priority Lending Norms and ensuring compliance.
32. (1) **The Central Government shall implement adeaquate and effective disaster relief and insurance for all crops, live stock and allied sectors, to ensure that in years of disaster including drought, floods, cyclones, unseasonal rainfall, hailstorms and pest outbreaks, and destruction by wild animals etc., the farmers do not accumulate debt.** Effective disaster relief and crop insurance.
- (2) **The insurance premium in respect of the crop insurance scheme mentioned under sub-section (1) shall be borne by the appropriate Government.**
33. **The Central Government shall establish and promote on a large scale low-cost ecological agriculture as a measure to reduce indebtedness amongst farmers.** Promotion of low cost ecological agriculture.

CHAPTER VIII
MISCELLANEOUS

Overriding effect of Act.	34. The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law, other than this Act, or any instrument having effect by virtue of any law other than this Act.	5
Bar of jurisdiction of Civil Court.	35. No civil courts shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under the Act or the rule made thereunder are required to be settled, decided or dealt with or to be determined by the National or State Commissions;	
Members and Staff of Commissions deemed Public Servants.	36. Every Member, secretary and other staff of the Commission (National as well as State) shall be deemed to be a Public Servant within the meaning of section 21 of the Indian Penal Code 1860.	10
Protection of action taken in good faith.	37. No suit or legal proceeding shall lie against any member of the Commission or Secretary or other officers for anything which is done or purported to be done in good faith under this Act.	
Power to remove difficulties.	38. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order as occasion requires, do anything not inconsistent with the provisions of this Act, which appears to them to be necessary for the purpose of removing the difficulty: Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.	15 20
Power to make rules.	39. (1) The appropriate Government may, notification in the Gazette, make rules for the purpose of carrying in to effect the provisions of this Act. (2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter 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 under that rule. (3) Every rule made by the State Government under this Act shall laid, as soon as may be after it is made, before the State Legislature.	30 25 30

STATEMENT OF OBJECTS AND REASONS

The nation is indebted to farmers for the food security and sovereignty functions that they contribute. In spite of their contribution, thousands of farmers are committing suicide every year and millions of farmers are in distress due to indebtedness. The Government is obligated to prevent farmer's suicides and distress, especially because their causes are related to Government policies.

Prices of farm commodities have been kept low as a policy measure and the recommendation of the National Farmers Commission to fix Minimum Support Prices with at least fifty *per cent.* returns on the comprehensive cost of production has not been implemented for the past twelve years, thus adversely affecting farmers' returns and building up indebtedness.

The Governments have not fulfilled their responsibilities to provide comprehensive institutional credit facilities, provide recognition and full inclusion to many categories of farmers including tenant farmers, women farmers and *adivasi* farmers, execute effective risk insurance and disaster relief measures, keep input prices in check and effectively promote low cost sustainable agriculture and to build infrastructure. These failures on the part of the Government have resulted in huge losses to farmers, leading to a debt trap, with both institutional and private creditors. In the context of frequent occurrence of natural calamities and climate change, farmers need automatic protection from the debt trap during disasters.

It has been held that the Right to Life guaranteed under article 21 of the Constitution includes the right to live with human dignity and the right to livelihood. Thus, the Government is obligated to ensure a life of dignity and freedom from indebtedness to farmers who are in debt due to no fault of theirs and for reasons not under their control.

In order to provide relief to the farmers who are in distress due to indebtedness, the Bill provides an immediate and complete loan waiver. To prevent farmers from being pushed back into indebtedness, there is need to provide systemic changes in all farmers into the fold of institutional credit with zero interest rate, and for substantive debt relief in the case of disasters. The Reserve Bank of India and NABARD shall be mandated to ensure compliance.

Farmers' Distress and Disaster Relief Commissions shall be constituted at the national and State levels with power to pro-actively recommend relief measures in distress affected areas and distress affected crops, and pass awards for the redressal of the grievances of indebted farmers in various ways. The Bill also obligates suggests the Government to institute effective disaster relief and crop insurance and promotion of low-cost ecological agriculture, and furthermore, seeks to provide special support to families affected by a farmer suicide.

As the root causes of indebtedness and the increasing incidence of natural disasters due to climate change are common in various States across the country, there is a need for a Central legislation to address the problem and to provide the necessary relief and institutional framework for protection of farmers from indebtedness. In view of the guidelines by the Supreme Court for harmonization of Entry 45 of the Union List and Entry 30 of the State List, the Bill provides a national framework with the cooperation of State Governments, for the implementation of distress relief at the national and State level, with adequate resource support from the Central Government.

Hence, this Bill.

NEW DELHI;
April 6, 2018.

RAJU SHETTI

FINANCIAL MEMORANDUM

Clause 3 of the Bill *inter alia* provides for sufficient funds by the Central Government for immediate one-time loan waiver.

Clause 4 of the Bill *inter alia* provides for sufficient funds by the Central Government for bringing all farmers into the fold to institutional credit for production loans at zero per cent interest rate, and for reschedule, relief of waivers at the time of disasters.

Clause 5 provides for constitution of the National Farmers' Distress and Disaster Relief Commission and ensuing expenditure.

Clause 26 provides for adequate financial outlays for implementing the awards and orders issued by the Commission (National and State), for relief and rehabilitation of farm suicide families, and a Credit Guarantee Fund that addresses the inclusion of lessee/tenant farmers into institutional credit.

Clause 30 provides for implementation of adequate and effective disaster relief and crop insurance schemes.

Clause 31 provides for establishment and promotion of low cost ecological agriculture on a large scale.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is not possible at this stage as to the exact amount which is likely to be incurred towards recurring and non-recurring expenditure for the purpose.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 39 of the Bill empowers the appropriate Government to make rules for carrying out the purpose of this Act. As the rules will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.

LOK SABHA

A

BILL

to confer a right on indebted farmers to obtain an immediate one-time complete waiver of outstanding loan; right to obtain institutional credit; protection of debt trapped farmers suffering from natural disasters or distress and constitution of a National Farmers'

Distress and Disaster Relief Commission and State Farmers'

Distress and Disaster Relief Commissions with power

to pass awards and recommend appropriate

measures for the relief to farmers in

distress and for matters connected

therewith or incidental

thereto.

(Shri Raju Shetti, M.P.)