

Bill No. LV of 2011

THE WOMEN FARMERS' ENTITLEMENTS BILL, 2011

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AS INTRODUCED IN THE RAJYA SABHA
ON THE 11TH MAY, 2012

Bill No. LV of 2011

THE WOMEN FARMERS' ENTITLEMENTS BILL, 2011

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BILL

to provide for the gender specific needs of women farmers, to protect their legitimate needs and entitlements and to empower them with rights over agricultural land, water resources and other related right and for other functions relating thereto and for matters connected therewith.

WHEREAS women constitute more than fifty per cent of Indian farmers and about sixty per cent of the workforce in the farming sector; and in view of the increasing feminisation of agriculture as a result of out-migration of men, entitlements for women farmers are essential for the future growth and health of agriculture, as well as protection of food security in an era of climate change;

AND WHEREAS it is necessary to recognize and protect the gender specific needs and rights of the women by empowering and entitling them with enforceable rights over agricultural land, water resources, credit and other related rights;

AND WHEREAS the Married Women's Property Act, 1874 recognised the wages, earnings and other property acquired by an married woman in any employment, occupation or trade carried on by her in her individual capacity as her separate property; the Hindu Succession (Amendment) Act, 2005 entitled the daughter of a Joint Hindu family governed by the Mitakshara law, to become a coparcener in her own right in the same manner as the son and clothes her with the same rights and liabilities in the coparcenary property as she would have

had if she had been a son; the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 recognised the rights of forest-dwelling communities to the forest land and other forest resources;

AND WHEREAS the Government of India has recognized the special needs of women farmers by initiating a "Mahila Kisan Shashaktikaran Pariyojana" programme under the National Rural Livelihood Mission;

AND WHEREAS India is a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979 which calls for elimination of all forms of discrimination of women by ensuring equal access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

AND WHEREAS the Fourth World Conference on Women in September, 1995, in which India participated, called for legislative and administrative reforms to give women equal rights with men to economic resources, including access to ownership and control over land and other properties, credit, inheritance, natural resources, and appropriate new technology, etc. as embodied in the Beijing Declaration and Platform for Action;

AND WHEREAS it is considered necessary to implement the decisions in so far as they relate to the women farmers' entitlements under Article 253 of the Constitution of India.

BE it enacted by Parliament in the Sixty-Second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

- 1.** (1) This Act may be called the Women Farmers' Entitlements Act, 2011. 5
(2) It extends to the whole of India except the State of Jammu and Kashmir.
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

- 2.** In this Act, unless the context otherwise requires—
- (a) "*agriculture*" means and includes, all activities related to cultivation of crops, animal husbandary, poultry, livestock rearing, apiculture, gardening, fishing, aquaculture, sericulture, vermiculture, horticulture, floriculture, agro-forestry, or any other farming activity carried out through self-employment, tenorial cultivation, share cropping, or other types of cultivation including shifting cultivation, collection, use and sale of minor or non-timber forest produce by virtue of ownership rights or usufructory rights; 10 15
- (b) "*agricultural activity*" means any activity related to agriculture;
- (c) "*farmer*" means any person who is, individually or jointly with any other person,—
- (i) engaged in agriculture directly or through the supervision of others; or 20
- (ii) contributes to conservation or preservation of agriculture related varieties or seeds or breeds of farm animals; or
- (iii) contributes through traditional knowledge to any type of innovation, conservation or to propagation of new agricultural varieties or to agricultural cultivation methods or practices or to the practice of crop-livestock integrated farming system; or 25
- (iv) promotes agro-processing, and value-addition to primary products.

Explanation.—The term "farmer" will include, but not limited to, agricultural operational holders, landless cultivators, agricultural labourers, planting labourers, pastoralists, sharecroppers and tenants. The term shall not include corporate entities operated by or involving farmers. In case of landless farmers migrating or moving from one state to another, if anyone stays in a state for at least six months, such person may be considered as a farmer in that particular state.

(d) "*guidelines*" means the guidelines framed by the Authority under this Act with the previous approval of the Central Government by notification in the Official Gazette.

(e) "*land*" means any land or water body utilised for the purpose of agriculture.

(f) "*woman farmer*" means and includes, irrespective of marital status or ownership of land, any woman who is a farmer as defined in sub-section (c) of section 2 and includes—

(i) any woman living in rural area and primarily engaged in agricultural activity, though occasionally engaged in non-agricultural activity; or

(ii) any woman living in urban or semi-urban areas and engaged in agriculture; or

(iii) any tribal women directly or indirectly engaged in agriculture or shifting cultivation or in the collection, use and sale of minor or non-timber forest produce by virtue of usufructory rights.

(g) "*Rules*" means rules notified by the Central Government under this Act.

CHAPTER II

CERTIFICATION OF WOMAN FARMER

3. A Woman Farmer Certificate issued by the Gram Panchayat, after the approval of the Gram Sabha and authenticated by the Village Administrative Officer or an authorized officer of the Gram Panchayat as may be prescribed in the Rules, shall be the conclusive proof of declaring a person as a woman farmer.

Certification of Woman Farmer.

(2) For urban or peri-urban areas, the Certificate shall be issued by the urban local body with the approval of any corresponding authority as notified under the rules:

Provided that a group of women farmers may obtain the Group Women Farmers' Certificate in the same process as may be prescribed.

4. The woman farmer certificate issued under section 3, shall be accepted as evidence for the purposes of establishing the status of a person as a woman farmer under this Act including in all administrative and judicial proceedings.

Acceptance of Certificate as evidence.

CHAPTER III

LAND RIGHTS

5. Notwithstanding anything contained in any other law for the time being in force, every woman shall have equal ownership and inheritance rights over her husband's self acquired agricultural land, or his share of family property, or his share of land transferred by the Government under land reform or resettlement scheme:

Equal land rights to women farmer.

The provided that concurrence of both the spouses shall be necessary in the case of land transfer or acquisition as per the provision of the provided hand acquisition and rehabilitation law.

Explanation.—By virtue of this section, a woman farmer is deemed to have ownership and possession of equal and proportional share of agricultural property in her husband's property even, if, it is not mentioned in any of the relevant documents and the fact that she is the wife of a particular person is the conclusive proof to claim ownership and possession of her share of property and to have effective control over such share of property.

CHAPTER IV

WATER RIGHTS

Equal right to water resources. **6.** A woman farmer shall have equal right, as enjoyed by male farmers, to all water resources connected with the agricultural land to which she is the owner, share holder, possessor or uses for farming activity and shall have access to water, water resources and irrigation facilities for carrying out agricultural activities as defined in this Act. 5

No discrimination for irrigation purposes. **7.** The woman farmers shall not be discriminated on the grounds of marital status, religion, caste, ownership or possession of agricultural land while accessing water resources for irrigation purposes.

CHAPTER V

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LEGAL ACCESS TO CREDIT AND OTHER AGRICULTURAL INPUTS

Entitlement of women farmers to get credits, loans and other financial supports. **8.** Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of this Act,— 15

(i) every woman farmer or group of women farmers who have a Certificate of Woman Farmer from the appropriate authority shall be entitled to Kisan Credit Card now available mainly to male farmers.

(ii) a woman farmer or group of women farmers shall be entitled to borrow money and other financial support for agricultural activity either on her own capacity or as a member of a women group as may be prescribed in the Rules without any discrimination on the grounds of marital status, place of residence, caste, religion, or absence of collateral security. 20

CHAPTER VI

FUND FOR SUPPORT SERVICES TO WOMEN FARMERS

Establishment of Fund. **9.** (1) The Central Government shall set up a Central Agricultural Development Fund for Women Farmers (CADFWF) under this Act, which shall be used to empower women farmers like, incentives for development of women farmer friendly technologies, training and capacity building, creation of market facilities, organization of creches and day care centres, social security for women farmers, old age pensions and other related issues as may be prescribed in the Rules. 25

(2) The Fund shall operate at the Central, State and District levels and shall be administered under the guidance of an appropriate Authority appointed by the Central Government at the central level and offices of the authority appointed in consultation with the State Governments at the State and District level in such manner as may be prescribed. 30

(3) The Fund shall receive contributions and grants from the Central and State Governments, user fees, etc., as specified under the Rules and guidelines framed under this Act. 35

(4) The Authority shall support individual and groups of women farmers organized in the form of registered women's cooperatives or *Mahila Kisan Kendras* as per the guidelines framed under the Act.

(5) The appropriate authority shall frame guidelines with the previous approval of the Central Government by notification in the official gazette for distribution and utilization of the Fund. 40

(6) The Central Government shall frame a scheme for social security of women farmers, especially old age pension as may be prescribed in the Act.

(7) The appropriate authority of the Fund shall also have the power to secure lands from the Government and other sources for distribution of lands to women farmers as prescribed under this Act. 45

10. Any person who wants to develop women-friendly technology, may qualify for short term and long term loans or grants or subsidies or venture capital from the Fund as per the guidelines framed under the Act. Women farmer friendly technology.

Explanation.—The terms 'any person' in this section means individuals and small and medium scale industries.

11. The appropriate authority of the Fund shall create and facilitate market facilities for woman farmers with the assistance of group of woman farmers or of its own in different parts of the country including the establishment of rural godowns. Market facilities.

12. The appropriate authority of the Fund shall organise regular and periodical training and capacity building programmes for woman farmers in different parts of the country to make them aware of the provisions of this Act and to help them in realizing their entitlements and empowerments envisaged under this Act. Training and capacity building.

CHAPTER VII

IMPLEMENTATION AND MONITORING AUTHORITIES, THEIR RESPONSIBILITIES

13. The Central Government shall be responsible for overall implementation and monitoring of the Act, except as provided in this Act. Responsibilities of Central Government.

14. (1) The State Governments shall be responsible for implementation and monitoring of provisions relating to certification of women farmers, realization of land and water rights, operationalization of the Fund at the State and District levels and other responsibilities as mentioned in this Act. Responsibilities of State Governments.

(2) The State Government shall appoint appropriate authorities for carrying out such functions.

(3) The offices of the authority set up in consultation with the State Government shall ensure that the land rights and water rights of the women farmers are institutionalized within the state with suitable amendments to the laws and/or Gazette notification.

15. For implementing different provisions and schemes of this Act, the local authorities like the Panchayati Raj Institutions in rural areas and Urban local bodies in urban areas shall be responsible for discharging such duties or responsibilities as may be assigned by notification to them by the concerned State Governments. Responsibilities of local authorities.

16. (1) Each State Government shall set up a Women Farmers' Entitlement Board at the State level to advice the State Government in implementation and monitoring of the Act. Women Farmers' Entitlement Board.

(2) The Board shall consist of a practicing woman farmer as its Chairperson and two other members dealing with or experienced in technology, credit, inputs and marketing.

(3) The tenure of the Board members shall be such as prescribed under the Rules.

(4) The Board shall follow such procedure in its proceedings as may be prescribed in the rules.

17. (1) For ensuring transparency in functioning of this Act and accountability of the functionaries, every State Government shall set up a District Vigilance Committee in every district. District Vigilance Committees.

(2) The Composition of the Vigilance Committee shall be such as may be prescribed.

(3) The Vigilance Committees shall look into effective implementation of all the provisions of the Act at the district level.

18. For expeditious and effective redressal of grievances of women farmers, each State Government shall set up effective institutional mechanisms at the taluka or tehsil or block level and an appellate mechanism at the District level in such manner as may be prescribed under the Rules. Redressal of grievances.

CHAPTER VIII

PENALTIES AND PROCEDURES

Penalty for non-compliance of provisions of this Act. **19.** Whoever fails to comply with provisions of this Act, rules or guidelines made under this Act shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and with fine, or with both. 5

Cognizance of offences. **20.** (1) Any person aggrieved by violation of any provision of this Act, rules or guidelines made under this Act may file a complaint, within ninety days from the date of such violation, to a Court not inferior to that of a Judicial Magistrate of the first class or a Metropolitan Magistrate:
 Provided that the Court may entertain any complaint after the expiry of the said period of ninety days if it is satisfied that the complainant was prevented by sufficient cause from filing the complaint within time. 10

(2) For the purposes of sub-section (1), person means—

(a) any woman farmer who is affected;

(b) husband or representative of the woman farmer who is affected; 15

(c) any association of persons or farmers (whether incorporated or not), if it is affected or on behalf of an affected woman farmer;

(d) any local authority within whose local limits the affected woman farmer or association of persons or farmers live.

Actions in good faith. **21.** No prosecution or other legal proceedings shall lie against any person for anything done or intended to be done in good faith. 20

CHAPTER IX

MISCELLANEOUS

Overriding effect. **22.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force other than this Act. 25

Power to give directions. **23.** Notwithstanding anything contained in any other law for the time being in force but subject to the provisions of this Act, the Central Government may, issue directions in writing to any person, officer or any authority in order to give effect to the provisions of this Act and such person, officer or authority shall be bound to comply with such directions.

Power of State Government to restrict the application of the Act to certain Areas. **24.** Notwithstanding anything contained in this Act, if the State Government, after consultation with, or on the recommendation of, the local body or authority, is of opinion that certain provision or provisions of this Act need not apply to certain areas of the State, it may, by notification in the Official Gazette, restrict the application of such provision of this Act to such area or areas as may be declared therein and thereupon such provisions of this Act shall not apply to such area or areas. 30
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Power to remove of difficulties. **25.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act to remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act. 40

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

Power of Central Government to make Rules. **26.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) issuance of Woman Farmer Certificate under Section 3;

(b) facilitating financial support for woman farmers under section 8;

5 (c) utilization of Central Agricultural Development Fund for Women Farmers (CADFWF) under section 9;

(d) functions and proceedings of the Women Farmers' Entitlement Board under sub-section (3) of section 16;

10 (e) Composition of District Vigilance Committee in every district under section 17;

(f) institutional mechanisms for expeditious and effective redressal of grievances of women farmers under section 18.

15 **27.** Every rule made under this Act 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 thirty days which may be comprised in one session or in two or more 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 Houses agree that the rule or regulation 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
20 annulment shall be without prejudice to the validity of anything previously done under that rule.

Rules to be laid before Parliament.

STATEMENT OF OBJECTS AND REASONS

With a gradual decline in the size of farm holdings, small and marginal farmer families are in need of multiple sources of income to come out of the poverty trap. Rural men belonging to resource poor families increasingly tend to go to towns and cities seeking work and income earning opportunities. Consequently, there is an increasing feminization of agriculture. While women farmers are extremely hard working and are also conversant with sustainable agriculture practices, they suffer from several handicaps such as title to land, and access to credit, inputs, insurance, technology and market. As early as 1995, the Fourth World Conference on Women held in Beijing urged developing countries to pay attention to the gender specific needs of women farmers.

India is on the threshold of enacting a landmark Food Security Bill. Legal entitlements to food can be implemented only by improving the productivity, profitability and sustainability of small farm holdings, since small and marginal farmers produce nearly fifty percent of the foodgrains in the country, as well as milk and a wide variety of vegetables and fruits. The need for paying special attention to the needs of women farmers has been recognized by initiating a "Mahila Kisan Sashaktikaran Pariyojana" in the Union Budget of 2010-11. In order to safeguard national food security, and to strengthen the livelihood security of rural women, a majority of whom are engaged in crop and animal husbandry, fisheries, agro-forestry and agro-processing, the Bill is being proposed. It is necessary to implement the aforesaid decisions under article 253 of the Constitution of India in so far as they relate to the women farmers' entitlements.

Hence, this Bill.

M.S. SWAMINATHAN

FINANCIAL MEMORANDUM

Clause 9 of the Bill provides for Establishment of a Central Agricultural Development Fund for Women Farmers.

Thus, the Bill, if enacted, would involve a non-recurring expenditure from the Consolidated Fund of India which may be to the tune of rupees one thousand crore as a part of contribution from the Central Government. A recurring expenditure of about rupees ten crore is also likely to be incurred per annum to meet the salary and other allowances of the central implementing authorities other recurring expenditure by way of rent, maintenance, meetings, office expenses and contingency, etc.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Authority to make guidelines with the previous approval of the Central Government by notification in the Official Gazette. Clause 26 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

The rules and guidelines made under the proposed legislation shall be required to be laid before Parliament. The matters in respect of which rules, guidelines may be made or framed relate to matters of procedure or administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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to provide for the gender specific needs of women farmers, to protect their legitimate needs and entitlements and to empower them with rights over agricultural land, water resources and other related right and for other functions relating thereto and for matters connected therewith.

(Prof. M.S. Swaminathan, M.P.)