

The Maharashtra Tribal Economic Condition (Improvement) Act, 1976

MAHARASHTRA

India

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Act 5 of 1977

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The Maharashtra Tribal Economic Condition (Improvement) Act, 1976(Act No. 5 of 1977)[8th January, 1977]An Act to provide for promoting improvement in the economic condition of the Tribals in the State of Maharashtra.WHEREAS, having regard to the economic and social backwardness of the Tribals owing to the geographical and social isolation in which they have lived hitherto, it is considered necessary to bring about within as short a time as possible an effective improvement in the economic condition of the Tribals.AND WHEREAS one of the measures to bring about such effective economic improvement was to protect them from exploitation by certain unscrupulous elements in society by making any lending made before the commencement of the Maharashtra Tribals Economic Condition (Improvement) Ordinance, 1976, (Mah. Ord. VIII of 1976), invalid and void ab initio and by prohibiting private agencies from lending them anything, and by prohibiting the marketing of certain agricultural produce in the Tribal areas in the State by private agencies and by permitting lending only through the State Government and other specified agencies and by providing suitable alternative arrangement in such areas for marketing of such produce through the State Government and other specified agencies; and by providing for matters connected therewith;AND WHEREAS both Houses of the Legislature of the State were not in session;AND WHEREAS, the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action for securing the purposes aforesaid; and, therefore, promulgated the Maharashtra Tribals Economic Condition (Improvement) Ordinance, 1976 (Mah. Ord. VIII of 1976), on the 9th day of October 1976:AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature and also to make certain other provisions for the purposes hereinafter appearing; It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows:-

1. Short title, extent, commencement and cessation.-

(1) This Act may be called the Maharashtra Tribals Economic Condition (Improvement) Act, 1976. (2) It extends to the whole of the State of Maharashtra. (3) (a) The provisions of this section, section 2 and sub-sections (1) and (4) of section 4 and other provisions of this Act incidental or ancillary to these provisions, shall be deemed to have come into force in all the Tribal areas in the State on the 9th day of October 1976. (b) All other provisions of this Act shall be deemed to have come into force on the 9th day of October 1976, in the first instance, the Navapur taluka of the Dhule district and the Melghat taluka of the Amravati district. (c) The State Government may bring into force the provisions of this Act which have not come into force under clauses (a) and (b) of this sub-section in such Tribal areas and from such date as it may, by notification in the Official Gazette, appoint; and different dates may be appointed for bringing into force different provisions in respect of different Tribal areas. (4) (a) Notwithstanding anything contained in clauses (b) and (c) of sub-section (3), if at any time the State Government is satisfied that circumstances exist which render it necessary for the State Government so to do, the State Government may, by notification in the Official Gazette, direct that all or any of the other provisions of this Act referred to in the said clauses (b) and (c) which are deemed to have come into force, or which are brought into force, in any Tribal area shall cease to be in force in that Tribal area on such date as may be specified in the notification, except as respects things done or omitted to be done under the said provisions before such date. (b) Where the State Government has directed under clause (a) of this sub-section that any such provisions shall cease to be in force in any Tribal area, if, at any subsequent time, the State Government is satisfied that there is a change in the circumstances and it is necessary so to do, the State Government may, by like notification, direct that all or any of the provisions which had ceased to be in force shall again come into force in that Tribal area on such date as may be specified in the notification.

2. Definitions.-

In this Act, unless the context otherwise requires, - (a) "agricultural produce" means all produce (whether processed or not) specified in the Schedule, and includes such other produce (whether processed or not) of agriculture, horticulture, animal husbandry, pisciculture and forest as the State Government may, in the interest of the Tribals, by notification in the Official Gazette, from time to time, add to the Schedule. The State Government may, in the interest of the Tribals, by like notification, from time to time, delete any agricultural produce from the Schedule; (b) "appointed date" means, - (i) in relation to the areas and the provisions referred to in clauses (a) and (b) of sub-section (3), of section 1, the 9th day of October, 1976; (ii) in relation to any other areas in which any of the provisions of this Act are brought into force under clause (c) of sub-section (3) of section 1, the date appointed by notification under that clause; (iii) in relation to other provisions referred to in clauses (b) and (c) or sub-section (3) of section 1, if in any Tribal area all or any of the said provisions have ceased to be in force and have again been brought into force under clause (b) of sub-section (4) of section 1, then the date specified in the notification under clause (b) of sub-section (4) of section 1; (c) "prescribed" means prescribed by rules made under this Act; (ca) "sale by retail" in relation to any agricultural produce by any person means sale of that produce by that person only once in a day and that too of any quantity thereof, whether by weight, measure, number

or otherwise, which does not exceed the limit of retail sale specified by the State Government, from time to time, by notification in the Official Gazette, in relation to that produce and until such limit is specified in relation to any such produce, of any quantity thereof, the sale price of which does not exceed ten rupees; and the corresponding expression "purchase by retail" shall be construed accordingly;(d)"Scheduled Tribes" means such Tribes or Tribal communities or parts of, or groups within, such Tribes or Tribal communities as are deemed to be Scheduled Tribes in relation to the State of Maharashtra under article 342 of the Constitution of India; and persons who belong to the Tribes or Tribal communities or parts of, or groups within, Tribes or Tribal communities specified in Part VII-A of the Schedule to the Constitution (Scheduled Tribes) Order, 1950 made under the said article 342, but who are not residents in the localities specified in that Order and who nevertheless need the protection of this Act (and it is hereby declared that they do need such protection) shall, for the purposes of this Act, be treated in the same manner as members of the Scheduled Tribes;(e)"Tribal" means a person belonging to a Scheduled Tribe and includes his successor-in-interest who is also a Tribal;(f)"Tribal area" means the Scheduled area and such other areas in the State as the State Government may, from time to time, by notification in the Official Gazette specify, regard being had to the population of the Tribals in any such area or to the area where steps have been taken or are proposed to be taken for the improvement of the economic condition of the Tribals and such other factors as the State Government may think fit;Explanation:-(1)"Scheduled Areas" means the areas within the State of Maharashtra declared to be Scheduled Areas by the Scheduled Areas (Part A States) Order, 1950, or as the case may be, Scheduled Areas (Part B States) Order, 1950 (each such order for the time being in force) made under sub-paragraph (1) of paragraph 6 of the Fifth Schedule to the Constitution of India;(2)"population" means the population as ascertained in the last preceding census of which the relevant figures, whether provisional or final, have been published;(g)"Tribal Authority" means the officer appointed for the time being to be the Tribal Commissioner for the State, and includes any officer appointed by the State Government to perform the duties of the Tribal Authority under all or any of the provisions of this Act;(h)Words and expressions used in this Act but not defined herein shall have the meanings respectively assigned to them in the Maharashtra Debt Relief Act, 1975 (Mah. III of 1975).

3. Effect of Act, rules, etc. inconsistent with other enactments.-

The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

4. Lending in cash or kind to Tribals.-

(1)Notwithstanding anything contained in any law for the time being in force or any contract or other instrument having force by virtue of any such law, any lending, whether in cash or kind, for any purpose whatsoever, either without any security or on the security of any property, made by any person to a Tribal before the appointed date, shall be deemed to be invalid and void ab-initio, and thereupon the provisions of the Maharashtra Debt Relief Act, 1975, (Mah. III of 1975) shall apply to such invalid and void debts as they apply in relation to debts which are deemed to be wholly

discharged under that Act. Explanation - For the purposes of this sub-section, "a Tribal" means a Tribal who is either a marginal farmer, a rural artisan or a rural labourer, and who is not an assessee under the Income tax Act, 1961 (XLIII of 1961), on the appointed date or who on the appointed date holds land not more than 9 hectares of un-irrigated land or 3 hectares of perennially irrigated land. Where a Tribal holds un-irrigated land as well as perennially irrigated land, one hectare of perennially irrigated land shall be considered as equivalent to three hectares of un-irrigated land and vice versa. (2) Notwithstanding anything contained in any law for the time being in force no person shall, after the appointed date, lend anything, whether in cash or in kind for any purpose whatsoever, to a Tribal either without any security or on the security of any property or bind down any Tribal to daily attendance, or to manual labour or to both until the loan is repaid and any such lending made, on or after the appointed date by any person to a Tribal, shall be deemed to be invalid, and void ab-initio, and if any such lending is made on the security of any property, such property shall be forthwith delivered to the Tribal. (3) Unless the claim to the property is disputed, if the property is not delivered forthwith, the Tribal may request the Commissioner of Police where there is one, and elsewhere, the District Magistrate or the Superintendent of Police, to enforce delivery of possession of such property. The Commissioner of Police, the District Magistrate, or as the case may be, the Superintendent of Police, shall take or cause to be taken such steps, or use or cause to be used such force as may be reasonably necessary, for securing delivery of the possession of the property to the Tribal. Explanation- For the purposes of this sub-section (a) "the Commissioner of Police" includes an officer not below the rank of Inspector of Police duly authorised by him; (b) "the District Magistrate" includes an officer not below the rank of Tahsildar duly authorised by him; and (c) "the Superintendent of Police" includes an officer not below the rank of Sub-Inspector of Police duly authorised by him. (4) Nothing contained in sub-sections (1) and (2) shall apply to any lending referred to in those sub-sections made to any Tribal by the State Government or any corporation owned or controlled by the State or agent authorised by it in this behalf, co-operative society or local authority or by any bank. Explanation:- For the purposes of this sub-section, - (1) "a co-operative society" means a society registered or deemed to be registered under the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961) (2) "a bank" means - (a) a banking company as defined in the Banking Regulations Act, 1949 (10 of 1949); (b) the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955); (c) a subsidiary bank as defined in the State Bank of India (Subsidiary Bank) Act, 1959 (38 of 1959); (d) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970); (e) the Regional Rural Bank constituted under the Regional Rural Banks Act, 1976 (21 of 1976); (f) the Agricultural Refinance and Development Corporation constituted under the Agricultural Refinance and Development Corporation Act, 1963 (10 of 1963); (g) any other banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 (10 of 1949).

5. Marketing and transport of specified agricultural produce prohibition.-

(1) Notwithstanding anything contained in any law for the time being in force, but subject to the provisions of this section, - (a) no producer or fore gatherer of such agricultural produce in such Tribal area as the State Government may, by notification in the Official Gazette, specify (hereinafter referred to as "the specified produce" and "the specified Tribal area", respectively) shall, after the

appointed date, sell such specified produce in such specified Tribal area, either for cash or kind or in any other manner whatsoever, to any person, except to the State Government or Tribal Authority or agent, authorised by the State Government; (b) no person, except the State Government, Tribal Authority or agent authorised by the State Government shall purchase from the producer or foregatherer any specified produce in any specified Tribal area. (2) The State Government or the Tribal Authority may by order in writing open collection centres in the specified Tribal area for collecting thereat the specified produce for the purpose of their marketing. The State Government or the Tribal Authority shall publish such order for the information of the public in such manner as it thinks fit. (3) Where any producer or foregatherer wishes to sell any specified produce within the specified Tribal area under the provisions of this Act, he shall tender all such specified produce only at the collection centre opened for the purpose under sub-section (2). (4) Nothing in sub-section (1) shall apply to any sale by retail by any producer or foregatherer of any specified produce in any specified Tribal area or to any purchase by retail by any person from any producer or foregatherer of such produce in such area. (5) When any agricultural produce is notified in relation to any specified Tribal area under sub-section (1), no person other than the State Government, Tribal Authority or agent authorised by the State Government in this behalf shall, except with the previous permission of the State Government or the Tribal Authority or any officer or other person authorised by the State Government, transport or attempt to transport any such specified produce from such Tribal area to any place outside such area, or vice versa.

6. Appointment of agents.-

(1) The State Government may, for the purpose of purchase or sale of any specified produce in any specified Tribal area, by order appoint agents, in respect of such Tribal area specified in the order. Such agents or their sub-agents shall be either co-operative societies registered or deemed to be registered under any law relating to such societies for the time being in force in the State or any corporation or institution or organisation owned, controlled or financed by any Government or such co-operative society. (2) The terms and conditions for appointment of agents and sub-agents shall be such as may be determined by the State Government, from time to time.

7. Power of State Government or of its agents to fix purchase price of specified produce.-

(1) The State Government or its agents authorised by it in this behalf, shall, in respect of any specified produce, fix the price at which such produce shall be purchased by, or on behalf of, the State Government, in any specified Tribal area or part thereof and shall publish the same in such manner as the State Government may determine: Provided that, prices may be fixed or revised from time to time, periodically or when considered necessary, and different prices may be fixed for different produce or any quality or variety thereof in different specified Tribal areas or parts thereof and in doing so, regard shall be had, amongst other things, to- (a) the price of the specified produce determined on the recommendations of the Agricultural Prices Commission established by the Government of India; (b) the quality of the specified produce grown in that specified Tribal area or any part thereof; (c) such other factors as the circumstances of each case may require. (2) When the prices are fixed or revised by the agents, they shall also comply with the guidelines issued in this

behalf by the State Government, from time to time.(3)Nothing in sub-sections (1) and (2) shall affect the price fixed in respect of any agricultural produce (being a specified produce) under any order made under section 3 of the Essential Commodities Act, 1955 (10 of 1955), requiring persons holding in stock such agricultural produce to sell it to the State Government at a specified price.

8. State Government, Tribal Authority or agent to purchase and sell specified produce.-

(1)The State Government, Tribal Authority or the agent authorised by the State Government in this behalf shall be bound to purchase at the price fixed under section 7 any specified produce offered for sale in the specified Tribal area.(2)On purchasing the specified produce under sub-section (1), the State Government shall make all suitable arrangements for their storage in the specified Tribal area or without such area, and for the sale of such produce in any such area at such price as such produce may fetch in the open market in any such area; and for that purpose it may take or cause to be taken such steps as it may consider suitable in the circumstances of each case.

9. Operation of Mah. XX of 1964 in specified Tribal areas.-

(1)Where the marketing of any specified agricultural produce in any specified Tribal area is prohibited under section 5 of this Act, and such Tribal area forms part of a market area under the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Mah. XX of 1964) (hereinafter in this section referred to as "the said Act") then-(a)except as otherwise specifically provided in this Act, the marketing of specified produce in the specified Tribal area shall be subject to the supervision and control of the Market Committee established for such market areas under the said Act, and for that purpose, the Market Committee may, subject to the direction, control and instructions, if any, of the State Government, exercise such powers and perform such duties and discharge such functions as may be provided by or under the said Act;(b)after the expiry of three months from the appointed date, except as provided by sub-section (4) of section 5, no person shall, with a view of protecting the interests of the Tribals, market any agricultural produce in the specified Tribal area or operate therein as a trader in respect of any such produce unless he is registered in such manner as may be prescribed;(c)if a specified Tribal area falls within the jurisdiction of more than one Market Committee, then such Market Committee as the State Government may if it is expedient so to do, by order in writing specify in this behalf, shall alone operate under this section in such specified Tribal area.(2)Every person registered under clause (b) of sub-section (1) shall furnish to the Tribal Authority such information and returns and within such period regarding the agricultural produce marketed by him in the specified Tribal area as may be prescribed.

11. Power of entry, search, seizure, etc..-

(1)Any police officer not below the rank of Sub-Inspector or any other person authorised by the State Government may, with a view to securing compliance with the provisions of this Act or the rules or orders made thereunder or to satisfying himself that the said provisions have been complied

with-(i)stop and search any person, animal, vehicle, vessel or receptacle used or intended to be used for the transport of any agricultural produce;(ii)enter and search any premises;(iii)seize agricultural produce in respect of which he has reason to believe that any provision of this Act or the rules or orders made thereunder has been, is being or about to be, contravened alongwith the receptacle containing such produce or the animal, vehicle or vessel used in carrying such produce.(2)Any search or seizure made under this section, shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

12. Offences and penalties.-

(1)Any person, who in contravention of the provisions of subsection (2) of section 4, lends anything as provided in that sub-section, to a Tribal, shall, on conviction, be punished with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees or with both.(2)If any person, in contravention of the provisions of section 5, whether knowingly, intentionally or otherwise, markets any specified produce in any specified Tribal area or transports or attempts to transport any specified produce from any Tribal area to any place outside such area or vice versa-(a)he shall, on conviction, be punished-(i)for the first offence, with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both;(ii)for the second or subsequent offence, with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both;(b)any property in respect of which the provisions of section 5 have been contravened or such part thereof as the Court may deem fit, including any packages, coverings or receptacles in which the property is found and any animal, vehicle, vessel or other conveyance used in carrying the property shall be forfeited to the State Government.Provided that, if the Court is of the opinion that it is not necessary to direct forfeiture in respect of the whole, or as the case may be, any part of the property or any packages, coverings or receptacles or any animal, vehicle, vessel or other conveyance, it may, for reasons to be recorded, refrain from doing so.(3)Any person who in contravention of the provisions of clause (b) of sub-section (1) of section 9 fails to register himself, or fails to furnish information or returns under sub-section (2) of that section shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one hundred rupees or with both.

13. Cognizance of offence, etc.-

(1)No Court shall take cognizance of any offence punishable under this Act except with the previous sanction of the State Government or any officer authorised by it in this behalf.(2)Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences punishable under this Act shall be cognizable and bailable.

14. Power to suspend operation of provisions of this Act.-

(1)If the State Government is of opinion that having regard to any of the purposes of this Act, the enforcement of certain provisions thereof in any specified Tribal area is inexpedient for a certain time in relation to any specified produce, the State Government may, by notification in the Official

Gazette, suspend in relation to such specified produce and in the specified Tribal area for such period or periods may be expedient and as may be specified in the notification, the operation of those provisions; and thereupon, those provisions shall stand suspended, in such Tribal area in relation to such specified produce except as respects things done or omitted to be done before the date of publication of the notification.(2)Where the operation of the provisions of this Act is suspended in relation to any specified produce in any specified Tribal area for any period or periods specified in the notification, under subsection (1), and the State Government at any time before the expiry of such specified period or periods is of opinion that it is expedient to receive and enforce these provisions (or any of them) again in relation to any specified produce in such specified Tribal area, the State Government may cancel partially or wholly any such notification of suspension by a like notification; and thereupon, those provisions which were suspended and which are revived shall again have full effect in relation to the specified produce, in such specified Tribal area from the date of publication of the second notification.(3)The suspension of operation of any provision under sub-section (1) shall not affect those provisions which are not suspended; and in respect of any specified produce already tendered before the period of suspension (or which may be voluntarily tendered during the period of suspension) at the place notified or any other place specified by the State Government in that behalf, all the provisions of this Act shall continue to apply or apply thereto as if none of the provisions had been suspended.

15. Delegation of powers.-

The State Government may, by notification in the Official Gazette, direct that any power (other than the power to suspend operation of the provisions of this Act under section 14 or the power to make rules under section 18) exercisable by it under this Act or the rules or orders made thereunder, may be exercised also by the Tribal Authority or by any officer of the State Government not below such rank as may be specified in the notification, subject to such conditions, if any, as may be specified therein.

16. Indemnity.-

No suit, prosecution or other proceedings shall lie against the State Government or Tribal Authority or agent or officer or other person authorised by the State Government for anything which is in good faith done or intended to be done under this Act or any rules or orders made thereunder.

17. Every officer, agent or his servant or sub-agent to be public servant.-

Every officer or agent of the State Government and every servant or sub-agent or such agent acting under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

18. Rules.-

(1)The State Government may, by notification in the Official Gazette, make rules to carry out the

purposes of this Act. Such rules may provide for levying fees for any of the purposes of this Act and for refund thereof.(2)All rules made under this Act shall be subject to the condition of previous publication, except with such rules are made for the first time.(3)Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

19. Repeal of Mah. Ord. No. VIII of 1976 and savings.-

(1)The Maharashtra Tribals Economic Condition (Improvement) Ordinance, 1976 (Mah. Ord. VIII of 1976), is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken (including any appointment or authorisation made or any notification or order issued) under the Ordinance so repealed shall be deemed to have been done, taken, made or issued, as the case may be, under the corresponding provisions of this Act.

(1)Wheat.(2)Paddy (husked and unhusked).(3)Jowar.(4)Bajri.(5)Nagli.(6)Vari.(7)Red Chillies.(8)Tur.(9)Gram.(10)Udid.(11)Mung.(12)Val.(13)Masur.(14)Groundnut (unshelled).(15)Linseed.(16)Sesamum.(17)Castor seed.(18)Nigar seed(19)Hilda.(20)Gum.(21)Lac.(22)Mahua flower and seeds.(23)Grass and fodder.(24)Charoli).