

**Why Bihar ought to rescind Bihar Agriculture Produce Market (Repealing) Act, 2006
like Karnataka in response to farmers' demand**

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Why Bihar ought to rescind Bihar Agriculture Produce Market (Repealing) Act, 2006 like Karnataka in response to farmers' demand

Ahead of the Bengaluru meeting of opposition parties on July 17 and 18, 2023, the introduction of the Karnataka Agricultural Produce Marketing (Regulation and Development) (Amendment) Act, 2023 on July 5, 2023 in the aftermath of a successful world's largest farmers' protest assumes huge political significance. It shows that Karnataka government is responding to the year-long protest against the three agricultural laws. This Karnataka Bill paves the way for recall and re-introduction of the original Bihar Agriculture Produce Market Act, 1960.

Presenting a list of farmers who had died during the year-long protest against the three agricultural laws, during Zero Hour in the Lok Sabha on December 7, 2021, Rahul Gandhi had demanded that the families of the farmers be provided compensation. He said, "The country knows that during the farmers' movement, 700 farmers were martyred. The PM (Prime Minister) apologised to the farmers and accepted his mistake. The Agriculture Minister was asked about the number of farmers who were martyred during the movement, and he had said he has no data". Earlier, on July 11, 2019, he had raised the issue of farmers' distress in the Lok Sabha saying, "The Prime Minister also made certain commitments five years ago to the farmers of this country on prices, farm loan and other issues. ...So, there is a terrible situation of farmers in this country. The Prime Minister has made commitments to these farmers. So, I would request the Government of India to fulfill these commitments."

Responding to some of these concerns, Karnataka government is bringing back the public institutions which can regulate the marketing of the agricultural produce to address the concerns of the farmers. The Karnataka Bill's statement of reasons and objections states that it is reverting to the old 1966 legislation. The amendment in 2020 by the previous government led to the exploitation of farmers by traders "since there is no regulatory mechanism for controlling the same".

The introduction of Karnataka Agricultural Produce Marketing (Regulation and Development) (Amendment) Act, 2023 is related to the Bihar Agriculture Produce Market (Repealing) Act, 2006. The former was tabled in the Karnataka Legislative Assembly during the period of 14th session of the 15th Assembly held during 3-14 July 2023. The latter was introduced in the Bihar Legislative Assembly on August 10, 2006 during the tenure of Sri Krishna Sinha led Congress government. The repeal of the Bihar Agriculture Produce Market Act, 1960 which created the agricultural produce market committee (APMC) *mandi* system in the State negated the achievements of farmers movement during 1855-1928 under the leadership of freedom fighters like Swami Sahajanand Saraswati. The 1960 Act which received the assent of the Governor Zakir Husain on August 6, 1960 was originally introduced in 1939 in the Bihar legislature during the tenure of Sri Krishna Sinha, the first Chief Minister. After Governor's assent, it was published in the Bihar Gazette Extra-ordinary on September 10, 1960.

The repeal of the Bihar APMC law ended up questioning the wisdom of the recommendations of the Royal Commission on Agriculture, the legislature and the judiciary which had recommended regulation of agricultural markets, paving the way for APMC laws across the country. The introduction of the Bihar APMC Repeal Bill had faced resistance from the opposition parties who agitated against the Repeal Bill in the State Assembly. A long protest procession on the streets of Patna to oppose this legislation was organised. But the Bill was passed by the legislature. The Bihar Agriculture Produce Market (Repeal) Act, 2006 was published in the Bihar Gazette Extra-ordinary on September 1, 2006. It came into force with immediate effect. By now it is clear that the repeal was a result of the influence of the World Bank Group.

The questionable Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 pertained to bypassing of APMC Act like the Bihar APMC Repeal law. The Bypass APMC law of 2020 which aptly got stayed by the Supreme Court, created a new "trade area" outside the APMC market yards/sub-yards where any buyer with a Permanent Account Number (PAN) could buy directly from farmer sellers. The State governments were deprived of the power to impose any taxes on such a transaction.

The proponents of this central Bypass APMC Act claimed that this law would lower buying costs for buyers and that would automatically mean higher prices for farmers. The fact is that buyers buying at lower cost does not necessarily imply that they would pass on the cost saved on procurement to selling farmers. The claim that it would have provided farmers a choice is misleading because majority of the farm producers across India-except the farmers of Punjab and Haryana- do not go through APMCs. Anyone with a PAN was allowed to buy agricultural produce paving way for hoarding of the produce. Harmful impact of hoarding has been a subject matter of numerous old Indian movies. Not only that when a license is given to a trader or commission agent, there is a counter party risk assurance. Under the APMC law if there is any dispute with regard to payment to farmers, the APMC takes cognisance of it and attempts to resolve it. With a view to maintain stability in the market, even the Model State Agricultural Produce Marketing (Development & Regulation) Act, 2003 empowered the Marketing Committee to take suitable measures to ensure that traders do not buy agricultural produce beyond their capacity and avoid risk to the sellers in disposing of the produce; and grant licences only after obtaining necessary security in cash as bank guarantee according to the capacity of the buyers. The central Bypass APMC law ignored valuable institutional memory in this regard.

The stay on this central Bypass APMC law by the Supreme Court and the subsequent repeal of the central Bypass APMC law by the Parliament seems to vindicate the prayers made against the repeal of Bihar APMC law before the higher judiciary.

The Karnataka APMC bill aims to repeal the amendments previously enacted by the BJP led government, which granted freedom to the market and reduced the control of the Agricultural Produce Market Committees (APMCs). The bill claims that the previous BJP government's amendments that allowed trade outside APMC yards, did not assist farmers in obtaining fair prices for their produce or improving their economic conditions. This initiative in Karnataka Legislative Assembly creates a compelling reason for Bihar Legislative Assembly to rescind the Bihar Agriculture Produce Market (Repeal) Act, 2006. The indefensible repeal was an outcome of the compulsions of coalition politics.

The Karnataka government is right in stating that the farmers who sell their produce outside the APMC yards are vulnerable to exploitation by traders due to lack of regulatory oversight. The absence of trading at APMC yards has negatively affected the government's revenue from several tax sources. The Karnataka APMC Bill underlines that farmers benefit from obtaining competitive and fair prices for their produce when it is sold through the unified market platform in APMCs. Given the fact that there is no online system in place for trade taking place outside the market yards, farmers were unable to receive fair and competitive prices for their produce. It has recognised that unlike in the market yards, there is no mechanism for resolving disputes that arise when farmers engage in trade outside those yards. Bihar legislators ought to factor in these provisions of the Karnataka Bill.

It may be recalled that the Union Bypass APMC law was one of the three controversial farm legislations introduced by the Union government in 2020. It faced unprecedented opposition from the farmers. Prime Minister was compelled to apologise and withdraw the act within a year. But the Karnataka government, led by the BJP from 2019 to 2023, implemented the same amendment which was finally withdrawn by the Union government.

Prior to the abolition of the Bihar APMC Act, Bihar had 95 market yards. Out of which 54 yards had infrastructure such as covered yards, godowns and administrative buildings, weighbridges, processing and grading units. In 2004-2005, the State Agricultural Board earned Rs. 60 crores through taxes and spent Rs. 52 crores. Out of the money spent, 31% was on developing infrastructure. Subsequent to the repeal of the Bihar APMC law, APMCs became redundant, the consequent paucity of infrastructure ended up undermining farmers' income. There were 129 Bazar Samitis, they became non-existent. Their abolition has adversely affected farmers' income.

It is noteworthy that Union Government had extended the Bihar Agricultural Produce Markets Act, 1960 (Bihar Act 16 of 1960) to the Union territory of Manipur by a notification of Ministry of Home Affairs dated 26 March, 1963 in exercise of the powers conferred by section 2 of the Union Territory (Laws) Act, 1950 (30 of 1950). It reveals that the Bihar APMC law was worth emulation by others.

The audit reports of the public institutions under the APMC law create a compelling logic for re-introduction of a Bill in the Bihar Legislative Assembly to revive the original Bihar Agriculture Produce Market Act, 1960. The recent papers titled "Journey of Agricultural Produce Market Committee Law in Bihar" in the *LEAD Journal* published by the School of Oriental and African Studies, University of London and Geneva based the International Environmental Law Research Centre in March 2023 and "बिहार में कृषि मंडियों के खात्मे की एक पड़ताल" in the *Subaltern* journal published from Patna in July 2023 make a case for the re-introduction of the original Bihar Agriculture Produce Market Act to safeguard the interest of the farmers amidst growing income of 187 billionaires in the face of unprecedented depletion in farmers' income.